SUPPLEMENTAL BOARD BOOK OF JUNE 30, 2016



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4a

Supplemental Letter received on Friday, June 24, 2016 for Item 4(a)



ALDINE INDEPENDENT SCHOOL DISTRICT

Donaldson Administration Building • 2520 W.W. Thorne Dr. • Houston, Texas 77073 • (281) 985-6319 • (281) 985-6321 - Fax

June 14, 2016

TDHCA/Multifamily Department 221 E. 11th Street Austin, Texas 78701 Attn: Shannon Roth, Program Specialist

Re: Letter of Opposition/ TDHCA #16608

Piney Woods Village, 5318 Aldine Bender Road, Houston, Texas 77032

Dear Ms. Roth:

On behalf of Aldine Independent School District, we would like express our opposition to the Private Activity Bond application by PWV Partners, LP for a 4% Low Income Housing Tax Credit and Mortgage Revenue Bond. PWV Partners, LP is proposing to build a 290 unit apartment complex, Piney Woods Village, at 5318 Aldine Bender Road, Houston, Harris County, Texas 77032. Over 95% of the units will be reserved for low-income families.

The 4% Low Income Housing Tax Credits were created to provide developers with financial incentives to build affordable housing for low-income families. However, developers should be focused on providing low-income housing in high opportunity areas and in areas that are not already saturated with low-income housing.

The area surrounding the proposed complex is already comprised of affordable low-income housing. Specifically, within less than a half mile radius there are six (6) affordable low-income apartment complexes with a total of one thousand seven hundred fifty-two (1752) units.

Additionally, Aldine anticipates an increase in school enrollment as a direct result of the building of the proposed complex. Although the complex will add to the District's tax base, it is anticipated that the tax revenue generated will be disproportional to the costs associated with increased enrollment.

RECEIVED

JUN 2 3 2016

TDHCA Multifamily Finance Dept. Aldine Independent School District and its leadership strongly opposes the building of the Piney Woods Village development in a largely minority area that already sees high levels of poverty with a saturation of low-income housing.

Aldine believes that the building of this complex will have a negative impact on our community and is opposed to its development. Please feel free to contact our office if you would like additional information from the District or would like to speak to me directly.

Sincerely,

Dr. Wanda Bamberg

Superintendent, Aldine ISD

Rose Avalos

President, Aldine ISD School Board

LOW INCOME HOUSING WITHIN ONE HALF MILE OF THE PROPOSED PINEY WOODS VILLAGE

Costa Rialto Apartments 5015 Aldine Bender Road Houston, Texas 77032 216 Units

Haverstock Hill Apartments 5519 Aldine Bender Road Houston, Texas 77032 700 Units

TimberRidge Apartments I & II 5335 Aldine Bender & 5350 Aeropark Drive Houston, Texas 77032 316 Unis

Northland Woods Apartments 15165 Vickery Drive Houston, Texas 77032 280 Units

Crosswinds Apartments 14810 Crosswinds Blvd. Houston, Texas 77032 240 Units

4e

BOARD ACTION ITEM

MULTIFAMILY FINANCE DIVISION

JUNE 30, 2016

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

RECOMMENDED ACTION

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

WHEREAS, staff has determined that the Application is not eligible for one point under §11.9(c)(6)(E) of the 2016 Qualified Allocation Plan ("QAP"), related to Underserved Area, because the census tract in which the Development Site is located received an allocation of competitive housing tax credits within the last 10 years;

WHEREAS, a Competitive HTC scoring notice was provided to the Applicant identifying points that the Applicant elected but did not qualify to receive under 10 TAC §11.9 related to Competitive HTC Selection Criteria, after the Administrative Deficiency process was completed;

WHEREAS, the Applicants timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the scoring appeal for Application 16001, Rolling Hills is denied.

BACKGROUND

10 TAC §11.9 related to Competitive HTC Selection Criteria identifies the scoring criteria used in evaluating and ranking Applications. It includes those items required under Texas Government Code, Chapter 2306, §42 of the Internal Revenue Code ("the Code"), and other criteria established in a manner consistent with Chapter 2306 and §42 of the Code.

The Rolling Hills Application #16001 proposes new construction of 72 units to serve the general population in Fredericksburg, Texas.

In order for an Application to receive one point under §11.9(c)(6)(E), the Development Site must be located in a census tract that has not received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development serving the same Target Population that remains an active tax credit development, or if it is serving the same Target population then it has not

received the allocation within the last 10 years. The appeal asserts that a 2007 Supplemental Allocation of tax credits should not be considered for the analysis of whether a census tract is in an underserved area.

Staff determined that the 2007 Supplemental Allocation was a forward commitment of competitive credits that were awarded to Applications that were both competitive in the 2004 application cycle and that met certain criteria for the award of the 2007 Supplemental Allocation. Not all awarded 2004 and 2005 applications received the supplemental allocation; #04008 did. Due to the award, the development was renumbered 07008 and was included in the 2007 Final Competitive HTC Awards. 10 TAC §11.9(c)(6) refers to "competitive tax credits allocation[s]" and to "4 percent non-competitive tax credit allocation[s]," to incorporate all prior housing tax credit developments funded by the Department since there are no other types of housing tax credits described in the rules. The rule definition of "competitive" focuses on the source of the credits, rather than the award process of the application. 10 TAC §10.3(a)(23) defines competitive housing tax credits as "[t]ax credits available from the State Housing Credit Ceiling," and all awards from the 2007 Supplemental Allocation came from the State Housing Credit Ceiling.

This determination is confirmed by the policy adopted by the Board approving the 2007 Supplemental Allocation: because the credits were considered competitive, the policy describes how the allocation would affect applications submitted in the 2007 and 2008 rounds.

Because the 2007 Supplemental Allocation was a competitive allocation made in the census tract within the last 10 years, staff recommends denial of the appeal.

16001 Rolling Hills Scoring Notice and Documentation



MULTIFAMILY FINANCE PRODUCTION DIVISION Housing Tax Credit Program - 2016 Application Round Scoring Notice - Competitive Housing Tax Credit Application

Lucille Jones Date: June 14, 2016

Phone #: (830) 257-5323

THIS NOTICE WILL ONLY BE Email: ljones@macdonald-companies.com TRANSMITTED VIA EMAIL

Second Email: cadams@macdonald-companies.com

RE: 2016 Competitive Housing Tax Credit (HTC) Application for Rolling Hills, TDHCA Number: 16001

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2016 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

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

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

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

Section 4 provides the final cumulative score in bold.

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

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(2) "Cost of Development per Square Foot" and §11.9(e)(4) "Leveraging of Private, State, and Federal Resources" may be adjusted should the underwriting review result in changes to the Application that would affect these scores. If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

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

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



MULTIFAMILY FINANCE PRODUCTION DIVISION Housing Tax Credit Program - 2016 Application Round Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 16001, Rolling Hills

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2016 QAP):

Score Awarded by Department staff (Does not include points for §11.9(d)(1), (4), (5), or (6) of the 2016 QAP):

Difference between Requested and Awarded:

Section 2:

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

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

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

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

Section 3:

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

Section 4:

Final Score Awarded to Application by Department staff:

Section 5:

Explanation for Difference between Points Requested and Points Awarded by the Department as well as penalties assessed:

§11.9(c)(6) Underserved Area. The Application requested 1 point but is not eligible for points under this item as the census tract has received an allocation in the last 10 years. (Requested 1, Awarded 0)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. Austin local time, Friday, June 10, 2016. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

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

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

Sincerely,

Sharon Gamble

Sharon Gamble

9% Competitive HTC Program Administrator

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MULTIFAMILY FINANCE PRODUCTION DIVISION BOARD ACTION REQUEST

October 12, 2006

Action Items

Presentation, Discussion and Possible Approval of a Final Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments ("Final Policy") and Recommendation of Awards to Eligible Developments Under the Final Policy.

Required Action

Approve, deny or approve with amendments:

- Staff's recommendation of the Final Policy; and
- A list of recommended awards for eligible developments under the Final Policy.

Background

The Texas Department of Housing and Community Affairs (the "Department") has received numerous inquiries relating to increased direct construction costs that are generally attributed to the impact of Hurricanes Katrina and Rita during September 2005. The Department has researched this issue using comparative cost multipliers by region from 2003 to 2006 from Marshall & Swift. Department research indicates that the existing 2004 and 2005 Competitive HTC awards may be affected by these increases in direct construction costs by an average of 14%.

At the July 28, 2006 Board Meeting, the Board approved the Draft Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments (the "Draft Policy"). The Draft Policy was published in the *Texas Register* on August 11, 2006 and posted to the Department website on July 31, 2006 for comment by the public. Public comment on the Draft Policy was accepted until September 15, 2006; this public comment and the Department's response are detailed in the Public Comment section of this Board Action Request.

Public comment on the Draft policy has been reviewed by the Department and is reflected in the proposed Final Policy. The following are some key features of the proposed Final Policy:

- ❖ The estimated total amount of additional credits necessary to accommodate this Final Policy for 2004 is \$2,996,327 that would be utilized from the 2007 credit ceiling, for 2005 is \$3,396,511 that would be utilized from the 2008 credit ceiling and for 2005 forward commitments of tax credits from the 2006 credit ceiling \$160,098 that would be utilized from the 2006 credit ceiling for a total of \$6,522,936.
- Awards of additional credits will be attributed to the proper region and set-asides from the 2006, 2007 or 2008 credit ceiling.
- ❖ Developments will not be eligible for a 30% increase in eligible basis based on the development's location in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA). The increase in credits for these areas is designed as an incentive to develop in these areas that may otherwise be less attractive or more risky locations than non-designated locations. Costs such as land acquisition, zoning entitlement, marketing, builder and developer incentive or profit are costs that are most typically associated with QCT and DDA locations and these costs are not being targeted for the proposed 14%

increase. Moreover, staff has not been able to find any substantive evidence that the construction cost increases occurring since the hurricanes have disproportionately impacted the QCTs and DDAs.

- ❖ Developments are considered to have met the 2 times per capita test by having met it in the year of original award. The amount of additional credits awarded under the Final Policy will be considered in the 2 times per capita test for new applications, however.
- ❖ The Land Use Restriction Agreement (LURA) for eligible developments that were not placed in service or did not complete cost certification during 2006 will not be affected. To the extent that any eligible development did place in service or complete cost certification during 2006 and recorded a LURA with the Department, the credit award amount reflected in the LURA will be amended within the LURA using the Department's administrative LURA amendment process.

In addition to the items listed above, the table entitled "Summary of Applicable Rule and Statute Effects on Eligible Developments Under the Final Policy," which is attached to this Board Action Request, provides additional information on some key features of the Final Policy.

I. PUBLIC COMMENT

The Department received written comments during the public comment period. In addition, during this public comment period, staff identified several issues that required clarification. These comments, as well as Department responses and clarifications are outlined below and are divided into the following two sections:

- I. Substantive Comments and Department Response
- II. Administrative Clarifications and Corrections

I. Substantive Comments and Department Response

General Comments (1, 7, 8, 9, 10, 11, 12)

Comment:

Several comments provided positive feedback and/or support for the Department's efforts to create a policy to address direct construction cost increases (1, 7, 8, 9, 10, 11, 12).

Department Response:

Staff appreciates the commendation with regard to the policy.

Section II. Method of Allocation (3, 4, 5, 6, 7, 10, 8, 9)

Comment:

Comment suggests clarifying which developments will be eligible for an additional allocation of tax credits, specifically whether 2003 applications awarded credits out of the 2004 ceiling are eligible (5, 10). If these applications are not eligible under the Draft Policy, comment suggests that 2003 applications awarded credits out of the 2004 ceiling be eligible under the Final Policy (5). Additional comment suggests clarifying whether developments that received an award in 2005 for credits from the 2006 credit ceiling are eligible under the policy, and whether one particular development awarded a forward commitment in 2005 for credits from the 2006 ceiling that was subsequently reissued as a 2006 award of credits from the 2007 credit ceiling will be eligible under this policy (10).

Department Response:

Staff recommends the following language to clarify eligibility under the policy:

"The Department will offer an allocation of additional credits to all <u>competitive HTC developments</u> awarded <u>from the 2004</u> and 2005 <u>competitive HTC developments Tax Credit Ceilings</u> that were not placed in service <u>or did not complete cost certification</u> before <u>January 1, 2006</u>. Developments awarded a Forward Commitment in 2005 for tax credits from the 2006 HTC Ceiling are <u>also</u> considered <u>a 2005 competitive HTC developmenteligible under this policy</u>. For the purpose of this policy, 2003 awards from the 2004 Tax Credit Ceiling and 2004 awards from the 2004 Tax Credit Ceiling will herein after be referred to as "2004 awarded developments." Likewise, 2004 awards from the 2005 Tax Credit Ceiling will herein after be referred to as "2005 awarded developments." Finally, 2005 awards from the 2006 Tax Credit Ceiling will herein after be referred to as "2005 forward committed developments.""

As it applies to Fairway Crossing, the development that received a forward commitment in 2005 for credits from the 2006 ceiling that was subsequently reissued as a 2006 award of credits from the 2007 credit ceiling, the 14% increase will also be available as referenced above.

Comment:

Comment suggests that site work receive a 14% increase as well as direct construction costs (8).

Department Response:

Staff concurs and recommends using a methodology that applies a 14% increase in site work costs and direct construction costs in determining the amount of award; staff has clarified this in multiple sections of the Final Policy and has used this methodology in creating the list of recommended awards outlined in the Award Recommendations section of this Board Action Request.

Comment:

Comment suggests offering more than a 14% increase for developments that are 50 units or smaller and to developments whose construction contracts were negotiated between October 2004 and March 2005. Developments with 50 units or less should receive a 15% increase, developments with contracts negotiated before January 1, 2005 should receive a 17% increase, between January 1, 2005 and March 31, 2005 should receive a 16% increase and after March 31, 2005 receive a 14% increase (7).

Department Response:

While staff appreciates the proposal for increased percentages for developments with 50 or fewer units and for those with construction contracts negotiated between October 2004 and March 2005, staff believes that one calculation should be utilized to ensure simplified, equitable treatment. Therefore, staff recommends no change.

Comment:

Comment suggests clarification of which line items are included in direct construction costs (4, 6, 10). Additional comment asks specifically whether direct construction costs include general requirements, contractor overhead and contractor profit (4, 10).

Department Response:

Staff recommends the following language to clarify the items included in direct construction costs:

"The amount of each development's award will be determined by the Department using a methodology that applies a 14% increase to the <u>site work and</u> direct construction costs as reflected in the most recent Underwriting report and then completes the credit determination based on that

adjustment. The portions of the Department Development Cost Schedule associated with site work and direct construction costs as reflected in the Underwriting report are Site Work and Direct Construction Costs: Hard Costs."

Comment:

Comment suggests clarification regarding whether the applicant's or Department's numbers from the Underwriting Report will be used to calculate the 14% increase (8).

Department Response:

Staff recommends the following language to clarity which numbers will be relied upon to determine the amount of the additional allocation of credits:

"Staff will use the numbers relied upon in the most recent Underwriting Report, either the applicant's or Department's as applicable, to determine the amount of the additional allocation of credits."

Comment:

Comment suggests clarification regarding which applicable percentage will be used in the Department's calculation: the current percentage, or the percentage applicable during the original application period (8).

Department Response:

Staff recommends the following language to clarify which applicable percentage will be used to determine the amount of the additional allocation of credits:

"The applicable percentage used in the most recent Underwriting Report will be used to determine the amount of the additional allocation of credits."

Comment:

Comment suggests that the Department clarify whether the 30% increase for location of a development in a QCT will apply (3, 10).

Department Response:

The Department will not consider the 30% increase for QCT or DDA in the award an allocation of additional credits. Costs such as land acquisition, zoning entitlement, marketing, builder and developer incentive or profit are costs that are most typically associated with QCT and DDA locations and these costs are not eligible for the proposed 14% increase. Staff recommends the following language to clarify whether the 30% increase for QCT or DDA will apply:

"Developments will not be eligible for a 30% increase in eligible basis based on the development's location in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA)."

Comment:

Comment suggests clarification regarding the treatment under the policy of a development that was previously granted an amendment by the Department that increased development costs (8).

Department Response:

Staff recommends the following language to clarify treatment of developments that have been granted an amendment by the Department:

"Staff will perform an additional review of any development that has been granted an amendment by the Department to ensure that no development receives a disproportionate benefit under this Final Policy."

Comment:

Comment requests clarification on the impact of the policy on the \$2 million limit and suggests that the limit applies to the 2007 application round for developments awarded additional credits out of the 2007 credit ceiling. Comment further requests clarification on which year the limit will affect: the year of original award, or the year of the credit ceiling of the additional allocation (10).

Department Response:

Staff recommends the following language to clarify the impact of the \$2 million limit:

"Pursuant to §2306.6711(b) of Tex. Gov't. Code, the Department may not allocate more that \$2 million in housing tax credits to any applicant in a single application round. The additional credits allocated under this policy will apply to the \$2 million cap for the year of the original award of tax credits. In the event that this requirement prevents a development from receiving the tax credits for which it is eligible, the applicant may, at his discretion, choose which development of which he is a principal will receive the award of additional tax credits, if more than one development is affected."

Comment:

Comment requests clarification on the impact of the policy on the \$1.2 million limit and suggests a waiver of this limit (10, 8, 9).

Department Response:

Staff concurs and proposes that the \$1.2 million limit be waived and the limit increased to \$1.368 million, equal to a 14% increase in the \$1.2 million limit. Staff recommends the following language to clarify the impact of the \$1.2 million limit:

The Department will limit the allocation of tax credits to no more than \$1.368 million per Development.

Section III. Procedures (1, 2, 3)

Comment:

Paragraph 4 – Comment suggests that the Department clarify when the "binding agreement" becomes binding (2).

Department Response:

Staff recommends the following language to clarify when the binding agreement is effective:

"4.5. The Department will review the binding agreement and, upon satisfaction, the agreement will be executed by the Executive Director of the Department. The execution by the Executive Director will occur no later than December 31, 2006 for the 2004 awarded developments and 2005 awarded developments placed in service in 2006, and no later than March 1, 2007 for the 2005 awarded developments and 2005 forward committed developments to be placed in service after 2006. The binding agreement will be considered effective as of the date the Executive Director of the Department executes the agreement."

Comment:

Paragraph 5 – Comment suggests that the Department clarifies what constitutes a "new activity" (2).

Department Response:

Staff recommends no changes to the policy to clarify "new activities," as staff feels that the statement "this analysis will be based on the development details originally proposed and credits will not be eligible for new activities not originally proposed" is adequately descriptive. Activities not originally proposed in the original application will not be eligible for credits.

Comment:

Paragraph 5 – Comment suggests clarification regarding how cost increases must be substantiated at cost certification, i.e. must direct constructions costs have increased by 14% or will an increase in construction costs in general or development costs in general be allowed to substantiate the additional allocation (3).

Department Response:

Staff recommends the following language to clarify which costs must substantiate the additional allocation of credits:

"5.7.... Further, a detailed cost analysis will be required at the time of cost certification that will be utilized to ensure <u>development</u>that site work and <u>direct construction</u> costs specifically increased by the estimated 14%."

Comment:

Paragraph 6 – Comment suggests removing the reference to the QAP to prevent confusion about which year's QAP is being referenced.

Department Response:

Staff recommends the following language to clarify which year's Qualified Allocation Plan (QAP) applies to eligible developments:

"6.8. As described in §50.10(c)(1) of the QAP: "Applications that are submitted under the 2006 QAP and granted an additional award of 2006 Housing Tax Credits or a Forward Commitment of 2007 or 2008 Housing Tax Credits are considered by the Board to comply with the respective 2006, 2007 or 2008 QAP by having satisfied the requirements of this 2006 the QAP under which the original application was submitted, except for statutorily required QAP changes."

Comment:

Paragraph 7 – Comment suggests that it is unclear if the "application" referred to in this paragraph is the same as the "binding agreement" referred to elsewhere in the Draft Policy. Comment also suggests that all projects that are not in material noncompliance are eligible for award; this comment suggests that the material noncompliance should be linked only to the project in question and not to other projects involving the same principals. The new language suggested by this comment is "The binding agreement will be reviewed before the issuance of a letter to ensure that the project receiving the additional credits is not in material non-compliance as of the date of the approval of this policy by the Board as determined by the Portfolio Management and Compliance Division of the Department" (1).

Department Response:

Staff recommends the following language to clarify that the credit increase is not available to parties with Material Noncompliance on other properties:

"7.9. The application—binding agreement will be reviewed before execution by the Executive Director of the Department issuance of a letter occurs to ensure that they do not have the principals of the development receiving an allocation of additional credits are not in material non-compliance on other developments in which they are a party consistent with \$50.5(b)(2) and (3) of the QAP. The Portfolio Management and Compliance division of the Department will perform this review as of November 17, 2006."

II. Administrative Clarifications and Corrections

Section III. Procedures

Administrative changes were made to clarify the process the Department will use to award additional credits under the Final Policy:

- "1. 2005 forward committed applications will be issued a revised 2006 Commitment Notice in the amount of the original award plus the additional amount as calculated by the Department. The revised award will come out of the 2006 Tax Credit Ceiling."
- "1.2. The Department will issue all 2004 and 2005 awarded developments from the 2004 and 2005 eredit ceiling a letterbinding agreement indicating the specific additional allocation amount as calculated by the Department and instructions consistent with this policy for their binding agreement's return submission."

An administrative change was made to clarify that deadlines applicable to the development will not be extended as a result of the additional allocation of credits under this Final Policy:

"5.7. Upon placement in service and submission of the cost certification, the Applicant will be required to substantiate their total costs and credit allocation consistent with the requirements set forth in the *Cost Certification Manual*. All deadlines applicable to the original application will apply under this policy; no extensions will result from the allocation of additional credits..."

An administrative change was made to clarify the effect of §2306.6711(f), the one mile test, on the policy:

"11. Pursuant to §2306.6711(f), "The board may allocate housing tax credits to more than one development in a single community...only if the developments are or will be located more than one linear mile apart." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2007 or 2008 respectively. (Example: all proposed applications in the 2007 competitive cycle that are within one mile of a development that receives additional credits will not be eligible to receive an allocation in the 2007 cycle.)"

An administrative change was made to clarify the effect of §2306.6703(a)(3) on the policy:

"12. Pursuant to §2306.6703(a)(3), an application will be considered ineligible if the applicant proposes to construct a new development that is located one linear mile or less from a development that serves the same type of household as the new development and has received an allocation of housing tax credits for new construction at any time during the three-year period preceding the date the application round begins. For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2006, 2007 or 2008 respectively. (Example: any application proposed within a three year period from the date of Board action for additional credits that are within one mile of a development that receives additional credits will not be eligible to receive an allocation without a resolution from the appropriate governing body.)"

An administrative change was made to clarify the effect of §2306.6703(a)(4) on the policy:

"13. Pursuant to §2306.6703(a)(4), an application will be considered ineligible if "the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds..." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications, the amount of additional credits allocated under this policy will be applied to the calculation accordingly going forward."

An administrative change was made to clarify the effect of the policy on the LURA:

"14. The Land Use Restriction Agreement (LURA) for eligible developments that were not placed in service or did not complete cost certification during 2006 will not be affected. To the extent that any eligible development did place in service or complete cost certification during 2006 and recorded a LURA with the Department, the credit award amount reflected in the LURA will be amended within the LURA using the Department's administrative LURA amendment process."

An administrative change was made to clarify the effect of the policy on IRS Forms 8609:

"15. Each eligible 2004 and 2005 awarded development that receives an additional allocation of tax credits under this policy will receive new IRS Forms 8609 for the amount of additional allocation substantiated at cost certification. Each eligible 2004 and 2005 awarded development will therefore receive two complete sets of IRS Forms 8609; one set for the amount of original allocation and one set for the amount of the additional allocation under this policy. 2005 forward committed developments will receive only one set of IRS Forms 8609."

Other minor changes have been made to correct errors in grammar, etc.

II. AWARD RECOMMENDATIONS

Pursuant to the methodology of the Final Policy, staff has prepared award recommendations, which are reflected in Exhibit A of this Board Action Request. These recommendations are based on a 14% increase in site work and direct construction costs as reflected in the most recent Underwriting report. This list reflects a complete listing of all applications eligible under this policy even if no additional allocation is made.

The total amount reflected in Exhibit A to be utilized from the 2007 credit ceiling is an amount not to exceed \$2,966,327, the total amount reflected in Exhibit A to be utilized from the 2008 credit ceiling is an amount not to exceed \$3,396,511 and the total amount reflected in Exhibit A to be utilized from the 2006 credit ceiling is an amount not to exceed \$160,098 for a total of \$6,522,936. Please note that individual award amounts may change following a staff review of any development that has been previously granted an amendment by the Department.

III. TIMELINE

The policy proposed today for approval is a final policy. The Final Policy will be posted to the Department's website and an email announcement released on October 16, 2006. It will also be published in the *Texas Register* on October 27, 2006. The Department will issue binding agreements to owners, pursuant to Treasury Regulation §1.42-8. Owners must return the binding agreements with the applicable fee to the Department by October 31, 2006 indicating either that they do or do not choose to utilize the additional allocation. The Department will review the binding agreement and, upon satisfaction, the agreement will be executed by the Executive Director of the Department. The execution by the Executive Director will occur no later than December 31, 2006 for 2004 awarded developments and 2005 awarded developments placed in service in 2006, and no later than March 1, 2007 for 2005 developments to be placed in service after 2006.

Recommendation

- 1. Approval of the attached Final Policy.
- 2. Approval of staff's recommendation of awards to eligible developments under this Final Policy (see Exhibit A).

Summary of Public Comment Received Regarding the Draft Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments

Source No.	Source
1	John R. Pitts
2	Brad Forslund
3	Colby Denison
4	Bill Fisher
5	Les Kilday
6	Bob DeLuca
7	Gary Driggers
8	Texas Affiliation of Affordable Housing Providers
9	Coats Rose
10	Cynthia Bast
11	Christopher A. Akbari
12	Ken Mitchell

TDHCA #	Original TDHCA#	Year	Credit Ceiling for Add'l Allocation	Development Name				Additional Allocation Under Final Policy	
04000		2004	N/A	King Fisher Creek	Austin	7	Yes	\$225,813	\$0
04001	FC	2004	2007	Diana Palms	El Paso	13		\$211,474	\$17,494
04002	FC	2004	2007	Cricket Hollow Apartments	Willis	6		\$871,110	\$82,466
04003	FC	2004	N/A	Villas on Sixth Street	Austin	7	Yes	\$1,072,039	\$0
04004	FC	2004	2007	Kingsland Trails Apartments	Kingsland	7	No	\$444,394	\$46,297
04005	FC	2004	2007	Palacio Del Sol	San Antonio	9	110	\$1,096,828	\$81,457
04007		2004	2007	Oaks Of Bandera	Bandera	9		\$465,153	\$42,318
04008		2004	2007	Friendship Place	Fredericksburg	9		\$423,267	\$40,760
04012		2004	N/A	Tyler Square Apartments	Tyler	5	Yes	\$605,490	\$0
04018		2004	2007	Terrace Pines	College Station	8		\$541,018	\$40,346
04024		2004	2007	South Union Place	Houston	6		\$739,345	\$56,587
04026		2004	N/A	Oak Timbers-White Settlement II	White Settlement	3	Yes	\$408,605	\$0
04028		2004	N/A	Heritage Park	Denison	3	Yes	\$501,577	\$0
04030		2004	2007	Park Estates	Nacogdoches	5	105	\$387,972	\$26,141
04036		2004	2007	Villa del Sol	Brownsville	11		\$485,000	\$28,453
04037		2004	2007	Las Canteras Apartments	Pharr	11		\$567,803	\$53,407
04047		2004	2007	Stratton Oaks	Seguin	9		\$590,539	\$55,603
04052		2004	2007	Chisholm Trail Senior	Daltan	0		¢415.000	\$20.702
04052		2004	2007	Village	Belton Lubbock	8		\$415,000	\$28,703
04057 04058		2004	2007	Stone Hollow Village Spring Oaks Apartments	Balch Springs	3		\$845,849 \$845,382	\$61,781 \$76,305
04038		2004	2007	Pineywoods Community Orange	Orange	5		\$403,142	\$26,874
04070		2004	2007	Cedar Oak Townhome	El Paso	13		\$973,684	\$73,252
04079		2004	2007	Baybrook Park Retirement Center	Webster	6		\$445,118	\$39,863
04082		2004	2007	Fenner Square	Goliad	10		\$195,062	\$21,258
04085		2004	2007	Redwood Heights Apartments	Houston	6		\$600,146	\$41,991
04088		2004	2007	South Plains Apartments	Lubbock	1		\$372,410	\$16,147
04089		2004	2007	Villas of Forest Hill	Forest Hill	3		\$424,339	\$36,629
04093		2004	2007	Villas of Seagoville	Seagoville	3		\$427,745	\$36,900
04100		2004	2007	O.W. Collins Apartments	Port Arthur	5		\$406,999	\$40,084
04101		2004	2007	Pleasant Hill Apartments	Austin	7		\$484,888	\$27,798
04105		2004	2007	Preston Trace Apartments	Frisco	3		\$134,641	\$9,490
04107		2004	2007	Whitefield Place Apartments	San Antonio	9		\$419,397	\$23,269
04108		2004	2007	Tamarac Pines Apartments	The Woodlands	6		\$868,435	\$53,393
04109		2004	2007	Frazier Fellowship	Dallas	3		\$547,378	\$27,242
04118		2004	2007	Churchill at Commerce	Commerce	3		\$727,212	\$52,598
04120		2004	2007	Sedona Springs Village	Odessa	12	No	\$647,355	\$46,216
04145		2004	2007	Village at Meadowbend Apartments II	Temple	8		\$637,076	\$44,275

Credit									
TDHCA #	Original TDHCA#	Year	Ceiling for Add'l Allocation	Development Name	Project City	Region	PIS in 2005	Original Allocation	Additional Allocation Under Final Policy
04146		2004	2007	Casa Saldana	Mercedes	11		\$1,153,862	\$82,912
04147		2004	N/A	Shiloh Village Apartments	Dallas	3	Yes	\$746,032	\$0
04149		2004	2007	Seton Home Center for Teen Moms	San Antonio	9		\$366,315	\$22,493
04151		2004	2007	Renaissance Courts	Denton	3		\$900,015	\$65,771
04152		2004	2007	Bluffview Villas	Brenham	8		\$440,733	\$40,048
04154		2004	2007	Plainview Vistas	Plainview	1		\$665,958	\$47,570
04157		2004	2007	Samaritan House	Fort Worth	3		\$818,328	\$59,531
04160		2004	2007	The Village on Hobbs Road	League City	6		\$551,851	\$50,356
04167		2004	2007	Oxford Place	Houston	6		\$1,187,924	\$114,593
04170		2004	N/A	The Gardens of Athens	Athens	4	Yes	\$241,701	\$0
04176		2004	2007	The Gardens of Gladewater	Gladewater	4		\$256,808	\$25,066
04191		2004	2007	Providence at Boca Chica	Brownsville	11		\$1,010,465	\$72,261
04193		2004	2007	Providence at Edinburg	Edinburg	11		\$357,369	\$29,947
04194		2004	2007	Lexington Court	Kilgore	4		\$549,640	\$52,310
04196		2004	2007	Americas Palms	El Paso	13		\$667,234	\$59,831
04197		2004	2007	Horizon Palms	El Paso	13		\$478,693	\$41,271
04200		2004	2007	Alvin Manor Estates	Alvin	6		\$251,662	\$23,315
04203		2004	2007	Alvin Manor	Alvin	6		\$149,382	\$12,994
04206		2004	2007	Lake Jackson Manor	Lake Jackson	6		\$402,176	\$37,014
04213		2004	2007	The Village at Morningstar	Texas City	6		\$534,844	\$46,644
04222		2004	2007	Primrose at Highland	Dallas	3		\$935,153	\$72,046
04224		2004	2007	Commons of Grace Senior	Houston	6		\$660,701	\$48,106
04226		2004	2007	Arbor Cove	Donna	11		\$1,152,522	\$83,751
04228		2004	2007	Stone Hearst	Beaumont	5	No	\$633,496	\$44,350
04241		2004	2007	Anson Park II	Abilene	2		\$535,250	\$38,002
04246		2004	2007	Wildwood Trails Apartments	Brownwood	2		\$549,988	\$40,041
04250		2004	2007	Knollwood Heights Apartments	Big Spring	12		\$448,391	\$32,673
04255		2004	2007	Freeport Oaks Apartments	Freeport	6		\$639,213	\$48,476
04260		2004	2007	Towne Park in Fredericksburg II	Fredericksburg	9		\$225,361	\$18,608
04268		2004	2007	Lansbourough Apartments	Houston	6		\$1,003,544	\$77,147
04275		2004	2007	Bahia Palms Apartments	LaGuna Vista	11		\$123,771	\$12,292
04279		2004	2007	Golden Manor Apartments	Bay City	6		\$110,039	\$5,484
04283		2004	2007	Shady Oaks Apartments	Prairie View	6		\$122,327	\$6,215
04284		2004	2007	Katy Manor Apartments	Katy	6		\$111,743	\$6,580
04285		2004	2007	Ole Town Apartments	Jefferson	4		\$109,454	\$4,935
04287		2004	2007	Vista Hermosa Apartments	Eagle Pass	11		\$61,585	\$4,824
04288		2004	2007	Briarwood Apartment	Kaufman	3		\$170,909	\$11,794
04290		2004	2007	L.U.L.A.C. Village Park	Corpus Christi	10		\$846,083	\$56,782
04291		2004	2007	Saltgrass Landing Apartments	Rockport	10		\$94,064	\$2,419

TDHCA Original Add				Exhibit A – Award I			PIS in	Original	Additional Allocation Under
#	TDHCA#	Year	Allocation	Development Name	Project City	Region	2005	Allocation	Final Policy
04293		2004	2007	Lantana Ridge Apartments South	Beeville	10		\$51,980	\$1,400
04294		2004	2007	Lantana Ridge Apartments	Beeville	10		\$66,535	\$2,380
04295		2004	2007	La Mirage Villas	Perryton	1		\$171,527	\$11,198
04302		2004	N/A	Sierra Royale Apartments	Robstown	10	Yes	\$529,338	\$0
05000	FC	2005	2008	Snyder Housing Venture	Snyder	2		\$30,463	\$2,676
05001	FC	2005	2008	Mountainview Apartments	Alpine	13		\$66,861	\$2,010
05002	FC	2005	2008	Villa Apartments	Marfa	13		\$32,432	\$1,143
05003	FC	2005	2008	Oasis Apartments	Fort Stockton	12		\$55,422	\$1,946
05004		2005	2008	Samuel's Place	Fort Worth	3		\$254,842	\$20,734
05005		2005	2008	Cambridge Courts	Fort Worth	3		\$818,995	\$105,777
05016		2005	2008	Country Lane Seniors- Temple Community	Temple	8		\$889,327	\$63,226
05020		2005	2008	Central Place	Hereford	1		\$277,501	\$20,089
05021		2005	2008	Waterside Court	Houston	6		\$1,054,000	\$100,100
05022		2005	2008	The Enclave	Houston	6		\$524,209	\$35,880
05024		2005	2008	Figueroa Apartments	Robstown	10		\$298,898	\$16,592
05025		2005	2008	Poinsetta Apartments	Alamo	11		\$571,979	\$54,564
05026		2005	2008	Mesa Vista Apartments	Donna	11		\$453,995	\$42,387
05027		2005	2008	Timber Village Apartments	Marshall	4		\$620,359	\$43,961
05028		2005	2008	Sevilla Apartments	Weslaco	11		\$359,068	\$25,386
05029		2005	2008	Cimarron Springs Apartments	Cleburne	3		\$1,185,000	\$87,227
05034		2005	2008	The Gardens of Taylor, LP	Taylor	7		\$275,212	\$26,325
05041		2005	2008	San Diego Creek Apartments	Alice	10		\$570,000	\$41,427
05044		2005	2008	Copperwood Apartments	The Woodlands	6		\$1,058,943	\$51,942
05051		2005	2008	Longview Senior Apartment Community	Longview	4		\$870,000	\$61,873
05060		2005	2008	North Mountain Village	El Paso	13		\$1,102,540	\$106,697
05069		2005	2008	Santa Rosa Village	Santa Rosa	11		\$132,202	\$6,966
05073		2005	2008	Villa San Benito	San Benito	11		\$141,925	\$7,568
05074		2005	2008	Alamo Village	Alamo	11		\$127,257	\$8,969
05080		2005	2008	Cambridge Villas	Pflugerville	7		\$1,160,295	\$115,908
05082		2005	2008	Sphinx at Luxar	Dallas	3		\$858,445	\$60,091
05084		2005	2008	University Place Apartments	Wharton	6		\$186,356	\$9,299
05088		2005	2008	Oak Timbers-Fort Worth South	Fort Worth	3		\$1,200,000	\$89,227
05092		2005	2008	Vida Que Canta Apartments	Mission	11		\$950,919	\$87,318
05094		2005	2008	San Juan Village	San Juan	11		\$187,117	\$11,366
05095		2005	2008	Sphinx At Reese Court	Dallas	3		\$597,776	\$50,175
05097		2005	2008	Cathy's Pointe	Amarillo	1		\$757,752	\$72,827
05099		2005	2008	Madison Pointe	Cotulla	11		\$619,762	\$45,165
05101		2005	2008	Creek Crossing Senior Village	Canyon	1		\$393,547	\$35,703

Credit									
TDHCA #	Original TDHCA#	Year	Ceiling for Add'l Allocation	Development Name	Project City	Region	PIS in 2005	Original Allocation	Additional Allocation Under Final Policy
05108	IDIICAπ	2005	2008	Kingswood Village	Edinburg	11	2003	\$349,985	\$13,665
05109		2005	2008	Country Village Apartments	San Angelo	12		\$666,473	\$33,850
05116		2005	2008	Wahoo Frazier Townhomes	Dallas	3		\$925,960	\$63,797
05118		2005	2008	Vista Verde I & II Apartments	San Antonio	9		\$1,126,771	\$63,584
05124		2005	2008	TownParc at Amarillo	Amarillo	1		\$931,177	\$86,710
05125		2005	2008	La Villita Apartments Phase II	Brownsville	11		\$555,478	\$39,426
05127		2005	2008	Navigation Pointe	Corpus Christi	10		\$800,000	\$67,974
05137		2005	2008	Los Ebanos Apartments	Zapata	11		\$65,042	\$4,855
05141		2005	2008	The Arbors at Rose Park	Abilene	2		\$647,474	\$43,281
05142		2005	2008	Wesleyan Retirement Homes	Georgetown	7		\$368,190	\$21,640
05146		2005	2008	Spring Garden V	Springtown	3		\$297,367	\$24,869
05151		2005	2008	Deer Palms	El Paso	13		\$844,082	\$83,474
05152		2005	2008	Linda Vista Apartments	El Paso	13		\$296,225	\$21,807
05159		2005	2008	San Juan Square	San Antonio	9		\$999,398	\$85,948
05160		2005	2008	The Alhambra	San Antonio	9		\$946,988	\$79,507
05163		2005	2008	Timber Pointe Apartment Homes	Lufkin	5		\$560,454	\$40,362
05164		2005	2008	Ridge Pointe Apartments	Killeen	8		\$1,013,602	\$97,664
05165		2005	2008	Lincoln Park Apartments	Houston	6		\$1,200,000	\$114,621
05166		2005	2008	Hampton Port Apartments	Corpus Christi	10		\$438,949	\$36,404
05168		2005	2008	Lakeview Park	Denison	3		\$461,253	\$41,622
05178		2005	N/A	Tuscany Court Townhomes	Hondo	9	Yes	\$58,521	\$0
05179		2005	2008	The Villages at Huntsville	Huntsville	6		\$589,000	\$50,494
05184		2005	2008	Hampton Chase Apartments	Palestine	4		\$551,310	\$42,604
05185		2005	2008	Market Place Apartments	Brownwood	2		\$518,989	\$39,059
05187		2005	2008	Valley Creek Apartments	Fort Stockton	12		\$380,433	\$27,774
05189		2005	2008	Windvale Park	Corsicana	3		\$564,003	\$54,426
05195		2005	2008	San Gabriel Senior Village	Georgetown	7		\$712,154	\$64,206
05198		2005	2008	Olive Grove Manor	Houston	6		\$946,000	\$89,097
05199		2005	2008	Southwood Crossing Apartments	Port Arthur	5		\$631,266	\$59,326
05204		2005	2008	Ambassador North Apartments	Houston	6		\$724,870	\$48,989
05207		2005	2008	Parker Lane Seniors Apartments	Austin	7		\$669,940	\$44,241
05209		2005	2008	Providence Place Apartments	Katy	6		\$984,852	\$95,353
05222		2005	2008	Kingwood Senior Village	Houston	6		\$1,067,817	\$87,431
05225		2005	2008	Normangee Apartments	Normangee	8		\$113,408	\$7,632
05226		2005	2008	Lytle Apartments	Lytle	9		\$128,008	\$8,478
05228		2005	2008	City Oaks Apartments	Johnson City	7		\$135,403	\$10,549
05231		2005	2008	Kerrville Housing	Kerrville	9		\$272,868	\$20,901
05234		2005	2008	Park Place Apartments	Bellville	6		\$106,874	\$5,216

TDHCA #	Original TDHCA#	Year	Credit Ceiling for Add'l Allocation	Development Name	Project City	Region	PIS in 2005	Original Allocation	Additional Allocation Under Final Policy
05235		2005	2008	Country Square Apartments	Lone Star	4		\$84,110	\$5,171
05236		2005	2008	Clifton Manor Apartments I and II	Clifton	8		\$120,124	\$10,332
05237		2005	2008	Bel Aire Manor Apartments	Brady	12		\$60,567	\$4,468
05238		2005	2008	Hamilton Manor Apartments Hamilton 8 \$58,236					\$4,984
05239		2005	2008	Bayshore Manor Apartments Palacios 6 \$159,890		\$8,700			
05243		2005	2008	Villas of Hubbard Hubbard 8 \$193,215		\$16,284			
05247		2005	2008	Hacienda Santa Barbara Apartments	Socorro	13		\$107,199	\$9,961
05251		2005	2008	Joaquin Apartments	Joaquin	5		\$65,824	\$3,233
060002 / 070001	05171	2006	2007	Fairway Crossing	Dallas	3		\$1,200,000	\$97,498
060003		2006	2006	Floresville Square Apartments Floresville 9 \$139,958		\$8,343			
060004		2006	2006	Fieldstone Apartments	Fieldstone Apartments El Campo 6			\$81,039	\$5,471
060005	05058	2006	2006	Green Briar Village Apartments Wichita Falls 2 \$591,841		\$42,087			
060006	05100	2006	2006	Tierra Blanca Apartments	Hereford	1		\$615,000	\$43,403
060007	05012	2006	2006	Landa Place	New Braunfels	9		\$655,454	\$60,794

Exhibit B – Summary of Applicable Rule and Statute Effects on Eligible Developments Under the Final Policy

Year of Original Award	Credit Ceiling of Add'l Allocation	\$2M Limit (year affected)*	\$1.2M Limit	1 Mile / 1 Year	1 Mile / 3 Year	2 Times Per Capita	Regional Allocation Formula (year deducted)	QAP
2003 Awards from the 2004 Ceiling	2007	2003	Total allocation will be limited to \$1.368 million.	Test met by having satisfied test in year of award. Considered a 2007 award for purpose of testing proposed 2007 applications.	Test met by having satisfied test in year of award. Considered a 2007 award for purpose of testing proposed 2007 applications.	Test met by having satisfied test in year of award. Amount of credit award will be considered in tests of proposed applications.	2007	2007 met by having met 2003 (except statutory changes)
2004 Awards from the 2004 Ceiling	2007	2004	Total allocation will be limited to \$1.368 million.	Test met by having satisfied test in year of award. Considered a 2007 award for purpose of testing proposed 2007 applications.	Test met by having satisfied test in year of award. Considered a 2007 award for purpose of testing proposed 2007 applications.	Test met by having satisfied test in year of award. Amount of credit award will be considered in tests of proposed applications.	2007	2007 met by having met 2004 (except statutory changes)
2004 Awards from the 2005 Ceiling	2008	2004	Total allocation will be limited to \$1.368 million.	Test met by having satisfied test in year of award. Considered a 2008 award for purpose of testing proposed 2008 applications.	Test met by having satisfied test in year of award. Considered a 2008 award for purpose of testing proposed 2008 applications.	Test met by having satisfied test in year of award. Amount of credit award will be considered in tests of proposed applications.	2008	2008 met by having met 2004 (except statutory changes)
2005 Awards from the 2005 Ceiling	2008	2005	Total allocation will be limited to \$1.368 million.	Test met by having satisfied test in year of award. Considered a 2008 award for purpose of testing proposed 2008 applications.	Test met by having satisfied test in year of award. Considered a 2008 award for purpose of testing proposed 2008 applications.	Test met by having satisfied test in year of award. Amount of credit award will be considered in tests of proposed applications.	2008	2008 met by having met 2005 (except statutory changes)
2005 Awards from the 2006 Ceiling	2006	2005	Total allocation will be limited to \$1.368 million.	Test met by having satisfied test in year of award. Considered a 2006 award for purpose of testing proposed 2008 applications.	Test met by having satisfied test in year of award. Considered a 2006 award for purpose of testing proposed 2008 applications.	Test met by having satisfied test in year of award. Amount of credit award will be considered in tests of proposed applications.	2006	2006 met by having met 2005 (except statutory changes)

^{*} No future years affected



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

<u>DraftFinal</u> Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments

Section I. Introduction and Purpose

The Texas Department of Housing and Community Affairs (the "Department") has received numerous inquiries relating to increased direct construction costs over the past nine monthsyear that generally are attributed to the impact of Hurricanes Katrina and Rita lastduring September 2005. While limited data at a national or state level relating to these cost increases is available at this time, the Department has researched this issue using comparative cost multipliers by region from 2003 to 2006 from *Marshall & Swift*. Department research indicates that the existing 2004 and 2005 9%Competitive Housing Tax Credit (HTC) developments in the Department's inventory are affected by these increases in direct construction costs by an average of 14%. The purpose of this policy is to outline how the Department will act to assist those developments in ascertaining additional tax credits to accommodate those cost increases. It is estimated that the total amount of additional credits that might be necessary to accommodate this policy for 2004 is \$3,701,793 \$2,966,327 that would be utilized from the 2007 credit ceiling and for 2005 is \$4,387,658 \$3,396,511 that would be utilized from the 2008 credit ceiling and for 2005 forward commitments of tax credits from the 2006 credit ceiling \$160,098 that would be utilized from the 2006 credit ceiling for a total of \$8,089,451 \$6,522,936.

Section II. Eligibility and Method of Allocation

The Department will offer an allocation of additional credits to all <u>competitive HTC developments awarded from the 2004 and 2005 competitive HTC developments Tax Credit Ceilings</u> that were not placed in service <u>or did not complete cost certification</u> before <u>January 1</u>, 2006. _Developments awarded a Forward Commitment in 2005 for tax credits from the 2006 HTC Ceiling are <u>also considered a 2005 competitive HTC developmenteligible under this policy.</u> For the purpose of this policy, 2003 awards from the 2004 Tax Credit Ceiling and 2004 awards from the 2004 Tax Credit Ceiling will herein after be referred to as "2004 awarded developments." Likewise, 2004 awards from the 2005 Tax Credit Ceiling will herein after be referred to as "2005 awarded developments." Finally, 2005 awards from the 2006 Tax Credit Ceiling will herein after be referred to as "2005 forward committed developments."

The additional allocation will be made pursuant to a binding commitment agreement to allocate credits from the Department's 2007 Tax Credit Ceiling to all awarded 2004 competitive

HTCawarded developments, and from the Department's 2008 Tax Credit Ceiling to all awarded 2005 competitive HTCawarded developments and from the Department's 2006 Tax Credit Ceiling to all 2005 forward committed developments. The amount of each development's award will be determined by the Department using a methodology that applies a 14% increase to the site work and direct construction costs as reflected in the most recent Underwriting report and then completes the credit determination based on that adjustment. The portions of the Department Development Cost Schedule associated with site work and direct construction costs as reflected in the Underwriting report are Site Work and Direct Construction Costs: Hard Costs. The amount of the additional 2006, 2007 or 2008 allocation will be the difference between the newly calculated credit amount and the amount originally committed.

Developments will not be eligible for a 30% increase in eligible basis based on the development's location in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA).

Staff will use the numbers relied upon in the most recent Underwriting Report, either the applicant's or Department's as applicable, to determine the amount of the additional allocation of credits. The applicable percentage used in the most recent Underwriting Report will be used to determine the amount of the additional allocation of credits. Staff will perform an additional review of any development that has been granted an amendment by the Department to ensure that no development receives a disproportionate benefit under this Final Policy.

Pursuant to \$2306.6711(b) of Tex. Gov't. Code, the Department may not allocate more that \$2 million in housing tax credits to any applicant in a single application round. The additional credits allocated under this policy will apply to the \$2 million cap for the year of the original award of tax credits. In the event that this requirement prevents a development from receiving the tax credits for which it is eligible, the applicant may, at his discretion, choose which development of which he is a principal will receive the award of additional tax credits, if more than one development is affected.

The Department will limit the allocation of tax credits to no more than \$1.368 million per Development.

Section III. Procedures

The following procedures will be utilized in implementing this process.

- 1. 2005 forward committed applications will be issued a revised 2006 Commitment Notice in the amount of the original award plus the additional amount as calculated by the Department. The revised award will come out of the 2006 Tax Credit Ceiling.
- <u>1.2.</u>The Department will issue all 2004 and 2005 awarded developments from the 2004 and 2005 credit ceiling a letterbinding agreement indicating the specific additional allocation amount as calculated by the Department and instructions consistent with this policy for their binding agreement's return submission.
- 2.3. Owners that choose not to utilize the additional credits will return an election form indicating their decision not to proceed with the allocation by October 31, 2006. No credits will be set aside from the 2006, 2007 or 2008 HTC Ceiling for such developments.

- 3.4. Owners that choose to utilize the additional allocation will execute and return the binding agreement, pursuant to Treasury Regulation §1.42-8, in a format provided to the owner, with a fee equal to 5% of the credit amount allocated by October 31, 2006.
- 4.5. The Department will review the binding agreement and, upon satisfaction, the agreement will be executed by the Executive Director of the Department. The execution by the Executive Director will occur no later than December 31, 2006 for the 2004 awarded developments and 2005 awarded developments placed in service in 2006, and no later than March 1, 2007 for the 2005 awarded developments and 2005 forward committed developments to be placed in service after 2006. The binding agreement will be considered effective as of the date the Executive Director of the Department executes the agreement.
- 6. The Department will assign a new project number from the year of the new allocation to all developments that receive an additional allocation under this policy. This new number must be used, in addition to the original project number, in any correspondence with the Department.
- 5.7. Upon placement in service and submission of the cost certification, the Applicant will be required to substantiate their total costs and credit allocation consistent with the requirements set forth in the *Cost Certification Manual*. All deadlines applicable to the original application will apply under this policy; no extensions will result from the allocation of additional credits. Unsubstantiated credits for 2004 awarded developments will be returned to the 2007 HTC Ceiling, and for 2005 awarded developments unsubstantiated credits will be returned to the 2008 HTC Ceiling. Unsubstantiated credits for 2005 forward committed developments will be handled, as all other 2006 allocations, at Cost Certification. Specifically, this analysis will be based on the development details originally proposed and credits will not be eligible for new activities not originally proposed. Further, a detailed cost analysis will be required at the time of cost certification that will be utilized to ensure development that site work and direct construction costs specifically increased by the estimated 14%.
- 6.8. As described in §50.10(e)(1) of the QAP: "Applications that are submitted under the 2006 QAP and granted an additional award of 2006 Housing Tax Credits or a Forward Commitment of 2007 or 2008 Housing Tax Credits are considered by the Board to comply with the respective 2006, 2007 or 2008 QAP by having satisfied the requirements of this 2006 the QAP under which the original application was submitted, except for statutorily required QAP changes."
- 7.9 The application binding agreement will be reviewed before execution by the Executive Director of the Department issuance of a letter occurs to ensure that they do not have the principals of the development receiving an allocation of additional credits are not in material non-compliance on other developments in which they are a party-consistent with §50.5(b)(2) and (3) of the QAP. The Portfolio Management and Compliance division of the Department will perform this review as of November 17, 2006.
- <u>8.10.</u> For all allocations made under this policy the credit amount awarded for 2004 <u>awarded</u> developments will be attributed to the proper region and set-asides from the 2007 Ceiling, <u>and-for 2005 awarded</u> developments will be attributed to the proper region

- and set-asides from the 2008 Ceiling, and for 2005 forward committed developments will be attributed to the proper region and set-asides from the 2006 Ceiling to ensure adherence to the Regional Allocation Formula in 2006, 2007 and 2008.
- 11. Pursuant to §2306.6711(f), "The board may allocate housing tax credits to more than one development in a single community...only if the developments are or will be located more than one linear mile apart." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2007 or 2008 respectively. (Example: all proposed applications in the 2007 competitive cycle that are within one mile of a development that receives additional credits will not be eligible to receive an allocation in the 2007 cycle.)
- 12. Pursuant to §2306.6703(a)(3), an application will be considered ineligible if the applicant proposes to construct a new development that is located one linear mile or less from a development that serves the same type of household as the new development and has received an allocation of housing tax credits for new construction at any time during the three-year period preceding the date the application round begins. For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2006, 2007 or 2008 respectively. (Example: any application proposed within a three year period from the date of Board action for additional credits that are within one mile of a development that receives additional credits will not be eligible to receive an allocation without a resolution from the appropriate governing body.)
- 13. Pursuant to §2306.6703(a)(4), an application will be considered ineligible if "the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds..." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications, the amount of additional credits allocated under this policy will be applied to the calculation accordingly going forward.
- 14. The Land Use Restriction Agreement (LURA) for eligible developments that were not placed in service or did not complete cost certification during 2006 will not be affected. To the extent that any eligible development did place in service or complete cost certification during 2006 and recorded a LURA with the Department, the credit award amount reflected in the LURA will be amended within the LURA using the Department's administrative LURA amendment process.

15. Each eligible 2004 and 2005 awarded development that receives an additional allocation of tax credits under this policy will receive new IRS Forms 8609 for the amount of additional allocation substantiated at cost certification. Each eligible 2004 and 2005 awarded development will therefore receive two complete sets of IRS Forms 8609; one set for the amount of original allocation and one set for the amount of the additional allocation under this policy. 2005 forward committed developments will receive only one set of IRS Forms 8609.

16001 Rolling Hills Applicant Appeal to Executive Director



600 Congress, Suite 2200 Austin, TX 78701 Telephone: 512-305-4700 Fax: 512-305-4800 www.lockelord.com

Cynthia L. Bast Direct Telephone: 512-305-4707 Direct Fax: 512-391-4707 cbast@lockelord.com

June 21, 2016

(Via e-mail)
Mr. Tim Irvine
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Appeal – Rolling Hills TDHCA No. 16001

Dear Mr. Irvine:

On behalf of FBG Rolling Hills Apartments, L.P. (the "**Applicant**"), we submit this appeal for the loss of one point under Section 11.9(c)(6) of the QAP regarding location in an underserved area. Specifically, the Applicant should receive one point if the proposed Development is located in:

A census tract that has not receive a **competitive** tax credit allocation or a 4 percent non-competitive tax credit allocation for a Development serving the same Target Population that remains an active tax credit development or if it is serving the same Target Population that it has not received the allocation within the past 10 years. (emphasis added)

The proposed Development is located in the same census tract as Friendship Place, which received an award of competitive tax credits in 2004 (TDHCA No. 04008). Subsequent to its receipt of a competitive award, TDHCA approved the Final Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments (the "Policy"), in October 2006. This Policy granted 2004 and 2005 applicants an additional credit award of forward commitment tax credits to compensate for extreme costs increases after multiple hurricanes. Under the Policy, Friendship Place received an additional \$40,760 of tax credits from the 2007 credit ceiling. This amount was not awarded competitively. It was calculated by TDHCA's underwriting division according to a specific formula. Each of the 2004 and 2005 applicants received this additional allocation automatically. Thus, the last time this census tract received a competitive award was in 2004. The increased tax credits provided in 2007 should not be considered for the analysis of whether this census tract is an underserved area.

TDHCA staff has responded that, when the Policy was adopted, it specifically addressed the effect the additional credits would have on future allocations. To support its position, staff offers the following quote from the Policy:

"...however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2007 or 2008 respectively. (Example: all proposed applications in the 2007 competitive cycle that are within one mile of a development that receives additional credits will not be eligible to receive an allocation in the 2007 cycle.)"

We disagree that the above statement establishes that an allocation of credits from the 2007 ceiling to address cost increases should be considered a competitive award. We have attached, for your reference, Item 10B from the October 12, 2006 Board Book. It includes both the staff recommendation and the proposed Policy for approval. Not once do these materials refer to the additional tax credits being provided as <u>competitive</u> credits. In fact, they are referred to throughout as <u>additional</u> tax credits.

All of the discussion of the Policy revolved around how the additional credits would be considered for purposes of certain existing rules – the \$1.2 million cap per development; the \$2 million cap per developer; the 1 mile/1 year rule; the 1 mile/3 year rule; and the 2 times per capita rule. In fact, the quote relied upon by staff above specifically related to the 1 mile/1 year rule. Staff was very diligent to outline the expectations as to how the additional credits would impact each of these rules. See page 16 of 16 in the Board Action Request. Clarifying these procedural rules was necessary for the development community to understand what limitations would be placed upon them when applying for competitive tax credits in the coming years' application rounds of 2007 and 2008. The Policy established that the additional credits would "count" under the 2007 or 2008 credit ceilings for certain defined purposes.

Nothing in the Policy indicates that these additional credits should be considered competitive credits for the purposes of today's 2016 QAP. As noted above, the Policy clearly states that the additional credits are being awarded automatically, without application, using a specified formula. Further, we would argue that Section 11.9(c)(6) of the QAP is drafted with specific reference to competitive tax credits to cover an instance such as this where additional credits are awarded noncompetitively. Section 11.9(c)(6) of the QAP is the only section in the QAP where a reference is made to competitive tax credits. However, the phrase "Application Round" is used frequently. Under these facts, if TDHCA had wanted the 2007 award of additional credits to be considered in the 10-year period, it could have used the phrase "Application Round." Counting 10 years from an award in any Application Round would mean that this census tract is not an underserved area because Friendship Place received credits from the 2007 Application Round. Instead, the language refers to a competitive tax credit allocation. Friendship Place received a competitive tax credit allocation in 2004, by making application. This is outside the 10-year period for purposes of consideration of an underserved area.

Mr. Tim Irvine June 21, 2016 Page 3

This interpretation is logical, given the intent of the rule. The basic premise of the rule is: How long has it been since this particular census tract had a new tax credit deal? The Friendship Place "deal" was awarded in 2004. Thus, it has been more than 10 years since this census tract has received a new deal, and it should be considered an underserved area.

We respectfully request you to grant this appeal and reinstate the one point for this application, based upon this interpretation of the rules.

Thank you for your consideration. We look forward to your response.

Sincerely,

Cynthia L. Bast

Cynthia L Bast

cc: Marni Holloway Sharon Gamble TDHCA

> G. Granger MacDonald T. Justin MacDonald Lucille Jones Applicant

Cost Increase Policy

MULTIFAMILY FINANCE PRODUCTION DIVISION BOARD ACTION REQUEST

October 12, 2006

Action Items

Presentation, Discussion and Possible Approval of a Final Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments ("Final Policy") and Recommendation of Awards to Eligible Developments Under the Final Policy.

Required Action

Approve, deny or approve with amendments:

- Staff's recommendation of the Final Policy; and
- A list of recommended awards for eligible developments under the Final Policy.

Background

The Texas Department of Housing and Community Affairs (the "Department") has received numerous inquiries relating to increased direct construction costs that are generally attributed to the impact of Hurricanes Katrina and Rita during September 2005. The Department has researched this issue using comparative cost multipliers by region from 2003 to 2006 from Marshall & Swift. Department research indicates that the existing 2004 and 2005 Competitive HTC awards may be affected by these increases in direct construction costs by an average of 14%.

At the July 28, 2006 Board Meeting, the Board approved the Draft Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments (the "Draft Policy"). The Draft Policy was published in the *Texas Register* on August 11, 2006 and posted to the Department website on July 31, 2006 for comment by the public. Public comment on the Draft Policy was accepted until September 15, 2006; this public comment and the Department's response are detailed in the Public Comment section of this Board Action Request.

Public comment on the Draft policy has been reviewed by the Department and is reflected in the proposed Final Policy. The following are some key features of the proposed Final Policy:

- The estimated total amount of additional credits necessary to accommodate this Final Policy for 2004 is \$2,996,327 that would be utilized from the 2007 credit ceiling, for 2005 is \$3,396,511 that would be utilized from the 2008 credit ceiling and for 2005 forward commitments of tax credits from the 2006 credit ceiling \$160,098 that would be utilized from the 2006 credit ceiling for a total of \$6,522,936.
- ❖ Awards of additional credits will be attributed to the proper region and set-asides from the 2006, 2007 or 2008 credit ceiling.
- ❖ Developments will not be eligible for a 30% increase in eligible basis based on the development's location in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA). The increase in credits for these areas is designed as an incentive to develop in these areas that may otherwise be less attractive or more risky locations than non-designated locations. Costs such as land acquisition, zoning entitlement, marketing, builder and developer incentive or profit are costs that are most typically associated with QCT and DDA locations and these costs are not being targeted for the proposed 14%

increase. Moreover, staff has not been able to find any substantive evidence that the construction cost increases occurring since the hurricanes have disproportionately impacted the QCTs and DDAs.

- ❖ Developments are considered to have met the 2 times per capita test by having met it in the year of original award. The amount of additional credits awarded under the Final Policy will be considered in the 2 times per capita test for new applications, however.
- ❖ The Land Use Restriction Agreement (LURA) for eligible developments that were not placed in service or did not complete cost certification during 2006 will not be affected. To the extent that any eligible development did place in service or complete cost certification during 2006 and recorded a LURA with the Department, the credit award amount reflected in the LURA will be amended within the LURA using the Department's administrative LURA amendment process.

In addition to the items listed above, the table entitled "Summary of Applicable Rule and Statute Effects on Eligible Developments Under the Final Policy," which is attached to this Board Action Request, provides additional information on some key features of the Final Policy.

I. PUBLIC COMMENT

The Department received written comments during the public comment period. In addition, during this public comment period, staff identified several issues that required clarification. These comments, as well as Department responses and clarifications are outlined below and are divided into the following two sections:

- I. Substantive Comments and Department Response
- II. Administrative Clarifications and Corrections

I. Substantive Comments and Department Response

General Comments (1, 7, 8, 9, 10, 11, 12)

Comment:

Several comments provided positive feedback and/or support for the Department's efforts to create a policy to address direct construction cost increases (1, 7, 8, 9, 10, 11, 12).

Department Response:

Staff appreciates the commendation with regard to the policy.

Section II. Method of Allocation (3, 4, 5, 6, 7, 10, 8, 9)

Comment:

Comment suggests clarifying which developments will be eligible for an additional allocation of tax credits, specifically whether 2003 applications awarded credits out of the 2004 ceiling are eligible (5, 10). If these applications are not eligible under the Draft Policy, comment suggests that 2003 applications awarded credits out of the 2004 ceiling be eligible under the Final Policy (5). Additional comment suggests clarifying whether developments that received an award in 2005 for credits from the 2006 credit ceiling are eligible under the policy, and whether one particular development awarded a forward commitment in 2005 for credits from the 2006 ceiling that was subsequently reissued as a 2006 award of credits from the 2007 credit ceiling will be eligible under this policy (10).

Department Response:

Staff recommends the following language to clarify eligibility under the policy:

"The Department will offer an allocation of additional credits to all <u>competitive HTC developments</u> awarded <u>from the 2004 and 2005 competitive HTC developments Tax Credit Ceilings</u> that were not placed in service <u>or did not complete cost certification</u> before <u>January 1, 2006.</u> Developments awarded a Forward Commitment in 2005 for tax credits from the 2006 HTC Ceiling are <u>also</u> considered <u>a 2005 competitive HTC developmenteligible under this policy.</u> For the purpose of this policy, 2003 awards from the 2004 Tax Credit Ceiling and 2004 awards from the 2004 Tax Credit Ceiling will herein after be referred to as "2004 awarded developments." Likewise, 2004 awards from the 2005 Tax Credit Ceiling will herein after be referred to as "2005 awarded developments." Finally, 2005 awards from the 2006 Tax Credit Ceiling will herein after be referred to as "2005 forward committed developments.""

As it applies to Fairway Crossing, the development that received a forward commitment in 2005 for credits from the 2006 ceiling that was subsequently reissued as a 2006 award of credits from the 2007 credit ceiling, the 14% increase will also be available as referenced above.

Comment:

Comment suggests that site work receive a 14% increase as well as direct construction costs (8).

Department Response:

Staff concurs and recommends using a methodology that applies a 14% increase in site work costs and direct construction costs in determining the amount of award; staff has clarified this in multiple sections of the Final Policy and has used this methodology in creating the list of recommended awards outlined in the Award Recommendations section of this Board Action Request.

Comment:

Comment suggests offering more than a 14% increase for developments that are 50 units or smaller and to developments whose construction contracts were negotiated between October 2004 and March 2005. Developments with 50 units or less should receive a 15% increase, developments with contracts negotiated before January 1, 2005 should receive a 17% increase, between January 1, 2005 and March 31, 2005 should receive a 16% increase and after March 31, 2005 receive a 14% increase (7).

Department Response:

While staff appreciates the proposal for increased percentages for developments with 50 or fewer units and for those with construction contracts negotiated between October 2004 and March 2005, staff believes that one calculation should be utilized to ensure simplified, equitable treatment. Therefore, staff recommends no change.

Comment:

Comment suggests clarification of which line items are included in direct construction costs (4, 6, 10). Additional comment asks specifically whether direct construction costs include general requirements, contractor overhead and contractor profit (4, 10).

Department Response:

Staff recommends the following language to clarify the items included in direct construction costs:

"The amount of each development's award will be determined by the Department using a methodology that applies a 14% increase to the <u>site work and</u> direct construction costs as reflected in the most recent Underwriting report and then completes the credit determination based on that

adjustment. The portions of the Department Development Cost Schedule associated with site work and direct construction costs as reflected in the Underwriting report are Site Work and Direct Construction Costs: Hard Costs."

Comment:

Comment suggests clarification regarding whether the applicant's or Department's numbers from the Underwriting Report will be used to calculate the 14% increase (8).

Department Response:

Staff recommends the following language to clarity which numbers will be relied upon to determine the amount of the additional allocation of credits:

"Staff will use the numbers relied upon in the most recent Underwriting Report, either the applicant's or Department's as applicable, to determine the amount of the additional allocation of credits."

Comment:

Comment suggests clarification regarding which applicable percentage will be used in the Department's calculation: the current percentage, or the percentage applicable during the original application period (8).

Department Response:

Staff recommends the following language to clarify which applicable percentage will be used to determine the amount of the additional allocation of credits:

"The applicable percentage used in the most recent Underwriting Report will be used to determine the amount of the additional allocation of credits."

Comment:

Comment suggests that the Department clarify whether the 30% increase for location of a development in a QCT will apply (3, 10).

Department Response:

The Department will not consider the 30% increase for QCT or DDA in the award an allocation of additional credits. Costs such as land acquisition, zoning entitlement, marketing, builder and developer incentive or profit are costs that are most typically associated with QCT and DDA locations and these costs are not eligible for the proposed 14% increase. Staff recommends the following language to clarify whether the 30% increase for QCT or DDA will apply:

"Developments will not be eligible for a 30% increase in eligible basis based on the development's location in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA)."

Comment:

Comment suggests clarification regarding the treatment under the policy of a development that was previously granted an amendment by the Department that increased development costs (8).

Department Response:

Staff recommends the following language to clarify treatment of developments that have been granted an amendment by the Department:

"Staff will perform an additional review of any development that has been granted an amendment by the Department to ensure that no development receives a disproportionate benefit under this Final Policy."

Comment:

Comment requests clarification on the impact of the policy on the \$2 million limit and suggests that the limit applies to the 2007 application round for developments awarded additional credits out of the 2007 credit ceiling. Comment further requests clarification on which year the limit will affect: the year of original award, or the year of the credit ceiling of the additional allocation (10).

Department Response:

Staff recommends the following language to clarify the impact of the \$2 million limit:

"Pursuant to §2306.6711(b) of Tex. Gov't. Code, the Department may not allocate more that \$2 million in housing tax credits to any applicant in a single application round. The additional credits allocated under this policy will apply to the \$2 million cap for the year of the original award of tax credits. In the event that this requirement prevents a development from receiving the tax credits for which it is eligible, the applicant may, at his discretion, choose which development of which he is a principal will receive the award of additional tax credits, if more than one development is affected."

Comment:

Comment requests clarification on the impact of the policy on the \$1.2 million limit and suggests a waiver of this limit (10, 8, 9).

Department Response:

Staff concurs and proposes that the \$1.2 million limit be waived and the limit increased to \$1.368 million, equal to a 14% increase in the \$1.2 million limit. Staff recommends the following language to clarify the impact of the \$1.2 million limit:

The Department will limit the allocation of tax credits to no more than \$1.368 million per Development.

Section III. Procedures (1, 2, 3)

Comment:

Paragraph 4 – Comment suggests that the Department clarify when the "binding agreement" becomes binding (2).

Department Response:

Staff recommends the following language to clarify when the binding agreement is effective:

"4.5. The Department will review the binding agreement and, upon satisfaction, the agreement will be executed by the Executive Director of the Department. The execution by the Executive Director will occur no later than December 31, 2006 for the 2004 awarded developments and 2005 awarded developments placed in service in 2006, and no later than March 1, 2007 for the 2005 awarded developments and 2005 forward committed developments to be placed in service after 2006. The binding agreement will be considered effective as of the date the Executive Director of the Department executes the agreement."

Comment:

Paragraph 5 – Comment suggests that the Department clarifies what constitutes a "new activity" (2).

Department Response:

Staff recommends no changes to the policy to clarify "new activities," as staff feels that the statement "this analysis will be based on the development details originally proposed and credits will not be eligible for new activities not originally proposed" is adequately descriptive. Activities not originally proposed in the original application will not be eligible for credits.

Comment:

Paragraph 5 – Comment suggests clarification regarding how cost increases must be substantiated at cost certification, i.e. must direct constructions costs have increased by 14% or will an increase in construction costs in general or development costs in general be allowed to substantiate the additional allocation (3).

Department Response:

Staff recommends the following language to clarify which costs must substantiate the additional allocation of credits:

"5.7.... Further, a detailed cost analysis will be required at the time of cost certification that will be utilized to ensure <u>development</u>that site work and <u>direct construction</u> costs specifically increased by the estimated 14%."

Comment:

Paragraph 6 – Comment suggests removing the reference to the QAP to prevent confusion about which year's QAP is being referenced.

Department Response:

Staff recommends the following language to clarify which year's Qualified Allocation Plan (QAP) applies to eligible developments:

"6.8. As described in §50.10(c)(1) of the QAP: "Applications that are submitted under the 2006 QAP and granted an additional award of 2006 Housing Tax Credits or a Forward Commitment of 2007 or 2008 Housing Tax Credits are considered by the Board to comply with the respective 2006, 2007 or 2008 QAP by having satisfied the requirements of this 2006 the QAP under which the original application was submitted, except for statutorily required QAP changes."

Comment:

Paragraph 7 – Comment suggests that it is unclear if the "application" referred to in this paragraph is the same as the "binding agreement" referred to elsewhere in the Draft Policy. Comment also suggests that all projects that are not in material noncompliance are eligible for award; this comment suggests that the material noncompliance should be linked only to the project in question and not to other projects involving the same principals. The new language suggested by this comment is "The binding agreement will be reviewed before the issuance of a letter to ensure that the project receiving the additional credits is not in material non-compliance as of the date of the approval of this policy by the Board as determined by the Portfolio Management and Compliance Division of the Department" (1).

Department Response:

Staff recommends the following language to clarify that the credit increase is not available to parties with Material Noncompliance on other properties:

"7.9. The application—binding agreement will be reviewed before execution by the Executive Director of the Department issuance of a letter occurs to ensure that they do not have the principals of the development receiving an allocation of additional credits are not in material non-compliance on other developments in which they are a party consistent with \$50.5(b)(2) and (3) of the QAP. The Portfolio Management and Compliance division of the Department will perform this review as of November 17, 2006."

II. Administrative Clarifications and Corrections

Section III. Procedures

Administrative changes were made to clarify the process the Department will use to award additional credits under the Final Policy:

- "1. 2005 forward committed applications will be issued a revised 2006 Commitment Notice in the amount of the original award plus the additional amount as calculated by the Department. The revised award will come out of the 2006 Tax Credit Ceiling."
- "1.2. The Department will issue all 2004 and 2005 awarded developments from the 2004 and 2005 eredit ceiling a letter binding agreement indicating the specific additional allocation amount as calculated by the Department and instructions consistent with this policy for the binding agreement's return submission."

An administrative change was made to clarify that deadlines applicable to the development will not be extended as a result of the additional allocation of credits under this Final Policy:

"5.7. Upon placement in service and submission of the cost certification, the Applicant will be required to substantiate their total costs and credit allocation consistent with the requirements set forth in the *Cost Certification Manual*. All deadlines applicable to the original application will apply under this policy; no extensions will result from the allocation of additional credits..."

An administrative change was made to clarify the effect of §2306.6711(f), the one mile test, on the policy:

"11. Pursuant to §2306.6711(f), "The board may allocate housing tax credits to more than one development in a single community...only if the developments are or will be located more than one linear mile apart." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2007 or 2008 respectively. (Example: all proposed applications in the 2007 competitive cycle that are within one mile of a development that receives additional credits will not be eligible to receive an allocation in the 2007 cycle.)"

An administrative change was made to clarify the effect of §2306.6703(a)(3) on the policy:

"12. Pursuant to §2306.6703(a)(3), an application will be considered ineligible if the applicant proposes to construct a new development that is located one linear mile or less from a development that serves the same type of household as the new development and has received an allocation of housing tax credits for new construction at any time during the three-year period preceding the date the application round begins. For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2006, 2007 or 2008 respectively. (Example: any application proposed within a three year period from the date of Board action for additional credits that are within one mile of a development that receives additional credits will not be eligible to receive an allocation without a resolution from the appropriate governing body.)"

An administrative change was made to clarify the effect of §2306.6703(a)(4) on the policy:

"13. Pursuant to §2306.6703(a)(4), an application will be considered ineligible if "the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds..." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications, the amount of additional credits allocated under this policy will be applied to the calculation accordingly going forward."

An administrative change was made to clarify the effect of the policy on the LURA:

"14. The Land Use Restriction Agreement (LURA) for eligible developments that were not placed in service or did not complete cost certification during 2006 will not be affected. To the extent that any eligible development did place in service or complete cost certification during 2006 and recorded a LURA with the Department, the credit award amount reflected in the LURA will be amended within the LURA using the Department's administrative LURA amendment process."

An administrative change was made to clarify the effect of the policy on IRS Forms 8609:

"15. Each eligible 2004 and 2005 awarded development that receives an additional allocation of tax credits under this policy will receive new IRS Forms 8609 for the amount of additional allocation substantiated at cost certification. Each eligible 2004 and 2005 awarded development will therefore receive two complete sets of IRS Forms 8609; one set for the amount of original allocation and one set for the amount of the additional allocation under this policy. 2005 forward committed developments will receive only one set of IRS Forms 8609."

Other minor changes have been made to correct errors in grammar, etc.

II. AWARD RECOMMENDATIONS

Pursuant to the methodology of the Final Policy, staff has prepared award recommendations, which are reflected in Exhibit A of this Board Action Request. These recommendations are based on a 14% increase in site work and direct construction costs as reflected in the most recent Underwriting report. This list reflects a complete listing of all applications eligible under this policy even if no additional allocation is made.

The total amount reflected in Exhibit A to be utilized from the 2007 credit ceiling is an amount not to exceed \$2,966,327, the total amount reflected in Exhibit A to be utilized from the 2008 credit ceiling is an amount not to exceed \$3,396,511 and the total amount reflected in Exhibit A to be utilized from the 2006 credit ceiling is an amount not to exceed \$160,098 for a total of \$6,522,936. Please note that individual award amounts may change following a staff review of any development that has been previously granted an amendment by the Department.

III. TIMELINE

The policy proposed today for approval is a final policy. The Final Policy will be posted to the Department's website and an email announcement released on October 16, 2006. It will also be published in the *Texas Register* on October 27, 2006. The Department will issue binding agreements to owners, pursuant to Treasury Regulation §1.42-8. Owners must return the binding agreements with the applicable fee to the Department by October 31, 2006 indicating either that they do or do not choose to utilize the additional allocation. The Department will review the binding agreement and, upon satisfaction, the agreement will be executed by the Executive Director of the Department. The execution by the Executive Director will occur no later than December 31, 2006 for 2004 awarded developments and 2005 awarded developments placed in service in 2006, and no later than March 1, 2007 for 2005 developments to be placed in service after 2006.

Recommendation

- 1. Approval of the attached Final Policy.
- 2. Approval of staff's recommendation of awards to eligible developments under this Final Policy (see Exhibit A).

Summary of Public Comment Received Regarding the Draft Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments

Source No.	Source
1	John R. Pitts
2	Brad Forslund
3	Colby Denison
4	Bill Fisher
5	Les Kilday
6	Bob DeLuca
7	Gary Driggers
8	Texas Affiliation of Affordable Housing Providers
9	Coats Rose
10	Cynthia Bast
11	Christopher A. Akbari
12	Ken Mitchell

TDHCA #	Original TDHCA#	Year	Credit Ceiling for Add'l Allocation	Development Name	Project City	Region	PIS in 2005	Original Allocation	Additional Allocation Under Final Policy
04000		2004	N/A	King Fisher Creek	Austin	7	Yes	\$225,813	\$0
04001	FC	2004	2007	Diana Palms	El Paso	13		\$211,474	\$17,494
04002	FC	2004	2007	Cricket Hollow Apartments	Willis	6		\$871,110	\$82,466
04003	FC	2004	N/A	Villas on Sixth Street	Austin	7	Yes	\$1,072,039	\$0
04004	FC	2004	2007	Kingsland Trails Apartments	Kingsland	7	No	\$444,394	\$46,297
04005	FC	2004	2007	Palacio Del Sol	San Antonio	9		\$1,096,828	\$81,457
04007		2004	2007	Oaks Of Bandera	Bandera	9		\$465,153	\$42,318
04008		2004	2007	Friendship Place	Fredericksburg	9		\$423,267	\$40,760
04012		2004	N/A	Tyler Square Apartments	Tyler	5	Yes	\$605,490	\$0
04018		2004	2007	Terrace Pines	College Station	8		\$541,018	\$40,346
04024		2004	2007	South Union Place	Houston	6		\$739,345	\$56,587
04026		2004	N/A	Oak Timbers-White Settlement II	White Settlement	3	Yes	\$408,605	\$0
04028		2004	N/A	Heritage Park	Denison	3	Yes	\$501,577	\$0
04030		2004	2007	Park Estates	Nacogdoches	5		\$387,972	\$26,141
04036		2004	2007	Villa del Sol	Brownsville	11		\$485,000	\$28,453
04037		2004	2007	Las Canteras Apartments	Pharr	11		\$567,803	\$53,407
04047		2004	2007	Stratton Oaks	Seguin	9		\$590,539	\$55,603
04052		2004	2007	Chisholm Trail Senior Village	Belton	8 \$415,000		\$415,000	\$28,703
04057		2004	2007	Stone Hollow Village	Lubbock			\$845,849	\$61,781
04058		2004	2007	Spring Oaks Apartments	Balch Springs	3		\$845,382	\$76,305
04066		2004	2007	Pineywoods Community Orange	Orange	5		\$403,142	\$26,874
04070		2004	2007	Cedar Oak Townhome	El Paso	13		\$973,684	\$73,252
04079		2004	2007	Baybrook Park Retirement Center	Webster	6		\$445,118	\$39,863
04082		2004	2007	Fenner Square	Goliad	10		\$195,062	\$21,258
04085		2004	2007	Redwood Heights Apartments	Houston	6		\$600,146	\$41,991
04088		2004	2007	South Plains Apartments	Lubbock	1		\$372,410	\$16,147
04089		2004	2007	Villas of Forest Hill	Forest Hill	3		\$424,339	\$36,629
04093		2004	2007	Villas of Seagoville	Seagoville	3		\$427,745	\$36,900
04100		2004	2007	O.W. Collins Apartments	Port Arthur	5		\$406,999	\$40,084
04101		2004	2007	Pleasant Hill Apartments Austin 7 \$484,888		\$27,798			
04105		2004	2007			\$134,641	\$9,490		
04107		2004	2007	Whitefield Place Apartments San Antonio 9 \$419,3		\$419,397	\$23,269		
04108		2004	2007			\$868,435	\$53,393		
04109		2004	2007	Frazier Fellowship	Dallas	3		\$547,378	\$27,242
04118		2004	2007	Churchill at Commerce	Commerce	3		\$727,212	\$52,598
04120		2004	2007	Sedona Springs Village	Odessa	12	No	\$647,355	\$46,216
04145		2004	2007	Village at Meadowbend Apartments II	Temple	8		\$637,076	\$44,275

	C. P.								
TDHCA #	Original TDHCA#	Year	Credit Ceiling for Add'l Allocation	Development Name	Project City	Region	PIS in 2005	Original Allocation	Additional Allocation Under Final Policy
04146		2004	2007	Casa Saldana	Mercedes	11		\$1,153,862	\$82,912
04147		2004	N/A	Shiloh Village Apartments	Dallas	3	Yes	\$746,032	\$0
04149		2004	2007	Seton Home Center for Teen Moms	San Antonio	9		\$366,315	\$22,493
04151		2004	2007	Renaissance Courts	Denton	3		\$900,015	\$65,771
04152		2004	2007	Bluffview Villas	Brenham	8		\$440,733	\$40,048
04154		2004	2007	Plainview Vistas	Plainview	1		\$665,958	\$47,570
04157		2004	2007	Samaritan House	Fort Worth	3		\$818,328	\$59,531
04160		2004	2007	The Village on Hobbs Road	League City	6		\$551,851	\$50,356
04167		2004	2007	Oxford Place	Houston	6		\$1,187,924	\$114,593
04170		2004	N/A	The Gardens of Athens	Athens	4	Yes	\$241,701	\$0
04176		2004	2007	The Gardens of Gladewater	Gladewater	4		\$256,808	\$25,066
04191		2004	2007	Providence at Boca Chica	Brownsville	11		\$1,010,465	\$72,261
04193		2004	2007	Providence at Edinburg	Edinburg	11		\$357,369	\$29,947
04194		2004	2007	Lexington Court	Kilgore	4		\$549,640	\$52,310
04196		2004	2007	Americas Palms	El Paso	13		\$667,234	\$59,831
04197		2004	2007	Horizon Palms	El Paso	13		\$478,693	\$41,271
04200		2004	2007	Alvin Manor Estates	Alvin	6		\$251,662	\$23,315
04203		2004	2007	Alvin Manor	Alvin	6		\$149,382	\$12,994
04206		2004	2007	Lake Jackson Manor	Lake Jackson	6		\$402,176	\$37,014
04213		2004	2007	The Village at Morningstar	Texas City	6		\$534,844	\$46,644
04222		2004	2007	Primrose at Highland	Dallas	3		\$935,153	\$72,046
04224		2004	2007	Commons of Grace Senior	Houston	6		\$660,701	\$48,106
04226		2004	2007	Arbor Cove	Donna	11		\$1,152,522	\$83,751
04228		2004	2007	Stone Hearst	Beaumont	5	No	\$633,496	\$44,350
04241		2004	2007	Anson Park II	Abilene	2		\$535,250	\$38,002
04246		2004	2007	Wildwood Trails Apartments	Brownwood	2		\$549,988	\$40,041
04250		2004	2007	Knollwood Heights Apartments	Big Spring	12		\$448,391	\$32,673
04255		2004	2007	Freeport Oaks Apartments	Freeport	6		\$639,213	\$48,476
04260		2004	2007	Towne Park in Fredericksburg II	Fredericksburg	9		\$225,361	\$18,608
04268		2004	2007	Lansbourough Apartments	Houston	6		\$1,003,544	\$77,147
04275		2004	2007	Bahia Palms Apartments	LaGuna Vista	11		\$123,771	\$12,292
04279		2004	2007	Golden Manor Apartments	<u> </u>		\$110,039	\$5,484	
04283		2004	2007	Shady Oaks Apartments Prairie View 6			\$122,327	\$6,215	
04284		2004	2007	Katy Manor Apartments	Katy	6		\$111,743	\$6,580
04285		2004	2007	Ole Town Apartments	Jefferson	4		\$109,454	\$4,935
04287		2004	2007	Vista Hermosa Apartments	Eagle Pass	11		\$61,585	\$4,824
04288		2004	2007	Briarwood Apartment	Kaufman	3		\$170,909	\$11,794
04290		2004	2007	L.U.L.A.C. Village Park	Corpus Christi	10		\$846,083	\$56,782
04291		2004	2007	Saltgrass Landing Apartments	Rockport	10		\$94,064	\$2,419

	Credit								
TDHCA #	Original TDHCA#	Year	Credit Ceiling for Add'l Allocation	Development Name	Project City	Region	PIS in 2005	Original Allocation	Additional Allocation Under Final Policy
04293		2004	2007	Lantana Ridge Apartments South	Beeville	10		\$51,980	\$1,400
04294		2004	2007	Lantana Ridge Apartments	Beeville	10		\$66,535	\$2,380
04295		2004	2007	La Mirage Villas	Perryton	1		\$171,527	\$11,198
04302		2004	N/A	Sierra Royale Apartments	Robstown	10	Yes	\$529,338	\$0
05000	FC	2005	2008	Snyder Housing Venture	Snyder	2		\$30,463	\$2,676
05001	FC	2005	2008	Mountainview Apartments	Alpine	13		\$66,861	\$2,010
05002	FC	2005	2008	Villa Apartments	Marfa	13		\$32,432	\$1,143
05003	FC	2005	2008	Oasis Apartments	Fort Stockton	12		\$55,422	\$1,946
05004	-	2005	2008	Samuel's Place	Fort Worth	3		\$254,842	\$20,734
05005		2005	2008	Cambridge Courts	Fort Worth	3		\$818,995	\$105,777
05016		2005	2008	Country Lane Seniors- Temple Community	Temple	8		\$889,327	\$63,226
05020		2005	2008	Central Place	Hereford	1		\$277,501	\$20,089
05021		2005	2008	Waterside Court	Houston	6		\$1,054,000	\$100,100
05022		2005	2008	The Enclave	Houston	6		\$524,209	\$35,880
05024		2005	2008			\$298,898	\$16,592		
05025		2005	2008			\$571,979	\$54,564		
05026		2005	2008			\$453,995	\$42,387		
05027		2005	2008			\$620,359	\$43,961		
05028		2005	2008	· · · · · · · · · · · · · · · · · · ·		\$359,068	\$25,386		
05029		2005	2008	Cimarron Springs Apartments	Springs		\$1,185,000	\$87,227	
05034		2005	2008	The Gardens of Taylor, LP	Taylor	7		\$275,212	\$26,325
05041		2005	2008	San Diego Creek Apartments	Alice	10		\$570,000	\$41,427
05044		2005	2008	Copperwood Apartments	The Woodlands	6		\$1,058,943	\$51,942
05051		2005	2008	Longview Senior Apartment Community	Longview	4		\$870,000	\$61,873
05060		2005	2008	North Mountain Village	El Paso	13		\$1,102,540	\$106,697
05069		2005	2008	Santa Rosa Village	Santa Rosa	11		\$132,202	\$6,966
05073		2005	2008	Villa San Benito	San Benito	11		\$141,925	\$7,568
05074		2005	2008	Alamo Village	Alamo	11		\$127,257	\$8,969
05080		2005	2008	Cambridge Villas	Pflugerville	7		\$1,160,295	\$115,908
05082		2005	2008	Sphinx at Luxar			\$858,445	\$60,091	
05084		2005	2008	University Place Apartments Oals Timbers Fort Worth	Wharton 6 \$1		\$186,356	\$9,299	
05088		2005	2008	South	k Timbers-Fort Worth uth Fort Worth 3 \$1,200		\$1,200,000	\$89,227	
05092		2005	2008	Vida Que Canta Apartments	Mission	11		\$950,919	\$87,318
05094		2005	2008	San Juan Village	San Juan	11		\$187,117	\$11,366
05095		2005	2008	Sphinx At Reese Court	Dallas	3		\$597,776	\$50,175
05097		2005	2008	Cathy's Pointe	Amarillo	1		\$757,752	\$72,827
05099		2005	2008	Madison Pointe	Cotulla	11		\$619,762	\$45,165
05101		2005	2008	Creek Crossing Senior Village	Canyon	1		\$393,547	\$35,703

			Credit						
TDHCA #	Original TDHCA#	Year	Ceiling for Add'l Allocation	Development Name	Project City	Region	PIS in 2005	Original Allocation	Additional Allocation Under Final Policy
05108	IDITEIN	2005	2008	Kingswood Village	Edinburg	11	2003	\$349,985	\$13,665
05109		2005	2008	Country Village Apartments	San Angelo	12		\$666,473	\$33,850
05116		2005	2008	Wahoo Frazier Townhomes	Dallas	3		\$925,960	\$63,797
05118		2005	2008	Vista Verde I & II Apartments	San Antonio	9		\$1,126,771	\$63,584
05124		2005	2008	TownParc at Amarillo	Amarillo	1		\$931,177	\$86,710
05125		2005	2008	La Villita Apartments Phase II	Brownsville	11		\$555,478	\$39,426
05127		2005	2008	Navigation Pointe	Corpus Christi	10		\$800,000	\$67,974
05137		2005	2008	Los Ebanos Apartments	Zapata	11		\$65,042	\$4,855
05141		2005	2008	The Arbors at Rose Park	Abilene	2		\$647,474	\$43,281
05142		2005	2008	Wesleyan Retirement Homes	Georgetown	7		\$368,190	\$21,640
05146		2005	2008	Spring Garden V	Springtown	3		\$297,367	\$24,869
05151		2005	2008	Deer Palms	El Paso	13		\$844,082	\$83,474
05152		2005	2008	Linda Vista Apartments	El Paso	13		\$296,225	\$21,807
05159		2005	2008	San Juan Square	San Antonio	9		\$999,398	\$85,948
05160		2005	2008	The Alhambra Timber Pointe Apartment	San Antonio	9		\$946,988	\$79,507
05163		2005	2008	Homes	Lufkin	5		\$560,454	\$40,362
05164		2005	2008	Ridge Pointe Apartments	Killeen	8		\$1,013,602	\$97,664
05165		2005	2008	Lincoln Park Apartments	Houston	6		\$1,200,000	\$114,621
05166		2005	2008	Hampton Port Apartments	Corpus Christi	10		\$438,949	\$36,404
05168		2005	2008	Lakeview Park	Denison	3		\$461,253	\$41,622
05178		2005	N/A	Tuscany Court Townhomes	Hondo	9	Yes	\$58,521	\$0
05179		2005	2008	The Villages at Huntsville	Huntsville	6		\$589,000	\$50,494
05184		2005	2008	Hampton Chase Apartments	Palestine	4		\$551,310	\$42,604
05185		2005	2008	Market Place Apartments	Brownwood	2		\$518,989	\$39,059
05187		2005	2008	Valley Creek Apartments	Fort Stockton	12		\$380,433	\$27,774
05189		2005	2008	Windvale Park	Corsicana	3		\$564,003	\$54,426
05195		2005	2008	San Gabriel Senior Village	Georgetown	7		\$712,154	\$64,206
05198		2005	2008	Olive Grove Manor	Houston	6		\$946,000	\$89,097
05199		2005	2008	Southwood Crossing Apartments	Port Arthur	5		\$631,266	\$59,326
05204		2005	2008	Ambassador North		\$724,870	\$48,989		
05207		2005	2008	Parker Lane Seniors Apartments Austin		7		\$669,940	\$44,241
05209		2005	2008	Providence Place Apartments	Katy	6		\$984,852	\$95,353
05222		2005	2008	Kingwood Senior Village	Houston	6		\$1,067,817	\$87,431
05225		2005	2008	Normangee Apartments	Normangee	8		\$113,408	\$7,632
05226		2005	2008	Lytle Apartments	Lytle	9		\$128,008	\$8,478
05228		2005	2008	City Oaks Apartments	Johnson City	7		\$135,403	\$10,549
05231		2005	2008	Kerrville Housing	Kerrville	9		\$272,868	\$20,901
05234		2005	2008	Park Place Apartments	Bellville	6		\$106,874	\$5,216

TDHCA #	Original TDHCA#	Year	Credit Ceiling for Add'l Allocation	Development Name	Project City	Region	PIS in 2005	Original Allocation	Additional Allocation Under Final Policy
05235		2005	2008	Country Square Apartments	Lone Star	4		\$84,110	\$5,171
05236		2005	2008	Clifton Manor Apartments I and II	Clifton	8		\$120,124	\$10,332
05237		2005	2008	Bel Aire Manor Apartments	Brady	12		\$60,567	\$4,468
05238		2005	2008	Hamilton Manor Apartments	Hamilton	8		\$58,236	\$4,984
05239		2005	2008	Bayshore Manor Apartments	Palacios	6		\$159,890	\$8,700
05243		2005	2008	Villas of Hubbard	Hubbard	8		\$193,215	\$16,284
05247		2005	2008	Hacienda Santa Barbara Apartments	Socorro	13		\$107,199	\$9,961
05251		2005	2008	Joaquin Apartments	Joaquin	5		\$65,824	\$3,233
060002 / 070001	05171	2006	2007	Fairway Crossing			\$1,200,000	\$97,498	
060003		2006	2006	Floresville Square Apartments	Floresville	9		\$139,958	\$8,343
060004		2006	2006	Fieldstone Apartments	El Campo	6		\$81,039	\$5,471
060005	05058	2006	2006	Green Briar Village Apartments	Wichita Falls	2		\$591,841	\$42,087
060006	05100	2006	2006	Tierra Blanca Apartments	Hereford	1		\$615,000	\$43,403
060007	05012	2006	2006	Landa Place	New Braunfels	9		\$655,454	\$60,794

Exhibit B – Summary of Applicable Rule and Statute Effects on Eligible Developments Under the Final Policy

Year of Original Award	Credit Ceiling of Add'l Allocation	\$2M Limit (year affected)*	\$1.2M Limit	1 Mile / 1 Year	1 Mile / 3 Year	2 Times Per Capita	Regional Allocation Formula (year deducted)	QAP
2003 Awards from the	2007	2003	Total	Test met by having	Test met by having	Test met by having	2007	2007 met by
2004 Ceiling			allocation	satisfied test in year	satisfied test in year	satisfied test in year		having met
			will be	of award. Considered	of award. Considered	of award. Amount of		2003 (except
			limited to	a 2007 award for	a 2007 award for	credit award will be		statutory
			\$1.368 million.	purpose of testing	purpose of testing	considered in tests of		changes)
			million.	proposed 2007 applications.	proposed 2007 applications.	proposed applications.		
2004 Awards from the	2007	2004	Total	Test met by having	Test met by having	Test met by having	2007	2007 met by
2004 Awards from the 2004 Ceiling	2007	2004	allocation	satisfied test in year	satisfied test in year	satisfied test in year	2007	having met
2004 Cennig			will be	of award. Considered	of award. Considered	of award. Amount of		2004 (except
			limited to	a 2007 award for	a 2007 award for	credit award will be		statutory
			\$1.368	purpose of testing	purpose of testing	considered in tests of		changes)
			million.	proposed 2007	proposed 2007	proposed		, ,
				applications.	applications.	applications.		
2004 Awards from the	2008	2004	Total	Test met by having	Test met by having	Test met by having	2008	2008 met by
2005 Ceiling			allocation	satisfied test in year	satisfied test in year	satisfied test in year		having met
			will be	of award. Considered	of award. Considered	of award. Amount of		2004 (except
			limited to	a 2008 award for	a 2008 award for	credit award will be		statutory
			\$1.368	purpose of testing	purpose of testing	considered in tests of		changes)
			million.	proposed 2008	proposed 2008	proposed		
2005 Awards from the	2008	2005	Total	applications.	applications.	applications.	2008	20004 1
2005 Awards from the 2005 Ceiling	2008	2005	allocation	Test met by having satisfied test in year	Test met by having satisfied test in year	Test met by having satisfied test in year	2008	2008 met by having met
2003 Cennig			will be	of award. Considered	of award. Considered	of award. Amount of		2005 (except
			limited to	a 2008 award for	a 2008 award for	credit award will be		statutory
			\$1.368	purpose of testing	purpose of testing	considered in tests of		changes)
			million.	proposed 2008	proposed 2008	proposed		changes)
				applications.	applications.	applications.		
2005 Awards from the	2006	2005	Total	Test met by having	Test met by having	Test met by having	2006	2006 met by
2006 Ceiling			allocation	satisfied test in year	satisfied test in year	satisfied test in year		having met
			will be	of award. Considered	of award. Considered	of award. Amount of		2005 (except
			limited to	a 2006 award for	a 2006 award for	credit award will be		statutory
			\$1.368	purpose of testing	purpose of testing	considered in tests of		changes)
			million.	proposed 2008	proposed 2008	proposed		
* >1				applications.	applications.	applications.		

^{*} No future years affected



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

DraftFinal Policy for Addressing Cost Increases for 2004 and 2005 Competitive Housing Tax Credit Developments

Section I. Introduction and Purpose

The Texas Department of Housing and Community Affairs (the "Department") has received numerous inquiries relating to increased direct construction costs over the past nine monthsyear that generally are attributed to the impact of Hurricanes Katrina and Rita lastduring September 2005. While limited data at a national or state level relating to these cost increases is available at this time, the Department has researched this issue using comparative cost multipliers by region from 2003 to 2006 from Marshall & Swift. Department research indicates that the existing 2004 and 2005 9%Competitive Housing Tax Credit (HTC) developments in the Department's inventory are affected by these increases in direct construction costs by an average of 14%. The purpose of this policy is to outline how the Department will act to assist those developments in ascertaining additional tax credits to accommodate those cost increases. It is estimated that the total amount of additional credits that might be necessary to accommodate this policy for 2004 is \$3,701,793 \$2,966,327 that would be utilized from the 2007 credit ceiling and for 2005 forward commitments of tax credits from the 2006 credit ceiling \$160,098 that would be utilized from the 2006 credit ceiling for a total of \$8,089,451 \$6,522,936.

Section II. Eligibility and Method of Allocation

The Department will offer an allocation of additional credits to all <u>competitive HTC</u> <u>developments</u> awarded <u>from the 2004</u> and 2005 <u>competitive HTC developmentsTax Credit Ceilings</u> that were not placed in service <u>or did not complete cost certification</u> before <u>January 1</u>, 2006. _Developments awarded a Forward Commitment in 2005 for tax credits from the 2006 HTC Ceiling are <u>also</u> considered a 2005 <u>competitive HTC developmenteligible under this policy</u>. For the purpose of this policy, 2003 awards from the 2004 Tax Credit Ceiling and 2004 awards from the 2004 Tax Credit Ceiling will herein after be referred to as "2004 awarded developments." <u>Likewise</u>, 2004 awards from the 2005 Tax Credit Ceiling will herein after be referred to as "2005 awarded developments." <u>Finally</u>, 2005 awards from the 2006 Tax Credit Ceiling will herein after be referred to as "2005 forward committed developments."

The additional allocation will be made pursuant to a binding commitment agreement to allocate credits from the Department's 2007 Tax Credit Ceiling to all awarded 2004 competitive

HTCawarded developments, and from the Department's 2008 Tax Credit Ceiling to all awarded 2005 competitive HTCawarded developments and from the Department's 2006 Tax Credit Ceiling to all 2005 forward committed developments. The amount of each development's award will be determined by the Department using a methodology that applies a 14% increase to the site work and direct construction costs as reflected in the most recent Underwriting report and then completes the credit determination based on that adjustment. The portions of the Department Development Cost Schedule associated with site work and direct construction costs as reflected in the Underwriting report are Site Work and Direct Construction Costs: Hard Costs. The amount of the additional 2006, 2007 or 2008 allocation will be the difference between the newly calculated credit amount and the amount originally committed.

Developments will not be eligible for a 30% increase in eligible basis based on the development's location in a Qualified Census Tract (QCT) or Difficult to Develop Area (DDA).

Staff will use the numbers relied upon in the most recent Underwriting Report, either the applicant's or Department's as applicable, to determine the amount of the additional allocation of credits. The applicable percentage used in the most recent Underwriting Report will be used to determine the amount of the additional allocation of credits. Staff will perform an additional review of any development that has been granted an amendment by the Department to ensure that no development receives a disproportionate benefit under this Final Policy.

Pursuant to \$2306.6711(b) of Tex. Gov't. Code, the Department may not allocate more that \$2 million in housing tax credits to any applicant in a single application round. The additional credits allocated under this policy will apply to the \$2 million cap for the year of the original award of tax credits. In the event that this requirement prevents a development from receiving the tax credits for which it is eligible, the applicant may, at his discretion, choose which development of which he is a principal will receive the award of additional tax credits, if more than one development is affected.

The Department will limit the allocation of tax credits to no more than \$1.368 million per Development.

Section III. Procedures

The following procedures will be utilized in implementing this process.

- 1. 2005 forward committed applications will be issued a revised 2006 Commitment Notice in the amount of the original award plus the additional amount as calculated by the Department. The revised award will come out of the 2006 Tax Credit Ceiling.
- <u>1.2.</u>The Department will issue all 2004 and 2005 awarded developments from the 2004 and 2005 credit ceiling a letterbinding agreement indicating the specific additional allocation amount as calculated by the Department and instructions consistent with this policy for their binding agreement's return submission.
- 2.3. Owners that choose not to utilize the additional credits will return an election form indicating their decision not to proceed with the allocation by October 31, 2006. No credits will be set aside from the 2006, 2007 or 2008 HTC Ceiling for such developments.

- <u>3.4.</u>Owners that choose to utilize the additional allocation will execute and return the binding agreement, pursuant to Treasury Regulation §1.42-8, in a format provided to the owner, with a fee equal to 5% of the credit amount allocated by October 31, 2006.
- <u>4.5.</u>The Department will review the binding agreement and, upon satisfaction, the agreement will be executed by the Executive Director of the Department. The execution by the Executive Director will occur no later than December 31, 2006 for the 2004 <u>awarded</u> developments and 2005 <u>awarded</u> developments placed in service in 2006, and no later than March 1, 2007 for the 2005 <u>awarded</u> developments <u>and 2005 forward committed developments</u> to be placed in service after 2006. <u>The binding agreement will be considered effective as of the date the Executive Director of the Department executes the agreement.</u>
- 6. The Department will assign a new project number from the year of the new allocation to all developments that receive an additional allocation under this policy. This new number must be used, in addition to the original project number, in any correspondence with the Department.
- 5.7. Upon placement in service and submission of the cost certification, the Applicant will be required to substantiate their total costs and credit allocation consistent with the requirements set forth in the *Cost Certification Manual*. All deadlines applicable to the original application will apply under this policy; no extensions will result from the allocation of additional credits. Unsubstantiated credits for 2004 awarded developments will be returned to the 2007 HTC Ceiling, and for 2005 awarded developments unsubstantiated credits will be returned to the 2008 HTC Ceiling. Unsubstantiated credits for 2005 forward committed developments will be handled, as all other 2006 allocations, at Cost Certification. Specifically, this analysis will be based on the development details originally proposed and credits will not be eligible for new activities not originally proposed. Further, a detailed cost analysis will be required at the time of cost certification that will be utilized to ensure development that site work and direct construction costs specifically increased by the estimated 14%.
- <u>6.8. As described in §50.10(c)(1) of the QAP: "Applications that are submitted under the 2006 QAP and granted an additional award of 2006 Housing Tax Credits or a Forward Commitment of 2007 or 2008 Housing Tax Credits are considered by the Board to comply with the <u>respective 2006, 2007 or 2008 QAP</u> by having satisfied the requirements of this 2006 the QAP under which the original application was submitted, except for statutorily required QAP changes."</u>
- 7.9. The application binding agreement will be reviewed before execution by the Executive Director of the Department issuance of a letter occurs to ensure that they do not have the principals of the development receiving an allocation of additional credits are not in material non-compliance on other developments in which they are a party-consistent with §50.5(b)(2) and (3) of the QAP. The Portfolio Management and Compliance division of the Department will perform this review as of November 17, 2006.
- <u>8.10.</u> For all allocations made under this policy the credit amount awarded for 2004 <u>awarded</u> developments will be attributed to the proper region and set-asides from the 2007 Ceiling, <u>and-for 2005 awarded</u> developments will be attributed to the proper region

- and set-asides from the 2008 Ceiling, and for 2005 forward committed developments will be attributed to the proper region and set-asides from the 2006 Ceiling to ensure adherence to the Regional Allocation Formula in 2006, 2007 and 2008.
- 11. Pursuant to §2306.6711(f), "The board may allocate housing tax credits to more than one development in a single community...only if the developments are or will be located more than one linear mile apart." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2007 or 2008 respectively. (Example: all proposed applications in the 2007 competitive cycle that are within one mile of a development that receives additional credits will not be eligible to receive an allocation in the 2007 cycle.)
- 12. Pursuant to §2306.6703(a)(3), an application will be considered ineligible if the applicant proposes to construct a new development that is located one linear mile or less from a development that serves the same type of household as the new development and has received an allocation of housing tax credits for new construction at any time during the three-year period preceding the date the application round begins. For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications submitted during the 2007 or 2008 application rounds, developments allocated additional credits under this policy will be considered to have been allocated in 2006, 2007 or 2008 respectively. (Example: any application proposed within a three year period from the date of Board action for additional credits that are within one mile of a development that receives additional credits will not be eligible to receive an allocation without a resolution from the appropriate governing body.)
- 13. Pursuant to \$2306.6703(a)(4), an application will be considered ineligible if "the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds..." For the purpose of this section, developments awarded an additional allocation of credits under this policy will be considered to have met this test as of the year during which the original application was submitted; however, for purposes of conducting this test for proposed applications, the amount of additional credits allocated under this policy will be applied to the calculation accordingly going forward.
- 14. The Land Use Restriction Agreement (LURA) for eligible developments that were not placed in service or did not complete cost certification during 2006 will not be affected. To the extent that any eligible development did place in service or complete cost certification during 2006 and recorded a LURA with the Department, the credit award amount reflected in the LURA will be amended within the LURA using the Department's administrative LURA amendment process.

15. Each eligible 2004 and 2005 awarded development that receives an additional allocation of tax credits under this policy will receive new IRS Forms 8609 for the amount of additional allocation substantiated at cost certification. Each eligible 2004 and 2005 awarded development will therefore receive two complete sets of IRS Forms 8609; one set for the amount of original allocation and one set for the amount of the additional allocation under this policy. 2005 forward committed developments will receive only one set of IRS Forms 8609.



MULTIFAMILY FINANCE PRODUCTION DIVISION Housing Tax Credit Program - 2016 Application Round Scoring Notice - Competitive Housing Tax Credit Application

Appeal Election Form: 16001, Rolling Hills

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

I am in receipt of my 2016 scoring notice and am filing a formal appeal to the Executive Director on or before Tuesday, June 21, 2016.

іу арр	bear is denied by the Executive Director:								
X	I do wish to appeal to the Board of Directors and request that my application be added to the Department Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. If no additional documentation is submitted, the appeal documention to the Executive Director will be utilized.								
	I do not wish to appeal to the Board of Directors.								
	Signed Lucell Jacon Title Managing Gen. Ptr.								
	Data (120/16								

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

16001 Rolling Hills Executive Director's Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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June 23, 2016

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

Ms. Cynthia Bast Locke Lord, LLP 600 Congress, Suite 2200 Austin, TX 78701

RE: APPEAL OF SCORING NOTICE: 16001 ROLLING HILLS, FREDERICKSBURG, TEXAS

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated June 21, 2016, of the scoring notice for the above referenced Application. This Application was denied points under §11.9(c)(6) of the 2016 Qualified Allocation Plan ("QAP"), related to Underserved Area, because the census tract in which the Development Site is located received an allocation of competitive housing tax credits within the last 10 years. This determination was based on the award of a forward commitment of 2007 credits to #04008/07008 Friendship Place Apartments.

The appeal asserts that the tax credits received in 2007 should not be considered for the analysis of whether a census tract is in an underserved area, since nothing in the materials associated with the awards presented to the Executive Board on October 12, 2006, indicates that the credits were "competitive," just that they were "additional." The appeal further asserts that the materials indicate that the credits would count in the determination of Housing De-Concentration Factors for the 2007 and 2008 application rounds and not for future rounds. Finally, the appeal asserts that the phrase "competitive tax credits" as used in this section of the QAP seems to reference that there may be an instance in which a non-competitive allocation is made. The appeal asserts that this is such an instance.

While I can understand and respect the view that the credits were obtained in 2007 in a manner that was not competitive in that a recipient merely needed to establish cost based need and did not need to be rescored under the 2007 qualified allocation plan, I am of the view that a plain reading of this rule does not prompt an assessment of the competitive or non-competitive nature, but relates to when and how the assistance was provided and its source. 10 TAC §11.9(c)(6) uses the term "competitive tax credit allocation." This term prompted me to consult the definitions in 10 TAC §10.3. In that section "competitive housing tax credits" are "[T]ax credits available from the State Housing Credit Ceiling." The credits in question were clearly forward committed from the 2007 State Housing Credit Ceiling. In my view they are credits that are of the character contemplated by the language of 10 TAC §11.9(c)(6).

I am unable to conclude that the points raised in your appeal demonstrate that the Application is eligible for the points requested. Accordingly I must deny the appeal. You have indicated that you wish to



Appeal of Scoring Notice: 16001 Rolling Hills June 23, 2016 Page 2 $\,$

appeal this decision directly to the Governing Board. Therefore, this appeal has been placed on the agenda for the next meeting scheduled for June 30, 2016.

Should you have any questions, please contact Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us or (512) 936-7834.

Sincerely,

Timothy K. Irvine Executive Director

4g

BOARD ACTION ITEM

MULTIFAMILY FINANCE DIVISION

JUNE 30, 2016

Staff will present a summary of Determinations under 10 TAC §11.10 of the 2016 Qualified Allocation Plan related to

16012	Mariposa at Clear Creek	Webster
16026	Laguna Hotel Lofts	Cisco
16029	Baxter Lofts	Harlingen
16057	Silverleaf at Mason	Mason
16071	Bluff View Senior Village	Crandall
16117	Indian Lake Apartment Homes	Indian Lake
16118	The Standard on the Creek	Houston
16161	Elysium Park	Austin
16164	Saralita Senior Village	Kerrville
16169	Havens of Hutto	Hutto
16263	Starlight	Murillo
16292	Avanti Canyon	Schertz
16373	Avondale Farms Seniors	Fort Worth
16380	Sierra Vista	Lopezville CDP
16387	Cantabria Estates Apartments	Brownsville

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. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered.

The following table describes the staff determinations for 2016 Competitive Housing Tax Credit ("HTC") Third Party Requests for Administrative Deficiency received and all determinations made as of June 30, 2016. All requests referenced herein were received and reviewed in accordance with §11.10. Where staff determined that the request substantiated the release of a Notice of Administrative Deficiency for the Application, the Applicant was provided the opportunity to respond to the submitted request. Staff has reviewed both the request and response in making its determination.

Each entry identifies the HTC development/application identification number (TDHCA ID#), the name of the development, city, region, and the name and organization of the requestor. A brief summary of each request has been included, followed by Department staff's analysis of the request, and finally the staff resolution of the request. The Department has posted each request received, deficiency notice released, supporting documentation received from the Applicant, and staff determination to the applicable applications, which are posted on the Department's website. Any remaining Requests for Administrative Deficiency will be reported to the Board at a subsequent meeting.

The Department's Governing Board has final decision making authority on any of the issues reflected herein, and thus these determinations are subject to change. However, a requester may not formally appeal any staff determination if precluded by 10 TAC §10.902(b) related to the Appeals process.

Where staff is recommending that a request result in loss of points or other action, the Applicants have already been notified and given the opportunity to appeal the staff determination. While not required, staff has also provided notice of the result of the request to the requestor.

TDHCA ID#	16012 Developm	nent Name:	Mariposa at Clear Creek
City:	Webster	Region:	6
Requester:	Cynthia Bast, on bel	tion #16256, Chapman Crossing	

Nature and Basis of Request: The request asked the Department to review whether the Application meets the requirements of §11.9(e)(3) of the 2016 Qualified Allocation Plan ("QAP") regarding Pre-Application Participation; particularly whether the Applicant failed to properly notify all required individuals, rendering the Application ineligible for points under this section of the rule. Staff reviewed the request and determined that a Notice of Administrative Deficiency should be issued to the Applicant.

Applicant Response to Notice of Administrative Deficiency: In response to the Administrative Deficiency, the Applicant submitted a fully processed certified mail receipt indicating that Commissioner El Franco Lee was notified on January 3, 2016, and a fully processed certified mail receipt indicating that Commissioner Gene Locke was notified on February 29, 2016.

Analysis and Resolution: Staff has reviewed the response provided and determined that the matter was resolved.

Based on these findings, staff determined that no further action was required.

TDHCA ID#	16026	Development Name:		Laguna Hotel Lofts
City:	Cisco Region			2
Requester:	Matt Ste	venson, Roc	ky Ridge Affo	ordable Housing, LLC

Nature and Basis of Request: The request asked the Department to review several issues in the Application:

- Whether pursuant to §10.101(B) Mandatory Development Requirements, the development must provide 1.5 parking spaces per tenant free of charge since the City of Cisco has no local code regarding parking;
- Whether the acquisition cost listed in the Development Cost Schedule is the correct acquisition cost as the Application includes a contract extension that raised the price to \$250,000;
- Whether demolition and asbestos abatement costs that are included in Site Work Costs should instead be included in Building Costs on the Development Cost Schedule;
- Whether the accessible unit on the second floor of the hotel site is consistent with Uniform Federal
 Accessibility Standards ("UFAS") requirements, considering that the elevator would be the only
 means of egress in an emergency, potentially leaving the tenant stranded if the elevator is inoperable;
 and
- Whether Undesirable Site and Neighborhood Characteristics exist, as there is suspected blight in the neighborhood.

The request also presented a letter that compares the 2016 Market Analysis report provided by the Applicant to a report submitted for the same development site in 2015 and questions the feasibility of the Development. The information provided did not provide any evidence that staff would be able to confirm

to determine whether an administrative deficiency request is substantiated, and did not point to a misapplication or violation of a rule. The Market Analysis review will be performed by the Real Estate Analysis Division ("REA") upon the formal underwriting of the Application. Administrative deficiencies related to the Market Analysis may be generated by REA during that process. Staff determined that, regarding the 2016 report, the issue should not be the subject of an Administrative Deficiency as part of this process.

Staff determined that a Notice of Administrative Deficiency should be issued to the Applicant regarding the other issues identified above.

Applicant Response to Notice of Administrative Deficiency: In response to the Administrative Deficiency, the Applicant submitted documentation to address the matters included in the notice.

Analysis and Resolution: Staff reviewed the response provided. In reviewing the response regarding whether the accessible unit on the second floor of the hotel site is consistent with UFAS requirements, staff considered whether the whole of the issue as presented in the Application and included in the response is consistent with the requirements of 10 TAC §1.206, Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973, which states that the development must comply with the construction standards of §504 of the Rehabilitation Act of 1973, as further defined through UFAS. Staff determined that nothing in UFAS prevents the location of the unit on the second floor, and in the response the Applicant proposes to provide an "area of refuge" should the City of Cisco require it.

Staff determined that all issues are resolved to the satisfaction of the rule.

Based on these findings, staff determined that no further action is required.

TDHCA ID#	16029	Developm	ent Name:	Baxter Lofts
City:	Harlinge	Harlingen Region:		11
Requester:	Mark M	usemeche, M	Group Holdi	ngs, Inc.

Nature and Basis of Request: The request asked the Department to review whether the Application identified the correct high school in their request for points under §11.9(c)(5) of the 2016 Qualified Allocation Plan, Educational Excellence, and whether a loss of points under this item would lead to a loss of points under §11.9(e)(6) Historic Preservation. Staff reviewed the request and determined that a Notice of Administrative Deficiency should be issued to the Applicant.

Applicant Response to Notice of Administrative Deficiency: In response to the Administrative Deficiency, the Applicant provided documentation to evidence that students who reside at the Baxter Lofts may attend Early College High School or Harlingen School of Health Professions, at their discretion.

Analysis and Resolution: Staff reviewed the response provided and determined that the Application is eligible for three points under §11.9(c)(5) (A) Educational Excellence. Because the Application scored three points under Educational Excellence, the number of points awarded under §11.9(e)(6) Historic Preservation it is eligible for three points. The Applicant appealed staff's scoring determination and the Board denied the appeal.

Based on these findings, staff determined that the point loss was appropriate and no further action is required.

TDHCA ID#	16057	Development Name:		Silverleaf at Mason
City:	Mason Region		n:	12
Requester:	Jeffrey Spicer, State Street Housing Development, L.P.			

Nature and Basis of Request: The request asked the Department to review whether the Primary Market Area included in the Market Analysis report provided by the Applicant misrepresents the draw demand for the proposed project, and whether the Application should be terminated if staff determines that it does not have sufficient capacity.

Analysis and Resolution: Staff reviewed the request and determined that the information provided did not provide any evidence that staff would be able to confirm to determine whether an administrative deficiency request is substantiated, and did not point to a misapplication or violation of a rule. The Market Analysis review will be performed by REA upon the formal underwriting of the Application. Administrative deficiencies related to the Market Analysis may be generated by REA during that process.

Staff determined that the issue should not be the subject of an Administrative Deficiency as part of this process.

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

TDHCA ID#	16071	Development Name:		Bluff View Senior Village
City:	Crandall R		Region:	3
Requester:	Teresa Bowyer, Herman & Kittle Properties, Inc.			

Nature and Basis of Request: The request asked the Department to review whether the Site Design and Development Feasibility Report as required by §10.204(15) of the 2016 Uniform Multifamily Rules contains sufficient information regarding fire protection. Additionally, the Department was asked to "independently verify the Applicant's Market Analysis report with regard to the proposed unit mix" under §10.302(i)(l)(A) relating to the maximum gross capture rate for a Qualified Elderly Development and §10.303 relating to Market Analysis Rules and Guidelines.

Analysis and Resolution: Staff reviewed the request and determined that the information provided did not provide any evidence that staff would be able to confirm to determine whether an administrative deficiency request is substantiated, and did not point to a misapplication or violation of a rule. The Market Analysis review will be performed by REA upon the formal underwriting of the Application. Administrative deficiencies related to the Market Analysis may be generated by REA during that process.

Staff determined that the issue should not be the subject of an Administrative Deficiency as part of this process.

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

TDHCA ID#	16117	Development Name:		Indian Lake Apartment Homes	
City:	Indian Lake		Region:	11	
Requester:	Cynthia Bast on behalf of Application #16032, Lantana Villas				

Nature and Basis of Request: The request asked the Department to review whether the Application meets the requirements of §11.9(e)(3) of the 2016 Qualified Allocation Plan ("QAP") regarding Pre-Application Participation; particularly whether the Applicant failed to properly notify all required individuals, rendering the Application ineligible for points under this section of the rule. Staff reviewed the request and determined that a Notice of Administrative Deficiency should be issued to the Applicant.

Applicant Response to Notice of Administrative Deficiency: In response to the Administrative Deficiency, the Applicant submitted a fully processed certified mail receipt indicating that notifications were delivered on received by the Town of Indian Lake on January 8, 2016, and a response from the Mayor dated February 26, 2016, indicating that each alderman of the Town of Indian Lake was provided and received copies of the notification upon receipt.

Analysis and Resolution: Staff has reviewed the response provided and determined that the matter was resolved.

Based on these findings, staff determined that no further action is required.

TDHCA ID#	16118	Development Name:		The Standard on the Creek	
City:	Houston		Region:	6	
Requester:	Donna Rickenbacker, Marque Real Estate Consultants				

Nature and Basis of Request: 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. 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 your 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.

Based on these findings, staff determined that no further action is required.

TDHCA ID#	16118	Development Name:		The Standard on the Creek	
City:	Houston		Region:	6	
Requester:	T. Deon Warner, on behalf of Application #16239, Trails at Palm Center				

Nature and Basis of Request: 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. 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 your 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.

Based on these findings, staff determined that no further action is required.

TDHCA ID#	16118	Development Name:		The Standard on the Creek	
City:	Houston		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 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.

TDHCA ID#	16161	16161 Development Name:		Elysium Park
City:	Austin		Region:	7
Requester:	Matt Synatschk, Northwood Neig			nborhood Association

Nature and Basis of Request: The request asks the Department to investigate whether the letter of support from Skillpoint Alliance should count for points under §11.9(e)(3), Input from Community Organizations, as Skillpoint Alliance entered into a memorandum of understanding with Elysium Park, LLC to provide services for the residents. The requester asserts that the partnership will create a direct financial benefit for Skillpoint Alliance, and thus the support creates a conflict of interest.

Analysis and Resolution: Staff determined the Application in question to not be a priority Application, and the matter did not receive further review.

Based on these findings, staff determined that no further action is required at this time.

TDHCA ID#	16164 Development Name:		ent Name:	Saralita Senior Village
City:	Kerrville		Region:	9
Requester:	Cynthia Bast, on behalf of Applica			tion #16001, Rolling Hills

Nature and Basis of Request: The request asked the Department to review the proposed acquisition price for the land included the Application to ensure that the purchase price being paid through tax credit subsidy is appropriate. The Applicant is purchasing approximately 20 acres out of a larger 25.62-acre tract. The acreage has been listed for a total purchase price of \$1,000,000. The 20 acres has been split into two purchase contracts – one for 9 acres upon which Saralita Senior Village will be developed and one for 11 acres. Only the 9-acre tract has been assigned to the Applicant. The purchase price to be paid by the Applicant for the 9 acres, which purchase price will be borne by the affordable housing development, is \$800,000. The purchase price to be paid for the 11 acres is \$50,000. The requestor contends that this allocation of the purchase price seems disproportional and inconsistent with TDHCA's underwriting rules. In addition, the request asked the Department to review whether the letter of financial support from Regions Bank included the required operating pro forma, and whether the Application, which has requested Direct Loan funds, is required to conform to the requirements of the Davis Bacon Labor Standards.

Regarding the proposed acquisition price, review of this issue will be performed by the Real Estate Analysis Division ("REA") upon the formal underwriting of the Application. Administrative deficiencies related to

this issue may be generated by REA during that process. Staff determined that the issue should not be the subject of an Administrative Deficiency as part of this process.

Regarding the presence in the Application of an operating pro forma from the lender, staff reviewed the Application and discovered that the pro forma, signed by the same representative from Regions Bank who signed the financing letter, is located on the page preceding the letter from the lender. No further action is required regarding this issue.

Staff determined that a Notice of Administrative Deficiency should be issued to the Applicant regarding whether the Applicant is required to indicate in the Application that the Development will conform to the requirements of the Davis Bacon Labor Standards.

Applicant Response to Notice of Administrative Deficiency: In its response to the notice, the Applicant provided a revised form indicating that Davis Bacon Labor Standards will apply to the Development.

Analysis and Resolution: Staff reviewed the response provided and determined that the matter was resolved.

Based on these findings, staff determined that no further action is required at this time.

TDHCA ID#	16169 Development Name:		ent Name:	Havens of Hutto
City:	Hutto		Region:	7
Requester:	Colby Denison, DDC Merritt Starligh			light, Ltd.

Nature and Basis of Request: The request asked the Department to review whether the Application qualified for the one point under §11(c)(8)(A) of the Uniform Multifamily Rules, Proximity to Important Services - full service grocery store, as neither the Hutto Westphalia Market nor the HEB Grocery store meets the Department's definition of a grocery store. The request provided information indicating that the Hutto Westphalia Market does not carry a full line of products that one would expect to purchase in a full service grocery store, and that the HEB does not meet the §10.101(a)(2) requirement that mandatory community assets exist or be under active construction post pad (e.g. framing the structure) by the date the Application is submitted. The request included information not previously provided to the Department, and staff determined that a Notice of Administrative Deficiency was appropriate.

Applicant Response to Notice of Administrative Deficiency: In response to the notice, the Applicant conceded that the HEB does not qualify as construction had not progressed as the Applicant had hoped. The Applicant submitted photographs and an accounting of the items carried by the Hutto Westphalia Market.

Analysis and Resolution: Staff visited the market to visually confirm whether the market met the rule. Staff found that regardless of its size, the market did offer a household "the preponderance of its typical food and household items needs, including a variety of options for fresh meats, produce, dairy, baked goods, frozen foods, and some household cleaning and paper goods."

After reviewing the response and visiting the market, staff determined that the market is an eligible full-service grocery store and the matter was resolved.

Based on these findings, staff determined that no further action is required.

TDHCA ID#	16263	16263 Development Name:		Starlight
City:	Murillo		Region:	11
Requester:	Mark Musemeche, MGroup Holdi			ngs, Inc.

Nature and Basis of Request: The request asked the Department to review whether the Application meets the requirements of §11.3(b) of the 2016 Qualified Allocation Plan ("QAP") regarding Twice the State Average Per Capita. The request provides evidence of annexations by the City of Edinburg in December 2013 and March 2015 that included portions of the Murillo Census Designated Place ("CDP"), and posits that the resulting loss in population by the Murillo CDP raises the per capita count of units in Murillo to more than twice the state average.

Analysis and Resolution: In reviewing the request, staff referred to §11.3(b) of the 2016 Qualified Allocation Plan ("QAP") regarding Twice the State Average Per Capita, which states in part:

As provided for in Texas Government Code, §2306.6703(a)(4), if a proposed Development is located in a municipality, or if located completely outside a municipality, a county, (emphasis added) that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board), the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development.

This section of the QAP does not consider the population of Census Designated Places, but rather recognizes only municipalities and counties. The proposed site for the Starlight development is located in Hidalgo County, and therefore the resolution required under §11.3(b) if the county exceeds the Twice the State Average per Capita is not required.

Based on this rule, 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#	16292	292 Development Name:		Avanti Canyon
City:	Schertz		Region:	9
Requester:	Gil Piette, Prospera Housing Com			munity Services

Nature and Basis of Request: The request asked the Department to review whether the Application identified the minimum six community assets within one mile of the proposed Development Site as required by §10.101(a)(2) of the 2016 Uniform Multifamily Rules.

Analysis and Resolution: Staff reviewed the Application and determined that a minimum number of the community assets identified in the Application are valid community assets.

Based on the review, staff determined that the issue should not be the subject of an Administrative Deficiency.

Based on these findings, staff determined that no further action is required.

TDHCA ID#	16373	73 Development Name:		Avondale Farms Seniors
City:	Fort Wo	orth	Region:	3
Requester:	Cynthia Bast, on behalf of Application			tion #16275 Harmon Senior Villas

Nature and Basis of Request: The request asked the Department to review whether the Application meets the requirements of §11.9(e)(3) of the 2016 Qualified Allocation Plan ("QAP") regarding Pre-Application Participation; particularly whether the application's change from Elderly Limitation to Elderly Preference renders it ineligible for points under this section of the rule, and if the Applicant properly notified recipients under §11.8(b).

Analysis and Resolution: The QAP section cited states that Applications will be eligible to receive six points Pre-application points if, "The proposed Development serves the same Target Population" in the Full Application. Target Population is defined at §10.3(127) as:

The designation of types of housing populations shall include Elderly Developments, and those that are entirely Supportive Housing. All others will be considered to serve general populations without regard to any subpopulations. An existing Development that has been designated as a Development serving the general population may not change to become an Elderly Development without Board approval.

The definition describes Elderly Development as a target population which encompasses both Elderly Limitation and Elderly Preference for purposes of scoring under §11.9(e)(3) and Notification requirements under §11.8(b)(2)(C)(ii).

Based on this rule, 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 Region:		Region:	11
Requester:	Mark Musemeche, MGroup Hold			ngs, 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 Region:		11
Requester:	Donna Rickenbacke	r, Marque Rea	l 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.

TDHCA ID#	16387	Development Name:		Cantabria Estates Apartments
City:	Brownsville		Region:	11
Requester:	Barry Palmer, Coats Rose			

Nature and Basis of Request: The request asked the Department to review whether the Application is eligible to compete in the At-Risk set-aside as it does not meet the requirements of §11.5(3)(C)(ii), specifically that:

"An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in Texas Government Code, §2306.6702(a)(5) will not qualify as an At-Risk Development unless the redevelopment will include at least a portion of the same site. Alternatively, an Applicant may propose relocation of the existing units in an otherwise qualifying At-Risk Development if:

... (ii) the Applicant seeking tax credits must propose the same number of restricted units..."

Staff reviewed the Application and determined that it proposes to meet the requirements of the definition of At-Risk found at §2306.6702(a)(5)(B), which addresses a Development that "proposes to rehabilitate or reconstruct housing units that (ii) received assistance under Section 9..." and (a) are proposed to be disposed of or demolished by a public housing authority...". The Application proposes to "reconstruct" 34 units that are proposed to be demolished not as part of this Application but at some point in the future, to add 58 units that will be restricted by low income housing tax credits, and to add 10 unrestricted units. Staff determined that the proposed Development does not meet the requirements of §11.5(3)(C)(ii) as it does not propose the same number of restricted units (e.g. the Applicant added restricted units as well as market rate units).

Staff determined that a Notice of Administrative Deficiency should be issued to the Applicant regarding whether the Application is eligible for the At-Risk set-aside.

Applicant Response to Notice of Administrative Deficiency: In response to the notice, the Applicant provided evidence of the Cameron County Housing Authority's intention to demolish the units in the future, and proposed removal of the Rental Assistance Demonstration ("RAD") program subsidy.

Analysis and Resolution: Staff reviewed the response and has determined the following:

- 1. The applicant intends to split the 74 public housing units to be demolished at Leon Gardens and allocated 34 to the Cantabria Estates and add 68 additional new units making it ineligible as an At-Risk development.
- 2. Pursuant to §10.201(7) Administrative Deficiency Process, even if the Applicant requested a reduction in the number of units in the subject application staff cannot accept such a change since it would be a material change to the Application.
- 3. Because the Application does not meet requirements to participate in the At-risk set-aside, the Application does not meet the requirements of §11.9(e)(3)(D) Pre-Application Participation, particularly that in order for an Application to qualify to receive up to six points is that the Pre-Application and the Application are participating in the same set-aside.

Based on these determinations, the Applicant will be provided a revised scoring notice indicating the loss of six points under §11.9(e)(3) Pre-Application Participation, which the Applicant will have an opportunity to appeal.

Based on these findings, staff determined that the loss of six points and removal from the At-Risk Set-Aside is appropriate and no further action is required as part of this process.

16012 Mariposa at Clear Creek Third Party Request for

Administrative Deficiency



600 Congress, Suite 2200 Austin, TX 78701 Telephone: 512-305-4700 Fax: 512-305-4800 www.lockelord.com

Cynthia L. Bast Direct Telephone: 512-305-4707 Direct Fax: 512-391-4707 cbast@lockelord.com

June 1, 2016

Via Electronic Mail and Hand Delivery

Ms. Marni Holloway Ms. Sharon Gamble Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701

Re: Third Party Request for Administrative Deficiency

TDHCA No. 16012

Ladies:

We represent the application for Chapman Crossings, TDHCA No. 16256, in Region 6 Urban. Pursuant to Section 11.10 of the QAP, please consider this Third Party Request for Administrative Deficiency treatment with regard to Mariposa Apartment Homes at Clear Creek, TDHCA No. 16012 (the "**Application**"). Specifically, the issue in question is the notification of public officials, required for pre-application and application. Failure to deliver notification as required can result in termination of the Application.

The Applicant submitted a pre-application on January 4, 2016 and the Application on or before the deadline of March 1, 2016. Section 10.203 of the Uniform Multifamily Rules, requires that every applicant notify all members of the governing body of the county in which the proposed development is located. However, if notifications were made at the time of pre-application, the applicant is not required to make an additional notification at the time of application, absent certain changes.

Mariposa Apartment Homes is located in Harris County At Tab 16 of the Application, the Applicant certified that no additional notifications were required, and at Tab 14 of the Application, the Applicant stated that all elected officials were listed in the pre-application and did not change prior to the Application. (See **Exhibit A**.) In fact, this is not correct. In the pre-application, the Applicant listed El Franco Lee as a sitting Harris County Commissioner. (See **Exhibit B**.) Mr. Lee died on January 3, 2016, the day before the pre-application was filed. (See

Ms. Marni Holloway Ms. Sharon Gamble June 1, 2016 Page 2

Exhibit C.) To the extent the Applicant submitted a qualified notice to Mr. Lee prior to January 3, the Applicant would have complied with the notification rules as to pre-applications.

Mr. Lee was replaced by Gene Locke on January 22. (See **Exhibit D**.) Thus, there was a change in the Harris County Commissioners from the listing in the pre-application, prior to submission of the Application. This should have been identified in the Application, and the Applicant should have assured that Mr. Locke was properly notified in order for the Application to meet the threshold requirements of Section 10.203 of the Uniform Multifamily Rules. Failure to identify the change in Harris County Commissioners at Tab 14 of the Application is indicative that the Applicant did not send proper notice to Mr. Locke when he assumed office. It also contradicts the representations made in the Development Owner Certification, as required by Section 10.204 of the Uniform Multifamily Rules.

In fact, there is evidence that the Applicant knew that Mr. Locke had assumed the Harris County Commissioners position in the application for Cypress Creek at Reed Road Apartment Homes Phase II, TDHCA No. 16395. This application was filed without a pre-application. At Tab 14, this application properly identifies Mr. Locke as the Harris County Commissioner for Precinct 1. Why, then, did the Applicant not acknowledge Mr. Locke's appointment in the Application for TDHCA No. 16012?

We would like to suggest that TDHCA ask the Applicant for copies of its notifications to Mr. Lee and Mr. Locke for Applications TDHCA No. 16012 and No. 16395, along with evidence of delivery, to ensure timely fulfillment of this threshold requirement. Our client has submitted an open records request to the Harris County Commissioners Court for this same information on both Mariposa Apartment Homes and Cypress Creek at Reed Road. When a response is received, our client will share it with TDHCA.

We appreciate your consideration of this matter. Finally, if TDHCA has information in its possession regarding this notification matter that is not otherwise available on the posted Application, please consider this letter an Open Records request to receive copies of such information.

Ms. Marni Holloway Ms. Sharon Gamble June 1, 2016 Page 3

A \$500 fee accompanies this request. Thank you for your time and consideration.

Very truly yours,

Cynthia L. Bast

cc: Kim Murphy

Donna Rickenbacker

Exhibit A – Application Tabs 14 and 16 - Elected Officials and Notifications

Exhibit B – Preapplication – Elected Officials

Exhibit C – Public Notification of Death of El Franco Lee

Exhibit D – Public Notification of Appointment of Gene Locke

Exhibit A

Application Tabs 14 and 16 - Elected Officials and Notifications

CERTIFICATION OF NOTIFICATIONS (ALL PROGRAMS)

Pursuant to §10.203 of the Uniform Multifamily Rules, evidence of notifications includes this sworn affidavit, and the Elected Officials and Neighborhood Organizations Forms. All Applicants, or persons with signing authority, must complete either Part 1 or Part 2 below:

Part 1. Notifications made at Pre-Application (Competitive HTC only):						
	included evidence of these notifications pursuant to §10.203 of the Uniform Multifamily Rules, equirements, and no additional notifications were required with this full application.						
Part 2. Notifications or Re-notifications made	at Application						
§10.203 of the Uniform Multifamily Running Neighborhood Organizations Form(s).	cation met all threshold requirements, but all required entities were re-notified as required by ules. As applicable, all changes in the Application have been made on the <i>Elected Officials and/or</i>						
HTC Applications and not older than th	not older than 3 months from the first day of the Application Acceptance Period for Competitive aree (3) months prior to the date Parts 5 and 6 of the Application are submitted for Tax Exempt an three (3) months prior to the date the Application is submitted for all other Applications.						
§10.203 of the Multifamily Uniform Ru	the required neighborhood organizations, the following entities were notified in accordance with the state of the notifications were in the format provided in the Application Notification Template. All of dare correctly listed on the Elected Officials Form and Neighborhood Organizations Form:						
 Presiding officer of the boa Mayor of any municipality of all elected members of the Presiding officer of the Gov All elected members of the State senator of the district 	 Superintendent of the school district containing the Development; Presiding officer of the board of trustees of the school district containing the Development; Mayor of any municipality containing the Development; All elected members of the Governing Body of any municipality containing the Development; Presiding officer of the Governing Body of the county containing the Development; All elected members of the Governing Body of the county containing the Development; State senator of the district containing the Development; and State representative of the district containing the Development. 						
While not required to be submitted in by the Department at any time during	this Application, I have kept evidence of all notifications made and this evidence may be requested the Application review.						
Part 3. पिर्वारामुसिक्तां कर के महास्वार कार विश्वर स्थान	(compatitive)Hitcon(y)						
I (We) certify that no Neighborhood O the OAP or for which notification is re	rganizations exist for which this Application would be eligible to receive points under §11.9(d)(4) of quired. Texas						
Signature of Applicant/Development	Owner Notary Public, State of						
Stuart Shaw, Applicant's Representative	Travis						
Printed Name	County of						
3/1/16							
Date	My Commission expires						
I, the undersigned, a Notary Public in and for sai known to be one in the same, has acknowledged voluntarily on the date same foregoing statement	d County and State, do hereby certify that name is signed to the foregoing statement, and who is before me on this date, that being informed of the contents of this statement, executed the same bears.						
GIVEN UNDER MY HAND AND SEAL O	F OFFICE this day of March , 2016						
RACHEL NUNLEY Notary Public, State o My Commission Ext September 15, 20	ores Oar L. Number						

Elected Officials

x Elected officials were identified in the *Pre-Application*, and there have been no changes. (If box above is checked, these forms may be left BLANK.) Please identify all elected officials which represent the Development Site. ** US Representative District State Senator District State Representative District **Support Letter** Support Letter **City Mayor County Judge School Superintendent District Name Email** Zip Address City Email **Presiding officer of Board of Trustees** Zip Address City ** While Applicants are not required to notify US Representatives, the Department is required to notify these elected officials. Therefore, Applicant must identify the appropriate US Representative of the district containing the Development. **Elected Officials (Continued)** District/Precinct **Email or Phone**

District/Precinct

Email or Phone

Exhibit B

Preapplication – Elected Officials

2016 Pre-Application

Submission Date 2016-01-04 11:11:53

Full Name Stuart Shaw

Address Street Address: 901 S. Mopac Expy., Bldg. 4, Ste. 180

City: Austin State: Texas Zip Code: 78746

Phone Number (512) 220-8000

Email consulting@bonnercarrington.com

Full Name Casey Bump

Phone Number (512) 2208000

Email casey@bonnercarrington.com

Full Name Jeffrey Spicer

Phone Number (214) 3460707

Email jspicer@statestreethousing.com

Name of Proposed Entity Mariposa Clear Creek LP

Development Name Mariposa Apartment Homes at Clear Creek

Development Type New Construction

Target Population Elderly Limitation

Address Approx. the southeast quadrant of Highway 528 and Interstate 45

City Webster

Zip Code 77598

ETJ? No

County Harris

Region

Rural/Urban Urban

Census Tract 48201350802

Total LI Units 140

Total MR Units 60

Total Units 200

HTC Request 1500000

Pre-App Fee Due 2000

Has Fee already been Yes submitted? Check # 3589 **Set-Asides** None **U.S.** Representative Pete Olson **District** 22 **State Senator** Larry Taylor **District** 11 **State Representative** Dennis Paul **District** 129 **School Superintendent** Dr. Greg Smith Clear Creek ISD **District Name Address** Street Address: 2425 E. Main Street City: League City Zip Code: 77573 **Presiding Officer of Board of** Dr. Laura DuPont **Trustees** Address Street Address: 2425 E. Main Street City: League City Zip Code: 77573 Name Donna Rogers Office Mayor Name 2 Jennifer Heidt Office 2 City Council Member Name 3 Andrea Giamfortone Wilson Office 3 City Council Member Name 4 Larry Tosto Office 4 City Council Member Name 5 **Beverly Gaines** Office 5 City Council Member Name 6 Martin Graves Office 6 City Council Member

Ed Emmett

Name 7

Office 7	County Judge
Name 8	El Franco Lee
Office 8	County Commissioner
Name 9	Jack Morman
Office 9	County Commissioner
Name 10	Steve Radack
Office 10	County Commissioner
Name 11	R. Jack Cagle
Office 11	County Commissioner
Name 12	Natalie Dolan
Office 12	City Council Member
Are there Neighborhood Organizations whos boundaries contain the Development Site?	No
Unit Sizes	8
Unit Features	7
Sponsor Characteristics	1
High Quality Housing Total	16
Income Levels of Tenants	16
Rent Levels of Tenants	11
Tenant Services	10
Opportunity Index	7
Educational Excellence	5
Underserved Area	1
Tenant Populations with Special Housing Needs	2
Proximity to Important Services	2
Serve and Support Texans Most in Need Total	54
Declared Disaster Area	10
Community Support and Engagement Total	10

Financial Feasibility	18
Cost of Development per Square Foot	12
Pre-Application Participation	6
Leveraging Private, State and Federal Resources	3
Extended Affordability	2
Historic Preservation	0
Right of First Refusal	1
Funding Request Amount	1
Efficient Use of Limited Resources and Applicant Accountability Total	43
Total Applicant Self-Score	123
Site Control Documentation	01 MCC Webster Purchase Contract Owner to SSFP 160107.pdf
Census Tract Map	MCC Webster Census Tract 160104.pdf
Other Pertinent Information	03 MCC Webster Purchase Contract SSFP to LP 160107.pdf
App#	16012

Exhibit C

Public Notification of Death of El Franco Lee

El Franco Lee(1949 - 2016)



El Franco Lee 1949-2016 Harris County Commissioner El Franco Lee January 30, 1949 – January 3, 2016

Funeral Mass, Thursday, January 7, 2016

Holy Rosary Catholic Church at 10:00am

In lieu of flowers, please make donations to Julia C. Hester House and/or Harris County Street Olympics Inc.



Funeral Home
Brookside Funeral Home
13747 Eastex Freeway Houston, TX 77039
(281) 449-6511

Published in Houston Chronicle on Jan. 6, 2016

Exhibit D

Public Notification of Appointment of Gene Locke

http://www.chron.com/news/houston-texas/houston/article/Emmett-picks-SURPRISE-to-run-precinct-6775584.php

Gene Locke named to fill Commissioner Lee's seat

Appointee will serve through Dec. 31

By Gabrielle Banks Updated 11:45 am, Friday, January 22, 2016

ADVERTISEMENT



IMAGE 1 OF 16

Harris County Judge Ed Emmett on Friday named Gene Locke, a former city attorney and mayoral candidate, to complete El Franco Lee's term on Commissioners Court.

Point Guard Workout.

Advanced Skill Training For Basketball Elite Level Guards.



Harris County Judge Ed Emmett on Friday named Gene Locke, a former city attorney and mayoral candidate, to complete El Franco Lee's term on Commissioners Court.

Locke, 68, a senior partner at the Andrews Kurth law firm, served as city attorney under the late Mayor Bob Lanier in the 1990s and ran for mayor in 2009, losing in a runoff to Annise Parker.

"I plan to be a hands-on, on the ground, let's get with the program commissioner, which means that I will follow in El Franco's footsteps," Locke said.

He added: "This precinct belongs to El Franco Lee, and anything that I do over the next several months is dedicated to him."

Asked if he intended to run for the post in November, Locke said, "My intention is to go back to the practice of law and enjoy my family,."

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Lee, the longest-serving member of the court, died suddenly Jan. 3. It fell to the county judge to replace the commissioner under these circumstances. Emmett began getting calls from interested parties within an hour after news broke of Lee's death.

Emmett said his goal was for the interim commissioner to be in place for the yearly budget meeting Jan. 26. Lee's permanent replacement will be elected in November, and Democratic officials will have to pick a name to replace Lee's on the fall ballot.

Late Thursday, a spokesman for state Sen. Rodney Ellis, D-Houston, confirmed that Ellis will run for the commissioner position.

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Since Lee's death, about 20 or 30 candidates expressed interest in the interim job or had their names tossed into the hat for consideration.

Emmett said he intended to pick a placeholder.

Lee, who was a fixture in Democratic circles for most of his adult life, served three consecutive terms as a state representative from 1979 to 1983, authoring 48 bills and serving on five committees. In 1981 Texas Monthly named him "Most Underrated" legislator, according to the legislative reference library.

In 1984, he ran against Sylvester Turner for the newly redistricted commissioner's court seat, a position that had been held by Commissioner Tom Bass, in a precinct that now had the potential to elect the first African American to the court. Lee held the seat for seven terms, managing parks, roads, buildings, programs and constituent services and championing the hospital district through bountiful and leaner times.

Locke said he intends to use his time in the office to keep Lee's programs on track.

"I hope that we don't lose a step in making sure that every senior enjoys all the programs that they enjoy, all the young people are afforded all of the opportunities ... all of the capital improvements that need to be made, we can make those. All of the criminal justice issues that we fight for, we'll fight for those. All of the mental health and mental retardation issues we fight for, we'll fight for those to do the best we can to make sure that, while Commissioner Lee is not with us in person, his spirit is honored."

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HEARST

From: <u>Casey Bump</u>

To: Sharon Gamble; Stuart Shaw

Subject: Re: 16012 - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Date: Tuesday, June 07, 2016 8:05:22 AM

Good Morning Sharon

I am traveling today and have not had time to review the request, but wanted to let you know we received your email.

Thank you,

Casey

On Mon, Jun 6, 2016 at 4:07 PM Sharon Gamble < sharon.gamble@tdhca.state.tx.us > wrote:

In the course of the Department's Housing Tax Credit Eligibility/Selection/Threshold and/or Direct Loan review of the above referenced application, a possible Administrative Deficiency as defined in §10.3(a)(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 #16012, Mariposa Apartment Homes at Clear Creek. 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 Applicant notified Gene Locke, who replaced El Franco Lee as County Commissioner on January 22, 2016. The request provided information that shows that the Applicant knew of the replacement as another application submitted by the Applicant included a certification that Mr. Locke was notified that the application was being submitted.

Please review the attached. Provide evidence that Mr. Locke was properly notified as required by §10.203 of the 2016 Uniform Multifamily Rules.

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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 June 13, 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 www.tdhca.state.tx.us

--

Casey Bump O - 512-220-9902 C - 512-796-4031

President
Bonner Carrington LLC
901 Mopac Expressway South
Building 5, Suite 100
Austin, Texas 78746
Main - (512) 220-8000
Fax - (512) 377-1651

www.bonnercarrington.com

BONNER CARRINGTON

June 9, 2016

Texas Department of Housing and Community Affairs Sharon Gamble, Competitive Housing Tax Credit Program Administrator 221 East 11th Street Austin, TX 78701

Re: Mariposa Apartment Homes at Clear Creek (TDHCA #16012) – Response to Third Party Request for Administrative Deficiency

Dear Ms. Gamble,

I am sending you the enclosed evidence of proper notification as required by §10.203 of the 2016 Uniform Multifamily Rules on behalf of Mariposa Clear Creek LP, Applicant for the Mariposa Apartment Homes at Clear Creek community located in Webster, Harris County, Texas. The Applicant did send a notification to Commissioner Gene Locke, who replaced Commissioner El Franco Lee as the Harris County Commissioner of Precinct 1.

On Pre-Application Final Delivery Date January 8, 2016; which was after the late Commissioner Lee had passed but before Commissioner Locke had been appointed; the Applicant notified Precinct 1 of Mariposa Apartment Homes at Clear Creek's pre-application with the Texas Department of Housing and Community Affairs via certified mail (#7011 3500 0000 2410 8493).

Since Commissioner Locke took office on January 22, 2016; full application notification for Cypress Creek Apartment Homes at Reed Road Phase II (TDHCA #16395) and re-notification for Mariposa Apartment Homes at Clear Creek were both sent to Harris County Precinct 1 via certified mail (#7014 3490 0002 0142 0296) on February 29, 2016. Please see the attached certified mail receipts as evidence of notification, as well as a copy of the Mariposa Apartment Homes at Clear Creek notification itself. Additionally, updates to Mariposa Clear Creek LP's full application Tabs 14 Elected Officials and 16 Certification of Notifications have been included in anticipation of a TDHCA request to accompany Applicant's response.

If you have any questions or need anything further, please do not hesitate to contact Casey Bump at our offices at (512) 220-9902.

Sincerely,

Stuart Shaw

Applicant's Representative

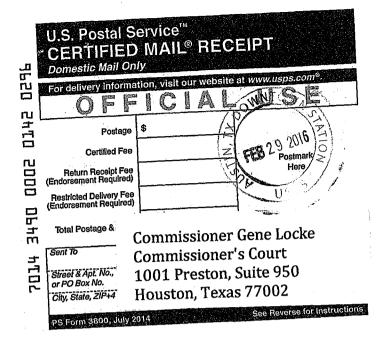
Enclosure:

- Certified Mail Receipt #7011 3500 0000 2410 8493 dated January 8, 2016
 Certified Mail Receipt #7014 3490 0002 0142 0296 dated February 29, 2016
 Sample Notification Letter
 Tab 14 Elected Officials

- 5. Tab 16 Certification of Notifications

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	City, &	Houston		-				
	PS Fo		1, 111 /	7002	-		tructio	ons

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
 Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature Agent Addresse B. Received by (Printed Name) C. Date of Deliver		
Article Addressed to:	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No		
Commissioner El Franco Lee Commissioner's Court 1001 Preston #950 Houston, TX 77002			
9590 9403 0494 5173 8933 76	3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery	□ Priority Mail Express® □ Registered Mail™ □ Registered Mail Restricted □ Belivery □ Return Receipt for Merchandlse	
2. Article Number (Transfer from service label)	☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation™ ☐ Signature Confirmation	
7011 3500 0000 2410 8493	d Mall Restricted Delivery 500)	Restricted Delivery	
PS Form 3811, April 2015 PSN 7530-02-000-9053		Domestic Return Receipt	



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON	DELIVERY	
 Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailplece, or on the front if space permits. 	A. Signifum A. Signifum B. Received by (Printed Name)	☐ Agent ☐ Addressee ☐ C. Date of Delivery	
1. Article Addressed to: Commissioner Gene Locke Commissioner's Court 1001 Program Suite 950	D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No		
1001 Preston, Suite 950 Houston, Texas 77002			

BONNER CARRINGTON

January 8, 2016

Dear Community Leader,

Mariposa Clear Creek LP is making an application for the 2016 Competitive (9%) Housing Tax Credits with the Texas Department of Housing and Community Affairs for Mariposa Apartment Homes at Clear Creek; located at approximately the southeast quadrant of FM 528 and Interstate 45, Webster, Harris County, Texas 77598 (location map attached). This proposed new construction development is for active adults (seniors 55+) and is a mixed-income apartment home community that will be comprised of up to 200 apartment homes, of which approximately one-third (40) will be rented at market rates and approximately two-thirds (160) will serve residents at or below 60% of the Area Median Income. The community will be thoughtfully designed and aesthetically pleasing. The final number of units is subject to change and will be adjusted as needed to address market needs and the requirements of the area.

There will be a public hearing to receive public comment on the proposed development. Information regarding the date, time, and location of that hearing will be disseminated at least 30 days prior to the hearing date on the website of the Texas Department of Housing and Community Affairs (http://www.tdhca.state.tx.us/multifamily/communities.htm).

For more information about communities developed by Bonner Carrington please visit our website at www.bonnercarrington.com or feel free to send an email to my team and me at the address notifications@bonnercarrington.com. You can contact us by mail at Bonner Carrington, PO Box 2217, Austin, Texas 78768-2217; by fax at 512-377-1651; or by phone at 512-220-8000 x9902 and asking for Casey Bump. We look forward to hearing from you.

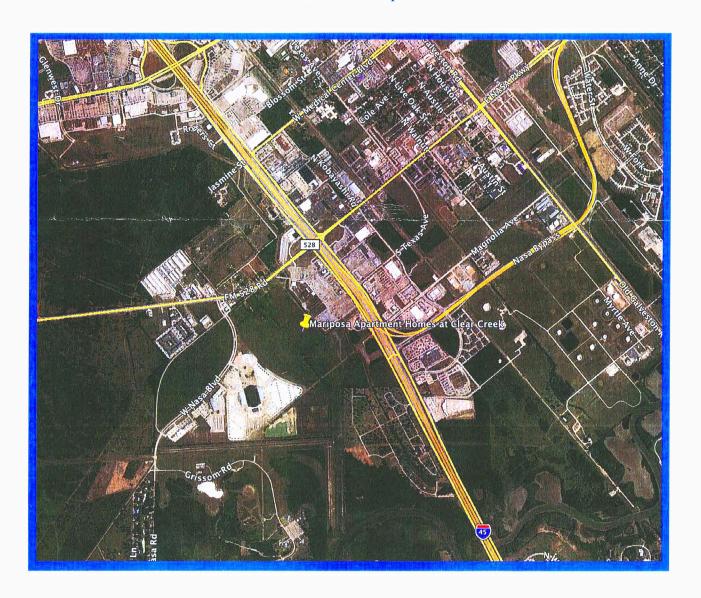
1 Claw

Sincere

Applicant's Representative

Reverse Side - Location Map

Location Map



Elected Officials						
Elected officials were identified in the (If box above is checked, these forms of the Please identify all elected officials whi	may be left <i>BLANK</i> .)					
** US Representative	District					
State Constar	District	State Representative Distri				
State Senator Support Letter	District	State Representative Dis				
ity Mayor		County Judge				
School Superintendent Address	Application Locke did	was notified at Pre- on, but Commissioner not officially take I January 22, 2016				
Presiding officer of Board of Trustees	Full Applie	therefore re-notified at cation. No other from Pre-Application				
residing officer of board of Trustees	changes	Tom Fre-Application				
		Zip partment is required to notify these elected officials. Therefore, Applicant mu				
dentify the appropriate US Representative of Elected Officials (Continued)	the district containing the D	evelopment.				
Gene Locke County Commissioner	Precinct 1 District/Precinct	713-755-6111 Email or Phone				
	District/Precinct	Email or Phone				
	District/Precinct	Email or Phone				
District/Precinct		Email or Phone				
	District/Precinct	Email or Phone Email or Phone				
	District/Precinct					
District/Precinct		Email or Phone				
District/Precinct		Email or Phone				

CERTIFICATION OF NOTIFICATIONS (ALL PROGRAMS)

Pursuant to §10.203 of the Uniform Multifamily Rules, evidence of notifications includes this sworn affidavit, and the Elected Officials and Neighborhood Organizations Forms. All Applicants, or persons with signing authority, must complete either Part 1 or Part 2 below:

Part 1. Notifications made at Pre-Application (Competitive HTC only):

I (We) certify that The pre-application included evidence of these notifications pursuant to §10.203 of the Uniform Multifamily Rules, the pre-application met all threshold requirements, and no additional notifications were required with this full application.

Part 2. Notifications or Re-notifications made at Application

- The pre-application for this full Application met all threshold requirements, but all required entities were re-notified as required by §10.203 of the Uniform Multifamily Rules. As applicable, all changes in the Application have been made on the *Elected Officials and/or Neighborhood Organizations Form(s)*.
- I (we) certify that the notifications are not older than 3 months from the first day of the Application Acceptance Period for Competitive HTC Applications and not older than three (3) months prior to the date Parts 5 and 6 of the Application are submitted for Tax Exempt Bond Developments, and not older than three (3) months prior to the date the Application is submitted for all other Applications.
- I (We) certify that, in addition to all of the required neighborhood organizations, the following entities were notified in accordance with §10.203 of the Multifamily Uniform Rules. The notifications were in the format provided in the Application Notification Template. All of the following entities were notified and are correctly listed on the Elected Officials Form and Neighborhood Organizations Form:
 - · Superintendent of the school district containing the Development;
 - · Presiding officer of the board of trustees of the school district containing the Development;
 - Mayor of any municipality containing the Development;
 - · All elected members of the Governing Body of any municipality containing the Development;
 - Presiding officer of the Governing Body of the county containing the Development;
 - All elected members of the Governing Body of the county containing the Development;
 - · State senator of the district containing the Development; and
 - · State representative of the district containing the Development.
- While not required to be submitted in this Application, I have kept evidence of all notifications made and this evidence may be requested by the Department at any time during the Application review.

Part 3. No Neighborhood Organizations exist (competitive HTC only):

I (We) certify that no Neighborhood Organizations exist for which this Application would be eligible to receive points under §11.9(d)(4) of the CAP or for which notification is required.

By:

Signature of Applicant/Development Owner

Stuart Shaw, Applicant's Representative

Printed Name

6/9/16

Date

Texas

Notary Public, State of

Travis

County of

My Commission expires

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this

9 day o

June

2016

2016

RACHEL NUNLEY
Notary Public, State of Texas
My Commission Expires
September 15, 2019

Notary Public Signature



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Greg Abbott Governor www.tdhca.state.tx.us

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

Ms. Cynthia L. Bast Locke Lord, LLP 600 Congress, Suite 2200 Austin, TX 78701

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16012 MARIPOSA APARTMENT HOMES AT CLEAR CREEK

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the Third Party Request for Administrative Deficiency you submitted regarding the application referenced above. The request asked the Department to review whether the Application meets the requirements of §11.9(e)(3) of the 2016 Qualified Allocation Plan ("QAP") regarding Pre-Application Participation; particularly whether the Applicant failed to properly notify all required individuals, rendering the Application ineligible for points under this section of the rule. We reviewed your request and determined that a Notice of Administrative Deficiency should be issued to the Applicant.

In response to the Administrative Deficiency, the Applicant submitted a fully processed certified mail receipt indicating that Commissioner El Franco Lee was notified on January 3, 2016, and a fully processed certified mail receipt indicating that Commissioner Gene Locke was notified on February 29, 2016.

Based on this evidence, the Department has determined that the matter has been resolved and no further action is required by the Applicant. If you have questions or require further information, please contact me.

Sincerely

Multifamily Division Director



16026 Laguna Hotel Lofts Third Party Request for Administrative Deficiency

Rocky Ridge Affordable Housing, LLC

2400 A Roosevelt Dr Arlington, TX 76016

Phone: (817) 261-5088

Fax: (817) 261-5095

May 27, 2016

TDHCA Multifamily Finance 221 East 11th St Austin, TX 78701

RE: 16026 Laguna Hotel Lofts Third Party Deficiencies

Dear Multifamily Finance Staff:

I have been reviewing the application TDHCA# 16026 Laguna Hotel Lofts and several items in their application have raised some concern.

Parking Requirements- under the 10.101 Subchapter B Mandatory Development Requirements all new construction and adaptive re-use must provide 1.5 parking spaces free of charge to the tenants unless there is an overriding local code. After researching the local code for the City of Cisco there is no local code the designates the required number of parking spaces for Multifamily Dwellings, therefore the application must adhere to the requirements of the above section of the 2016 Multifamily Rules. Attached you will see the site plan for both the Re-use and New Construction building which lists only 25 parking spots total when it required to provided 60 spots. There are a couple of issues with them trying to make up the missing 35 spots; one is they do not have enough land for the required spots without removing some other site amenities or building a parking garage which would increase the development cost considerably causing the deferred developer fee to surpass the available cash flow. The other issue is the simple fact that the development does not meet the requirements. Another point of concern is that the architect, civil engineer, and development owner/applicant signed off that the project's parking meets the local codes when in fact there are no local codes for it to meet, then on a deficiency they stated the same thing while the City of Cisco changed its parking zone ordinance to remove a couple of blocks of restricted parking, but this did not happen until after the application was turned in and even with the change they still did not create or change a local ordinance that states required multifamily parking spaces.

Development Cost Schedule- upon review of the 2015 Development Cost schedule and the 2016 Development Cost schedule for the proposed development there are several areas that are of concern. First is the Acquisition cost; it is listed as \$200,000 on the schedule but the extension of contract dated in Sept 2015 states the price was raised to \$250,000. This will increase overall development cost thus raising the deferred developer fee even higher. Secondly, there are some issues between the 2015 and 2016 site work costs specifically, the Demolition and Asbestos Abatement. During the 2015 application cycle they had \$3500 in Site work demolition and nothing in asbestos abatement, yet in the building cost area they had \$40,892 in asbestos and \$13,444 in lead

Phone: (817) 261-5088

Fax: (817) 261-5095

based paint abatement. In the 2016 cycle they increased the Site work demolition to \$160,981 and asbestos abatement to \$38, 829, but they removed both abatements from the building cost. These items and the demolition should be in the building cost as the majority of the work will take place inside the walls of the Dwelling unit; site work cost is only applicable to items outside the walls of the buildings. Also given the age of the Hotel, the asbestos abatement could cost hundreds of thousands of dollars to properly complete, plus the cost of the lead based paint. If all of these items are taken in account in the development cost, the total building cost would rise more than \$145,719 which would cause the cost per foot to exceed \$90.00, thus causing the development to lose its points under the cost of development section and becoming non-competitive in the region. The developer even acknowledges the need for a more extensive asbestos and lead based paint report based on the finding of the ESA Phase I. They state the additional costs will be covered under the contingency, but if they are a known item they should be covered in the actual building costs and leave the contingency for items that will arise that are unknown. The building costs associated with the new Dwelling they are building based on the building costs from 2015 to the building costs of 2016, are \$420,000. The new dwelling will be 8,785 square feet of NRF, which means they are only expecting to pay \$47.81 per Net Rentable Foot for the new construction. This seems excessively low given most other projects come in about \$20 a foot higher. They also did not include any consideration for the added on-site costs of concrete or electrical and they reduced paving from 2015 to 2016 which should have increased due to the new building. I have included both the 2015 and 2016 Development cost schedules so you can see the differences. The soft costs seem excessively high as well, especially the over \$300,000 in architect fees for only 40 units.

Handicap Accessibility- a concern for the UFAS unit located in the Adaptive reuse building is that it is on the second floor. While there is an elevator to serve the unit, in the event of a fire or electrical/mechanical issue with the elevator, there is no alternative route for the tenant to access or leave their unit in an acceptable way.

Undesirable Site and Neighborhood Characteristics- the site located on Conrad Hilton is located within 300 feet of the Farm and Ranch Supply Business. As you can see from the photos provided and the google earth imagine, the business seems to house and sell used equipment and other assorted items. Since they are not cars and are used items, parts, and metal it would qualify as a junkyard under the Transportation Code §396.001 and being within 300 feet would terminate the application under the Multifamily Rules. Also there are several Undesirable Neighborhood Characteristics located within 1,000 feet of each site. Attached you will see several photos of blighted buildings, over grown areas, storage of what looks to be used overhead fuel tanks, and random abandoned items. Also, none of these items were mentioned in the Development Owner Certification. They specifically stated that the site was not located in any of the mentioned areas, when in fact it clearly is located within the defined areas of blighted items.

Rocky Ridge Affordable Housing, LLC

2400 A Roosevelt Dr Arlington, TX 76016 Phone: (817) 261-5088 Fax: (817) 261-5095

These are the items that I have found within TDHCA# 16026 application, I have also attached a letter from Mark Temple pointing out specific items that need attention in the Market Study. Please feel free to contact me if you have any other questions regarding this letter.

Sincerely,

Matt Stevenson Developer

CASA TIERRA SA-1, INCORPORATED A 501 (C) (3) NON-PROFIT HOUSING CORPORATION P.O. BOX 700115 SAN ANTONIO, TEXAS 78270-0115 (210) 912-0070

Texas Department of Housing and Community Affairs Multifamily Finance Staff 221 East 11th Street P.O. Box 13941 Austin, TX 78711-3941

Re: HTC Application #16026 Challenge Items

Dear Multifamily Finance Staff:

In preparing to challenge the subject application #16026, I made a review of the market study related to this submittal. In addition, it was found a market study was performed for the above project in 2015 by a completely different market study firm. Although the focus of my review will be on the 2016 submittal, pertinent items will be addressed from a comparison standpoint related to the 2015 market study from time to time.

Primary Market Area-A major difference in the two studies is the Primary Market Area (PMA). The analyst for the 2016 market study used all of Eastland County as the PMA while the analyst for the 2015 market study used the zip codes 76437, 76448 and 76345 to comprise the PMA. By using all of Eastland County, the analyst for the 2016 market study increased and inflated the market area population by a significant amount by 55 percent.

Demand Analysis-In reference to the demand analysis presented in the 2016 market study, it appears several instances of inflated numbers were used. As shown on pages 68-71 of the Household Distribution tables, the 2016 analyst uses all of the categories representing 1-7 person households. With the subject project consisting of one and two bedroom units only, the categories used in the calculations should only include 1-3 person households. By doing so, the 2016 analyst has inflated his numbers by 20 percent. Furthermore, the 2016 analyst has used a higher percentage of 28.2 percent for the renter households. However, the ESRI Market Profile used for the report and included as an addendum to the market study indicates this figure to be 20.4 percent. By using the increased demographic household statistics, the 2016 market analyst indicates the overall capture rate is in the 12 percent range depending on various inconsistent tables. On pages 71 and 84 of the market study, he indicates the capture rate is 12.8 percent while on the TDHCA Summary Form and page 85

the capture rate is 12.2 percent. However, the analyst did not include the 15 unstabilized comparable units in his calculation for the capture rate. With the inclusion of the 15 units, the overall capture rate increases to 17.6 percent based upon the statistics he used for the calculations. Based upon the following table using the correct demographic statistics, I have calculated the overall capture rate to be 26.8 percent which exceeds recommended TDHCA capture rate standards.

Household Size	Total Number of Households	Percentage Renter Households	Percent Income Qualified Households	Number of Income Qualified Renter Households
1 Person	2,297	20.4%	16.2%	77
2 Person	2,857	20.4%	16.2%	94
3 Person	1,060	20.4%	16.2%	35
				206

Gross Capture Rate	26.8%
Total Number of Qualified Renter Households	206
Total Subject's and Unstabilized Units	55
Unstabilized Comparable Units-PMA	15
Subject's Number of Units	40

It should be noted the 2015 market study indicated an overall capture rate of 23.3 percent. However, the analyst made a significant error by using population numbers instead of household numbers. In using the correct household numbers, the overall capture rate equates to 38.7 percent. In addition, the 2015 analyst showed an extremely high capture rate of 69.2 percent for all of the two bedroom units of the subject project.

Other Vacancy Rate Factors-A significant key statistic can be found but was not addressed within the market study by the 2016 analyst. The ESRI Market Profile located as an Addendum to the market study indicates the percentage of vacant housing units within the Primary Market Area (PMA) is 28.2 percent.

Comparative Project Review-In his review of comparative apartment projects, the analyst for the 2016 market study included two HTC apartment projects located 40+ miles away in Abilene. It is indicated both Abilene apartment projects have 100 percent occupancy levels. Being two completely different market areas as well as the distance aspect, the inclusion of the two Abilene apartment projects only increases and somewhat inflates the overall

occupancy level of the Primary Market Area (PMA) to 94.4 percent. In using the five actual apartment projects located with the Primary Market Area (PMA), the correct occupancy level is 92.2 percent. In addition, the analyst states on page 52 of the market study that all apartment projects are currently experiencing a high occurrence of waiting lists. However, three of the five apartment projects located within the Primary Market Area (PMA) currently have vacancies.

Based upon these items I have presented, the overall feasibility of the subject project comes into question. Upon your review, please feel free to contact me with any questions or comments you may have.

Sincerely,

Mark C. Temple

President

ORDINANCE NO. 0-2016-2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CISCO, TEXAS AMENDING CHAPTER 13 "MOTOR VEHICLES AND TRAFFIC", SPECIFICALLY SECTION 13-52 "SPECIFIC ZONES ESTABLISHED" OF THE CITY'S CODE OF ORDINANCES, AMENDING THE LIST OF PARKING CONTROL ZONES; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CISCO THAT:

Article III, Section 13-52 is amended to read as follows:

Parking control zones are established for the downtown business district along the following streets and blocks located within the city:

Conrad Hilton Boulevard on the east side of the street from Third Street to Ninth Street and on the west side of the street from Fifth Street to Ninth Street.

East Fourth Street on both sides of the 100 block.

East Fifth Street on the south side of the 100 block.

West Fifth Street on both sides of the 100 block

East Sixth Street on the south side of the 100 block.

West Seventh Street on both sides of the 100 block.

West Eighth Street on both sides of the 100 block.

PASSED AND APPROVED on first reading on the 28th day of March, 2016.

PASSED AND APPROVED on second reading on the 28 day of March, 2016.

ATTEST:

Tammy Osborne, Oty Secretary

APPROVED AS TO FORM:

W. B. Wright, Jr., City Attorney

James King, Mayor

Development Cost Schedule

Self Score Total:

L26

This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All Applications must complete the total development cost column and the Tax Payer Identification column. Only HTC applications must complete the Eligible Basis columns and the Requested Credit calculation below:

Credit calculation below:		, , ,	, ,	Ţ
	TOTAL D	EVELOPMENT SU	MMARY	
	Total	Eligible Basis (If A	pplicable)	Scratch Paper/Notes
	Cost	Acquisition	New/Rehab.	
ACQUISITION				
Site acquisition cost				
Existing building acquisition cost	200,000			
Closing costs & acq. legal fees				
Other (specify) - see footnote 1				
Other (specify) - see footnote 1				
Subtotal Acquisition Cost	\$200,000	\$0	\$0	
OFF-SITES ²				
Off-site concrete				
Storm drains & devices				
Water & fire hydrants				
Off-site utilities				
Sewer lateral(s)				
Off-site paving				
Off-site electrical				
Other (specify) - see footnote 1				
Other (specify) - see footnote 1				
Subtotal Off-Sites Cost	\$0	\$0	\$0	
SITE WORK ³				
Demolition	160,981			
Asbestos Abatement (Demolition Only)	38,829			
Detention				
Rough grading	6,989		6,989	
Fine grading				
On-site concrete				
On-site electrical				
On-site paving	6,408		6,408	
On-site utilities	58,244		58,244	
Decorative masonry				
Bumper stops, striping & signs				
Other (specify) - see footnote 1			0	
Subtotal Site Work Cost	\$271,451	\$0	\$71,641	
SITE AMENITIES				\$288,002
Landscaping	13,833		13,833	note: the discrepancy in the
Pool and decking				total is due to rounding
Athletic court(s), playground(s)				
Fencing	2,718		2,718	
Other (specify) - see footnote 1				
Subtotal Site Amenities Cost	\$16,551	\$0	\$16,551	

BUILDING COSTS*:						
Concrete		27,862		27,862		
Masonry		221,172		221,172		
Metals		48,230		48,230		
Woods and Plastics		135,161		135,161		
Thermal and Moisture Protection		40,785		40,785		
Roof Covering		136,998		136,998		
Doors and Windows		666,603		666,603		
BUILDING COSTS (Continued):	•					
Finishes		560,487		560,487		
Specialties						
Equipment		75,185		75,185		
Furnishings		28,832		28,832		
Special Construction						
Conveying Systems (Elevators)		183,275		183,275		
Mechanical (HVAC; Plumbing)		597,944		597,944		
Electrical		369,984		369,984		
Individually itemize costs below:	_					
Detached Community Facilities/Building						
Carports and/or Garages						
Lead-Based Paint Abatement						
Asbestos Abatement (Rehabilitation Only)						
Structured Parking						
Commercial Space Costs						
Other (specify) - see footnote 1						
Subtotal Building Costs		\$3,092,518	\$0	\$3,092,518		
TOTAL BUILDING COSTS & SITE WORK		\$3,380,520	\$0	\$3,180,710		
(including site amenities)						
Contingency	10.00%	\$338,052		338,052		
TOTAL HARD COSTS		\$3,718,571	\$0	\$3,518,761		
OTHER CONSTRUCTION COSTS						
General requirements (<6%)	6.00%	223,114		196,000	5.57%	
Field supervision (within GR limit)						
Contractor overhead (<2%)	2.00%	74,371		65,000	1.85%	
G & A Field (within overhead limit)						
Contractor profit (<6%)	6.00%	223,114		196,000	5.57%	
TOTAL CONTRACTOR FEES		\$520,600	\$0	\$457,000		
	ı					

\$4,239,171

TOTAL CONSTRUCTION CONTRACT

\$0 \$3,975,761

SOFT COSTS ³			
	240,000	240	200
Architectural - Design fees	240,000	240,0	
Architectural - Supervision fees	85,322	85,:	
Engineering fees	29,500	29,	
Real estate attorney/other legal fees	75,000	75,0	
Accounting fees	35,000	35,0	
Impact Fees	24,000	24,0	
Building permits & related costs	9,750		750
Appraisal	5,000		000
Market analysis	7,500		Shoot wheeless dear desheates
Environmental assessment	10,000	10,0	Phse I plus lead and asbestos
Soils report			
Survey	5,500	5,.	500
Marketing	35,000		
Hazard & liability insurance	12,000	12,	
Real property taxes	2,500	2,	500
Personal property taxes			
Historic Consultant	50,000	50,0	
FF&E	35,000	35,	000
Other (specify) - see footnote 1			
Subtotal Soft Cost	\$661,072	\$0 \$626,0	072
FINANCING:			
CONSTRUCTION LOAN(S) ³			
Interest	330,000	247,	
Loan origination fees	55,100	55,:	
Title & recording fees	11,000	11,0	
Closing costs & legal fees	14,000	14,0	
Inspection fees	12,300	12,	300
Credit Report			
Discount Points			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
PERMANENT LOAN(S)			
Loan origination fees	97,861		
Title & recording fees	4,500		
Closing costs & legal	10,000		
Bond premium			
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
BRIDGE LOAN(S)			
Interest			
Loan origination fees			
Title & recording fees			
Closing costs & legal fees			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

2					
OTHER FINANCING COSTS ³					
Tax credit fees	28,850				
Tax and/or bond counsel					
Payment bonds					
Performance bonds					
Credit enhancement fees					
Mortgage insurance premiums					
Cost of underwriting & issuance					
Syndication organizational cost	30,000				
Tax opinion					
Other (specify) - see footnote 1					
Other (specify) - see footnote 1					
Subtotal Financing Cost	\$593,611	\$0	\$339,900		
DEVELOPER FEES ³					
Housing consultant fees ⁴					
General & administrative					
Profit or fee	988,346		988,346		
Subtotal Developer Fees 19.22%	\$988,346	\$0	\$988,346	20.00%	
RESERVES					
Rent-up	25,000				
Operating	80,000				
Replacement	12,000				
Escrows	141,051				
Subtotal Reserves	\$258,051	\$0	\$0		
•		•		•	

TOTAL HOUSING DEVELOPMENT COSTS ⁵	\$6,940,251	\$0	\$5,930,079		
	, -,,	, ,,,	, = , = = , = = =		
The following calculations are for HTC Applications on	ly.				
Deduct From Basis:		_			
Federal grants used to finance costs in Eligible Basis					
Non-qualified non-recourse financing					
Non-qualified portion of higher quality units §42(d)(5))				
Historic Credits (residential portion only)					
Total Eligible Basis		\$0	\$5,930,079		
**High Cost Area Adjustment (100% or 130%)			130%		
Total Adjusted Basis		\$0	\$7,709,103		
Applicable Fraction			100%		
Total Qualified Basis	\$7,709,103	\$0	\$7,709,103		
Applicable Percentage ⁶			9.00%		
Credits Supported by Eligible Basis	\$693,819	\$0	\$693,819		
(May be greater than actual request)		_	_		

Footnotes:

Name of contact for Cost Estimate:

Phone Number for Contact:

Dan Sailler

(913) 231-8400

¹ An itemized description of all "other" costs must be included at the end of this exhibit.

² All Off-Site costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Offsite Cost Breakdown form.

³ (HTC Only) Site Work expenses, indirect construction costs, developer fees, construction loan financing and other financing costs may or may not be included in Eligible Basis. Site Work costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Site Work Cost Breakdown form.

⁴ (HTC Only) Only fees paid to a consultant for duties which are not ordinarily the responsibility of the developer, can be included in Eligible Basis. Otherwise, consulting fees are included in the calculation of maximum developer fees.

⁵ (HTC Only) Provide <u>all</u> costs & Eligible Basis associated with the Development.

⁶ (HTC Only) Use the appropriate Applicable Percentages as defined in §10.3 of the Uniform Mutifamily Rules.

Development Cost Schedule

Self Score Total:

This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All Applications must complete the total

development cost scriedule must be consistent development cost column and the Tax Payer Identi		•	•	
Credit calculation below:				
	TOTAL D	EVELOPMENT SU		
	Total	Eligible Basis (If A	i	Scratch Paper/Notes
	Cost	Acquisition	New/Rehab.	
ACQUISITION				
Site acquisition cost	4,500			Per Eastland CAD
Existing building acquisition cost	195,500			Developer is not requesting acquisition
Closing costs & acq. legal fees				Credits
PLEASE SPECIFY - see footnote 1	5,000			closing costs - 2.5%
Other (specify) - see footnote 1				
Subtotal Acquisition Cost	\$205,000	\$0	\$0	
OFF-SITES ²				
Off-site concrete				
Storm drains & devices				
Water & fire hydrants				
Off-site utilities				
Sewer lateral(s)				
Off-site paving				
Off-site electrical				
Other (specify) - see footnote 1				
Other (specify) - see footnote 1		. 1		
Subtotal Off-Sites Cost	\$0	\$0	\$0	
SITE WORK ³				
Demolition	3,500			Addition by the control of the control
Asbestos Abatement (Demolition Only)	0	ı		Addition built post asbestos era
Detention	0		0	
Rough grading	1,000		1,000	
Fine grading	2,000		2,000	
On-site concrete	0		0	
On-site electrical	7,500		7,500	
On-site paving	15,000		15,000	
On-site utilities	5,000		5,000	
Decorative masonry	0		0	
Bumper stops, striping & signs	1,000		1,000	
Other (specify) - see footnote 1	425.000	†o	†24 500	
Subtotal Site Work Cost	\$35,000	\$0	\$31,500	
SITE AMENITIES	15 000		15 000	
Landscaping Real and dealing	15,000		15,000	
Pool and decking Athletic court(s), playground(s)			10.500	
	10,500		10,500	
Pencing Other (consists) and footnote 1	5,000		5,000	2500
Other (specify) - see footnote 1 Subtotal Site Amenities Cost	\$30,500	\$0	¢30 F00	2500
BUILDING COSTS*:	\$30,500	ŞU]	\$30,500	
Concrete	15 021		15 021	
Masonry	15,831 18,787		15,831 18,787	
Metals				
Woods and Plastics	53,315 563,649		53,315 563,649	
Thermal and Moisture Protection				
	70,983		70,983	
Roof Covering	42,828		42,828	

	_					
Doors and Windows		144,529		144,529		
BUILDING COSTS (Continued):						
Finishes		550,956		550,956		
Specialties		142,600		142,600		
Equipment		32,102		32,102		
Furnishings		28,715		28,715		
Special Construction		0		0		
Conveying Systems (Elevators)		150,823		150,823		
Mechanical (HVAC; Plumbing)		530,882		530,882		
Electrical		272,164		272,164		
Individually itemize costs below:	_	, 1		,		
Detached Community Facilities/Building		0		0		
Carports and/or Garages		0		0		
Lead-Based Paint Abatement		13,444		13,444		
Asbestos Abatement (Rehabilitation Only)		40,892		40,892		
Structured Parking		0		0		
Commercial Space Costs		0		0		
Other (specify) - see footnote 1		0		0		
Subtotal Building Costs	-	\$2,672,500	\$0	\$2,672,500		
Subtotal Building Costs	L	\$2,072,300	إناد	\$2,072,300		
TOTAL BUILDING COSTS & SITE WORK		\$2,738,000	\$0	\$2.724.500		
		\$2,736,000	ŞU]	\$2,734,500		
(including site amenities)	10.00%	¢272.800		272 000		max rehab contingency for TDHCA
Contingency	10.00%	\$273,800	ćo	273,800		That reliab contingency for FBHCA
TOTAL HARD COSTS		\$3,011,800	\$0	\$3,008,300		
OTHER CONSTRUCTION COSTS						
OTHER CONSTRUCTION COSTS	6 000/	454,200		464.200	6.040/	hard costs under \$3M
General requirements (<6%)	6.00%	164,280		164,280	6.01%	illaru costs ulluer \$5ivi
Field supervision (within GR limit)						
Contractor overhead (<2%)	2.00%	54,760		54,760	2.00%	
G & A Field (within overhead limit)						
Contractor profit (<6%)	6.00%	164,280		164,280	6.01%	
TOTAL CONTRACTOR FEES		\$383,320	\$0	\$383,320		
		4	4.5	42.22.22		
TOTAL CONSTRUCTION CONTRACT		\$3,395,120	\$0	\$3,391,620		
3						
SOFT COSTS ³						
Architectural - Design fees	-	228,000		228,000		Historia Compultant
Architectural - Supervision fees	-	65,000		65,000		Historic Consultant
Engineering fees		62,000		62,000		
Real estate attorney/other legal fees	-	80,000		80,000		
Accounting fees	-	40,000		40,000		
Impact Fees						
Building permits & related costs	-	65,000		65,000		
Appraisal	_	15,000		15,000		
Market analysis	_	7,500		7,500		
Environmental assessment		12,000		12,000		esa and lead/asbestos testing
Soils report	-					
Survey	_	5,000		5,000		
Marketing	L	65,000				
Hazard & liability insurance		10,000		10,000		
Real property taxes		2,500		2,500		
Personal property taxes						
Tenant relocation expenses		30,000				Commercial Tenant
FF&E		35,000		35,000		
Energy consultant		25,000		25,000		

CONSTRUCTION LOAN(S)	Subtotal Soft Co	ost	\$747,000	\$0	\$652,000		
Interest	FINANCING:						
Loan origination fees 100,500 100,500 100,500 100,500 100,500 100,500 100,500 100,500 100,500 15,0	CONSTRUCTION LOAN(S) ³	r					
Title & recording fees	Interest		311,938		235,953		5.75% One year fully drawn
Title & recording fees	Loan origination fees	/					
Closing costs & legal fees 33,000 25,000		/					
Inspection fees		/	35,000		25,000		
Discount Points	Inspection fees	/	24,600		24,600		
Credit enhancement	Credit Report	/	5,800		5,800		
Cither (specify) - see footnote 1							
PERNAMENT LOAN(S)			60,000		30,000		
Laan origination fees 15,000		<u> </u>					
Title & recording fees		r					
15,000		/					NA HOME LOAN
Bond prenium Credit report	_	/					
Credit report Discourt points Credit enhancement fees Prepaid MIP HOME Application Fee Other (specify) - see footnote 1 BRIDGE LOAN(S) Interest Loan origination fees Title & recording fees Closing costs & legal fees Other (specify) - see footnote 1 Other (specify) - see footn		/	15,000				
Discount points Credit enhancement fees Performance bonds Credit enhancement fees Performance bonds Credit enhancement fees Credit enhancement fees Distribution fees Distrib		/					
Credit enhancement fees 1,000 Other (spacify) - see footnote 1 1,000 BRIDGE LOAN(S)	-	/					
Prepaid MIP	•	/					
HOME Application Fee		/					
Other (specify) - see footnote 1		/	1 200				
Interest		/	1,000				
Interest Loan origination fees Title & recording fees Closing costs & legal fees Other (specify) - see footnote 1 Subtoal Financing Cost Subtoal Developer Fees Rent-up RESERVES Rent-up		<u> </u>					
Loan origination fees Title & recording fees Closing costs & legal fees Other (specify) - see footnote 1 Other (specify) - see footnote 1 Other finAncing Costs* Tax credit fees Tax and/or bond counsel Payment bonds Credit enhancement fees Mortgage insurance premiums Cost of underwriting & issuance Syndication organizational cost Tax opinion Contractor Guarantee Fee Other (specify) - see footnote 1 Subtotal Financing Cost Syndication or Syndicati		Γ					
Title & recording fees Closing costs & legal fees Cher (specify) - see footnote 1 Other (specify) - see footnote 1 Other (specify) - see footnote 1 OTHER FINANCING COSTS³ Tax credit fees		F					
Closing costs & legal fees		F					
Other (specify) - see footnote 1	_	F					
Other (specify) - see footnote 1		-					
OTHER FINANCING COSTS³ 25,870		4 F					
Tax credit fees 25,870 Tax and/or bond counsel Payment bonds Performance bonds Performance bonds Performance bonds Performance bonds Portagae insurance premiums Cost of underwriting & issuance Syndication organizational cost Tax opinion Contractor Guarantee Fee Developer Guarantee Fee Other (specify) - see footnote 1 Other (specify) - see footnote 1 Subtotal Financing Cost Search Subtotal Financing Cost Search Subtotal Financing Cost Search Subtotal Financing Cost Search Subtotal Peveloper Fees Subtotal Developer Fees Subtotal				L			
Tax and/or bond counsel Payment bonds Performance bonds Credit enhancement fees Mortgage insurance premiums Cost of underwriting & issuance Syndication organizational cost Tax opinion Contractor Guarantee Fee Developer Guarantee Fee Other (specify) - see footnote 1 Subtotal Financing Cost Subtotal Developer Fees Subtotal Developer Fees Subtotal RESERVES Rent-up Porfit or fee Payment bonds Payson		Ţ.	25.870				
Payment bonds Performance bond		7					
Performance bonds 97,836 97,836 97,836 Credit enhancement fees Mortgage insurance premiums Cost of underwriting & issuance Syndication organizational cost Tax opinion Contractor Guarantee Fee Other (specify) - see footnote 1 Other (specify) - see footnote 1 Subtotal Financing Cost Say, 544 \$0 \$542,689 DEVELOPER FEES Housing consultant fees General & administrative Profit or fee Subtotal Developer Fees 20.00% Subtotal Poveloper Fees 20.00% Subtotal Poveloper Fees 20.00% Span Subtotal Povelop		7					
Credit enhancement fees Mortgage insurance premiums Cost of underwriting & issuance Syndication organizational cost Tax opinion Contractor Guarantee Fee Developer Guarantee Fee Other (specify) - see footnote 1 Other (specify) - see footnote 1 Subtotal Financing Cost DEVELOPER FEES Housing consultant fees Subtotal Developer Fees 20,000 RESERVES Rent-up RESERVES Mindrage insurance premiums Stabout a financing Cost Stabout a financing Co		7	97,836		97,836		3% of construction
Mortgage insurance premiums Cost of underwriting & issuance Syndication organizational cost Tax opinion Contractor Guarantee Fee Developer Guarantee Fee Other (specify) - see footnote 1 Subtotal Financing Cost DEVELOPER FEES³ Housing consultant fees⁴ General & administrative Profit or fee Subtotal Developer Fees 20.000 RESERVES Rent-up Mistoric Credits Underwriting Syndication Fee for LIHTC and Historic Historic Credits Underwriting Syndication Fee for LIHTC and Historic Syndi		7					574 6. 62
Cost of underwriting & issuance Syndication organizational cost Tax opinion Contractor Guarantee Fee Developer Guarantee Fee Other (specify) - see footnote 1 Other (specify) - see footnote 1 Other (specify) - see footnote 1 Outher (specify) - see footnote 1 Subtotal Financing Cost Subtotal Fin		7					
Syndication organizational cost Tax opinion Contractor Guarantee Fee Developer Guarantee Fee Other (specify) - see footnote 1 Subtotal Financing Cost DEVELOPER FEES Housing consultant fees General & administrative Profit or fee Subtotal Developer Fees Subtotal Developer Fees Resterves Resterves Sundication Fee for LIHTC and Historic Syndication Fee for LIHTC and Historic		7	35,000				Historic Credits Underwriting
Tax opinion		/					
Contractor Guarantee Fee Developer Guarantee Fee Other (specify) - see footnote 1 Other (specify) - see footnote 1 Subtotal Financing Cost Su		/					
Other (specify) - see footnote 1 Other (specify) - see footnote 1 Subtotal Financing Cost DEVELOPER FEES³ Housing consultant fees⁴ General & administrative Profit or fee Subtotal Developer Fees 20.00% \$918,093 \$0 \$854,093 RESERVES Rent-up A3,468 Base footnote 1 Subtotal Financing Cost See footnote 1 See footnote 1 Subtotal Financing Cost See footnote 1 See footnote 1 Subtotal Financing Cost See footnote 1 See footnote		7					
Cother (specify) - see footnote 1 \$837,544 \$0 \$542,689 \$ \$ \$ \$ \$ \$ \$ \$ \$	Developer Guarantee Fee	/					
Subtotal Financing Cost \$837,544 \$0 \$542,689	Other (specify) - see footnote 1						
DEVELOPER FEES ³ Housing consultant fees ⁴ General & administrative Profit or fee Subtotal Developer Fees 20.00% \$918,093 \$0 \$854,093 RESERVES Rent-up HOUSING CONSULTANT FEES 4 64,000 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	Other (specify) - see footnote 1						
Housing consultant fees 4 64,000	Subtotal Financing Cr	ost	\$837,544	\$0	\$542,689		
Housing consultant fees 4 64,000	•						
General & administrative 854,093 854,093 854,093 18.62% Subtotal Developer Fees 20.00% \$918,093 \$0 \$854,093 18.62% RESERVES Rent-up 43,468 HEI Reserves		г					
Profit or fee 854,093 854,093 854,093 18.62% Subtotal Developer Fees 20.00% \$918,093 \$0 \$854,093 18.62% RESERVES Rent-up 43,468 HEI Reserves		/	64,000				
Subtotal Developer Fees 20.00% \$918,093 \$0 \$854,093 18.62% RESERVES Rent-up 43,468 HEI Reserves		/					
RESERVES Rent-up 43,468 HEI Reserves		/	· · · · · · · · · · · · · · · · · · ·	4.5			
Rent-up 43,468 HEI Reserves	Subtotal Developer Fe	es 20.00%	\$918,093	<u>\$0</u>	\$854,093	18.62%	
Rent-up 43,468 HEI Reserves							
		Г	12.160				
Operating 82,141 b months operating and dept service	-	<u> </u>					
	Operating	L	82,141				6 months operating and dept service

Replacement	9,000					
Escrows						
Subtotal Reserves	\$134,609	\$0	\$0			
TOTAL HOUSING DEVELOPMENT COSTS ⁵	\$6,237,366	\$0	\$5,440,402			
The following calculations are for HTC Applications on	ly.					
Deduct From Basis:						
Federal grants used to finance costs in Eligible Basis						
Non-qualified non-recourse financing						
Non-qualified portion of higher quality units §42(d)(5)					
Historic Credits (residential portion only)						
Total Eligible Basis		\$0	\$5,440,402			
**High Cost Area Adjustment (100% or 130%)			130%			
Total Adjusted Basis		\$0	\$7,072,523			
Applicable Fraction			100%			
Total Qualified Basis	\$7,072,523	\$0	\$7,072,523			
Applicable Percentage ⁶			7.87%	As of feb 1, 2015		
Credits Supported by Eligible Basis	\$556,608	\$0	\$556,608	40 bps above allowed		
(May be greater than actual request)						

Name of contact for Cost Estimate:

Dan Sailler III

Phone Number for Contact:

(913) 231-8400

Footnotes:

¹ An itemized description of all "other" costs must be included at the end of this exhibit.

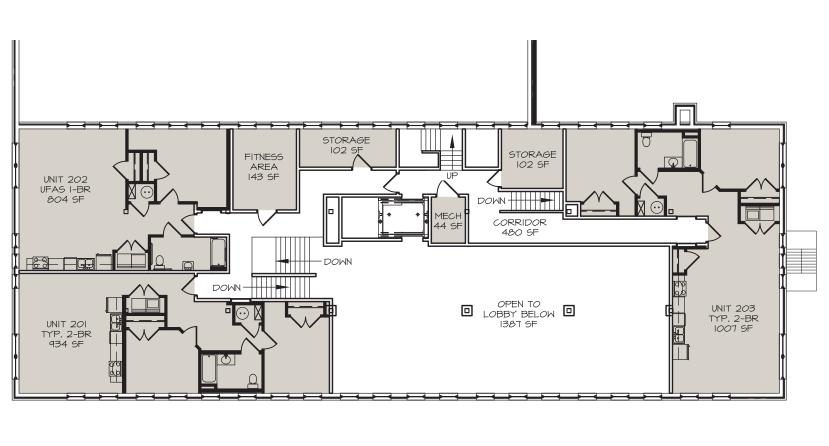
² All Off-Site costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Offsite Cost Breakdown form.

³ (HTC Only) Site Work expenses, indirect construction costs, developer fees, construction loan financing and other financing costs may or may not be included in Eligible Basis. Site Work costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Site Work Cost Breakdown form.

⁴ (HTC Only) Only fees paid to a consultant for duties which are not ordinarily the responsibility of the developer, can be included in Eligible Basis. Otherwise, consulting fees are included in the calculation of maximum developer fees.

⁵ (HTC Only) Provide **all** costs & Eligible Basis associated with the Development.

⁶ (HTC Only) Use the appropriate Applicable Percentages as defined in §10.3 of the Uniform Mutifamily Rules.







SCALE: 1/16" = 1'-0"

FEBRUARY 2016



2400 Å Roosevelt Dr Arlington, TX 76016

Undesirable Site and Neighborhood Characteristics

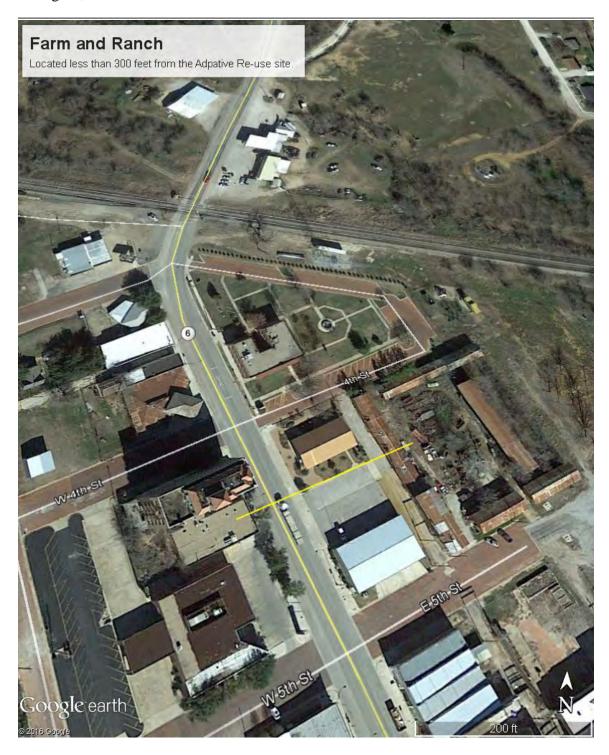
Phone: (817) 261-5088

Fax: (817) 261-5095

Farm and Ranch Supply Located within 300 Feet.

Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr

Arlington, TX 76016



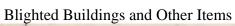
Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr Arlington, TX 76016



Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr

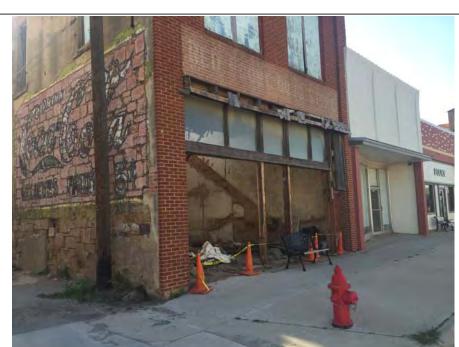
Arlington, TX 76016







Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr Arlington, TX 76016





Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr

Arlington, TX 76016





Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr Arlington, TX 76016





Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr Arlington, TX 76016

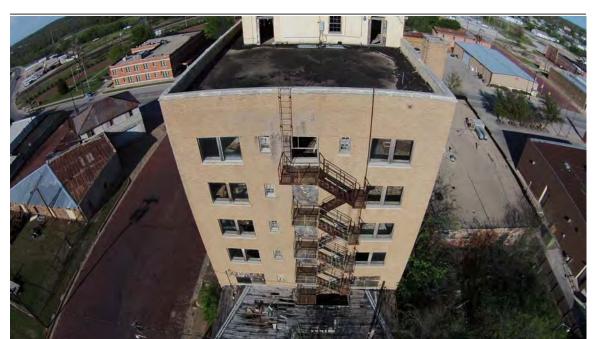






Pictures of Laguna Hotel Exterior, fire escape looks unusable

Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr Arlington, TX 76016





Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr Arlington, TX 76016



Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Dr Arlington, TX 76016



From: Sharon Gamble

To: "dsailler@mrecapital.com"; "jmooney@mrecapital.com"

Cc: Sarah Andre

Subject: 16026 Laguna Hotel Lofts - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Date: Tuesday, June 14, 2016 11:20:00 AM

Attachments: 16026.pdf
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 the Application referenced above (see attached). The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that a Notice of Administrative Deficiency should be issued.

- 1. In response to an earlier deficiency notice, the Applicant provided a letter from the City of Cisco stating that parking is consistent with the "code of ordinances". Submit City of Cisco local code related to the number of parking spaces their local code requires.
 - If local code does not have include such a requirement, provide evidence of how the Development will meet the requirements of §10.101(b)(4)(M) regarding the provision of adequate parking spaces.
- 2. The Development Cost Schedule includes a site acquisition cost of \$200,000 while the contract extension amendment indicates that the price will rise to \$250,000. Please update the required document(s) to address the inconsistency.
- 3. The Development Cost Schedule includes demolition and asbestos abatement in Site Work Costs but none in Building Costs. The ESA and the PCA indicate that the presence asbestos and lead is a concern.
 - Submit evidence of how much demolition and asbestos cost will be attributable to work outside the building versus how much will be attributable to work within the walls of the building. If the cost is not adequately allocated, revise and resubmit the appropriate document(s).
 - Submit evidence of any further study(ies) performed regarding the presence of lead and asbestos within the building walls.
- 4. The building floor plans indicate that there is an accessible unit on the second floor of the hotel site. Submit an explanation of how the second-floor location of this unit will be consistent with Uniform Federal Accessibility Standards ("UFAS") requirement 4.3.10*

EGRESS, considering that the elevator would be the only means of egress in an emergency.

About TDHCA

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

Regards,

Sharon D. Gamble MSW, PMP Competitive Housing Tax Credit Program Administrator Texas Department of Housing and Community Affairs (512) 936-7834

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

About TDHCA

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



June 20, 2016

Sharon Gamble
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Application #16026, Laguna Hotel Lofts, Cisco, Texas

Dear Ms. Gamble:

Please see the following responses and associated attachments regarding the deficiency notice for HTC application 16026, Laguna Hotel Lofts, dated June 14, 2016.

1. In response to an earlier deficiency notice, the Applicant provided a letter from the City of Cisco stating that parking is consistent with the "code of ordinances". Submit City of Cisco local code related to the number of parking spaces their local code requires.

If local code does not have include such a requirement, provide evidence of how the Development will meet the requirements of $\S10.101(b)(4)(M)$ regarding the provision of adequate parking spaces.

See attached code from the City of Cisco Code of Ordinances.

2. The Development Cost Schedule includes a site acquisition cost of \$200,000 while the contract extension amendment indicates that the price will rise to \$250,000. Please update the required document(s) to address the inconsistency.

See attached Development Cost Schedule.

3. The Development Cost Schedule includes demolition and asbestos abatement in Site Work Costs but none in Building Costs. The ESA and the PCA indicate that the presence asbestos and lead is a concern.

Submit evidence of how much demolition and asbestos cost will be attributable to work outside the building versus how much will be attributable to work within the walls of the building. If the cost is not adequately allocated, revise and resubmit the appropriate document(s).

The attached Development Cost Schedule with abatement costs listed under both site work and building costs is now consistent with the PCA. Also, see attached letter from the General Contractor certifying the reasonableness of the scope and costs outlined in the PCA.

Submit evidence of any further study(ies) performed regarding the presence of lead and asbestos within the building walls.

The attached letter from the environmental testing service provider who performed the ESA details the typical schedule for further studies regarding the presence of lead and asbestos in the historic building.

4. The building floor plans indicate that there is an accessible unit on the second floor of the hotel site. Submit an explanation of how the second-floor location of this unit will be consistent with Uniform Federal Accessibility Standards ("UFAS") requirement 4.3.10* EGRESS, considering that the elevator would be the only means of egress in an emergency.

The attached letter and floor plan from the architect describe how the project will be consistent with the UFAS standards.

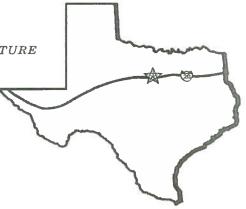
As always, thank you for your time and please let us know if you require any additional information.

Sincerely,

Sallie Burchett, AICP

City of Cisco

WHERE A PROUD PAST GREETS A PROMISING FUTURE



June 20, 2016

To Whom It May Concern:

The following excerpt is from the City of Cisco Code of Ordinances regarding parking requirements for new development in the Downtown Corridor:

Chapter 6 "Buildings and Building Regulations"

Article I "In General"

Section 6-2 "Parking Requirements for Downtown Development"

a) Definitions. For this article the following definitions will apply:

Downtown Corridor means the area of land that extends from one (1) block west of Conrad Hilton Boulevard to one (1) block east of Conrad Hilton Boulevard bounded by 3rd Street to the north to 9th Street to the south.

- b) Off-street motor vehicle parking is not required for the City of Cisco Downtown Corridor. For purposes of this subsection, off-street parking is defined as any parking that is not located in a public right-of-way, regardless of whether the parking is on site or offsite.
- c) If any off-street parking is provided, it must include parking for persons with disabilities.

If you have any questions or need further information, please feel free to contact me.

Sincerely,

James King

Mayor City of Cisco

ORDINANCE NO. 0-2016-6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CISCO, TEXAS AMENDING CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS", ARTICLE I "IN GENERAL" TO INCLUDE SECTION 6-2 "PARKING REQUIREMENTS FOR DOWNTOWN DEVELOPMENT" SPECIFYING THAT NEW DEVELOPMENTS IN THE DOWNTOWN CORRIDOR ARE NOT REQUIRED TO PROVIDE OFF-STREET PARKING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CISCO, TEXAS:

Chapter 6, Article I, is amended by adding Section 6-2 as follows:

Section 6-2 "Parking Requirements for Downtown Development"

- a) Definitions. For this article the following definitions will apply:
 - *Downtown Corridor* means the area of land that extends from one (1) block west of Conrad Hilton Boulevard to one (1) block east of Conrad Hilton Boulevard bounded by 3rd Street to the north to 9th Street to the south.
- b) Off-street motor vehicle parking is not required for the City of Cisco Downtown Corridor. For purposes of this subsection, off-street parking is defined as any parking that is not located in a public right-of-way, regardless of whether the parking is on site or offsite.
- c) If any off-street parking is provided, it must include parking for persons with disabilities.

PASSED AND APPROVED on the 2016 day of the _______, 2016.

James King, Mayor

TTEST:

Tammy Osborne, City Secretary

APPROVED AS TO FORM:

Wm. B. Wright, Ir, City Attorney

Development Cost Schedule

Self Score Total:

126

This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All Applications must complete the total development cost column and the Tax Payer Identification column. Only HTC applications must complete the Eligible Basis columns and the Requested Credit calculation below:

calculation below:						
	TOTAL DEVELOPMENT SUMMARY					
	Total			Scratch Paper/Notes		
	Cost	Acquisition	New/Rehab.			
ACQUISITION						
Site acquisition cost		_				
Existing building acquisition cost	250,000					
Closing costs & acq. legal fees		_				
Other (specify) - see footnote 1						
Other (specify) - see footnote 1						
Subtotal Acquisition Cost	\$250,000	\$0	\$0			
OFF-SITES ²						
Off-site concrete						
Storm drains & devices						
Water & fire hydrants						
Off-site utilities						
Sewer lateral(s)						
Off-site paving						
Off-site electrical						
Other (specify) - see footnote 1						
Other (specify) - see footnote 1						
Subtotal Off-Sites Cost	\$0	\$0	\$0			
SITE WORK ³						
Demolition	160,981					
Asbestos Abatement (Demolition Only)	38,829					
Detention						
Rough grading	6,989		6,989			
Fine grading						
On-site concrete						
On-site electrical						
On-site paving	6,408		6,408			
On-site utilities	58,244		58,244			
Decorative masonry						
Bumper stops, striping & signs						
Other (specify) - see footnote 1			0			
Subtotal Site Work Cost	\$271,451	\$0	\$71,641			
SITE AMENITIES				\$288,002		
Landscaping	13,833		13,833			
Pool and decking						
Athletic court(s), playground(s)						
Fencing	2,718		2,718			
Other (specify) - see footnote 1						
Subtotal Site Amenities Cost	\$16,551	\$0	\$16,551			

BUILDING COSTS*:						
Concrete		27,862		27,862		
Masonry		221,172		221,172		
Metals		48,230		48,230		
Woods and Plastics		135,161		135,161		
Thermal and Moisture Protection		40,785		40,785		
Roof Covering		136,998		136,998		
Doors and Windows		666,603		666,603		
BUILDING COSTS (Continued):						
Finishes		516,222		516,222		
Specialties						
Equipment		75,185		75,185		
Furnishings		28,832		28,832		
Special Construction						
Conveying Systems (Elevators)		183,275		183,275		
Mechanical (HVAC; Plumbing)		597,944		597,944		
Electrical		369,984		369,984		
Individually itemize costs below:	•					
Detached Community Facilities/Building						
Carports and/or Garages						
Lead-Based Paint Abatement						
Asbestos Abatement (Rehabilitation Only)						
Structured Parking						
Commercial Space Costs						
PLEASE SPECIFY - see footnote 1		44,265		44,265		Asbestos and Lead Abatement
Subtotal Building Costs		\$3,092,518	\$0	\$3,092,518		
TOTAL BUILDING COSTS & SITE WORK		\$3,380,520	\$0	\$3,180,710		
(including site amenities)	,					
Contingency	10.00%	\$338,052		338,052		
TOTAL HARD COSTS		\$3,718,571	\$0	\$3,518,761		
OTHER CONSTRUCTION COSTS	1					
General requirements (<6%)	6.00%	223,114		196,000	5.57%	
Field supervision (within GR limit)						
Contractor overhead (<2%)	2.00%	74,371		65,000	1.85%	
G & A Field (within overhead limit)						
Contractor profit (<6%)	6.00%	223,114		196,000	5.57%	
TOTAL CONTRACTOR FEES		\$520,600	\$0	\$457,000		
	İ					
TOTAL CONSTRUCTION CONTRACT		\$4,239,171	\$0	\$3,975,761		

SOFT COSTS ³			
Architectural - Design fees	240,000	240,000	
Architectural - Supervision fees	85,322	85,322	
Engineering fees	29,500	29,500	
Real estate attorney/other legal fees	75,000	75,000	
Accounting fees	35,000	35,000	
Impact Fees	24,000	24,000	
Building permits & related costs	24,000	24,000	\$9750 Building Permit Fees Waived
Appraisal	5,000	5,000	\$3730 Ballaling Ferrille Fees Walvea
	7,500	7,500	
Market analysis Environmental assessment	10,000	10,000	Phse I plus lead and asbestos
	10,000	10,000	Thise i plus ledd dild disbestos
Soils report	F F00	5 500	
Survey	5,500	5,500	
Marketing	35,000	12.000	
Hazard & liability insurance	12,000	12,000	
Real property taxes	2,500	2,500	
Personal property taxes	F0 000	50.000	
Historic Consultant	50,000	50,000	
FF&E	35,000	35,000	
Other (specify) - see footnote 1	ACE4 222	4545,000	
Subtotal Soft Cost	\$651,322	\$0 \$616,322	
FINANCING:			
CONSTRUCTION LOAN(S) ³			
Interest	330,000	247,500	
Loan origination fees	55,100	55,100	
Title & recording fees	11,000	11,000	
Closing costs & legal fees	14,000	14,000	
Inspection fees	12,300	12,300	
Credit Report			
Discount Points			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
PERMANENT LOAN(S)			
Loan origination fees	97,861		
Title & recording fees	4,500		
Closing costs & legal	10,000		
Bond premium			
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
BRIDGE LOAN(S)			
Interest			
Loan origination fees			
Title & recording fees			
Closing costs & legal fees			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

OTHER FINANCING COSTS ³					
Tax credit fees	28,850				
Tax and/or bond counsel					
Payment bonds					
Performance bonds					
Credit enhancement fees					
Mortgage insurance premiums					
Cost of underwriting & issuance					
Syndication organizational cost	30,000				
Tax opinion					
Other (specify) - see footnote 1					
Other (specify) - see footnote 1					
Subtotal Financing Cost	\$593,611	\$0	\$339,900		
DEVELOPER FEES ³				-	
Housing consultant fees ⁴					
General & administrative					
Profit or fee	986,396		986,396		
Subtotal Developer Fees 19.22%	\$986,396	\$0	\$986,396	20.00%	
RESERVES				•	
Rent-up	25,000				
Operating	80,000				
Replacement	12,000				
Escrows	141,051				
Subtotal Reserves	\$258,051	\$0	\$0		

TOTAL HOUSING DEVELOPMENT COSTS ⁵ \$6.978.551 \$0	\$5,918,379
TOTAL HOUSING DEVELOPMENT COSTS ⁵ \$6,978,551 \$0	۶ <i>۶,5</i> 10,373
The following calculations are for HTC Applications only.	
Deduct From Basis:	
Federal grants used to finance costs in Eligible Basis	
Non-qualified non-recourse financing	
Non-qualified portion of higher quality units §42(d)(5)	
Historic Credits (residential portion only)	826,893
Total Eligible Basis \$0	\$5,091,486
**High Cost Area Adjustment (100% or 130%)	130%
Total Adjusted Basis \$0	\$6,618,932
Applicable Fraction	100%
Total Qualified Basis \$6,618,932 \$0	\$6,618,932
Applicable Percentage ⁶	9.00%
Credits Supported by Eligible Basis \$595,704 \$0	\$595,704
(May be greater than actual request)	

Footnotes:

Phone Number for Contact:

(913) 231-8400

¹ An itemized description of all "other" costs must be included at the end of this exhibit.

² All Off-Site costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Offsite Cost Breakdown form.

³ (HTC Only) Site Work expenses, indirect construction costs, developer fees, construction loan financing and other financing costs may or may not be included in Eligible Basis. Site Work costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Site Work Cost Breakdown form.

⁴ (HTC Only) Only fees paid to a consultant for duties which are not ordinarily the responsibility of the developer, can be included in Eligible Basis. Otherwise, consulting fees are included in the calculation of maximum developer fees.

⁵ (HTC Only) Provide <u>all</u> costs & Eligible Basis associated with the Development.

⁶ (HTC Only) Use the appropriate Applicable Percentages as defined in §10.3 of the Uniform Mutifamily Rules.

Eastland Properties, LLC

8910 SW 34th Ave Ste. 100

Amarillo, TX 79124

Phone: 806-676-3011 Fax: 806-418-8322

Email: damon@admirelp.com

June 17, 2016

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

RE: Laguna Hotel Lofts

Ladies and Gentlemen:

Eastland Properties LLC, will be the general contractor for the project known as the Laguna Hotel Lofts and I personally have twenty-seven years of experience in construction both in rehabilitation and new construction. I have encountered asbestos and lead based paint abatement and remediation in a number of rehabilitation jobs which we have successfully abated or remediated depending on the situation. I am familiar with normal and customary costs for this type of work as well as expected scope of work due to my experience. I have walked the property and have observed enough to be able to evaluate the reasonableness of the scope and costs as outlined in the Architect's PCA. Based on my experience and observations I find the Architect's PCA to be a reasonable estimate and a budget item I can use in moving forward with the project.

Sincerely,

Damon Admire

Managing Member



LEAD PAINT · MOLD · ASBESTOS · RADON · PHASE I ESA

June 20, 2016

Texas Dept. of Housing and Community Affairs PO Box 13941 Austin, TX 78711-3941

RE: Laguna Lofts Hotel

Ladies and Gentleman,

The environmental specialists at Hernly Environmental, Inc. have been providing testing services for hazardous materials associated with the construction industry including lead based paint, mold, asbestos, and radon since 2001. We are experienced with assessing historic buildings, such as the Laguna Lofts Hotel. Hernly has worked with MRE Capital on numerous historic renovations in multiple states.

The current assessment of the Laguna Lofts Hotel is standard for this stage in the development schedule. MRE Capital intends to hire licensed inspectors and abatement workers to fully assess and comply with all lead based paint and asbestos on site.

Please contact me if you need anything further.

Regards,

Joni Hernly, President Hernly Environmental, Inc. 1100 Rhode Island Street Lawrence, KS 66044

785-749-5806 joni@hernly.com



June 21, 2016

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

Re: Laguna Hotel Lofts Cisco, Texas

To whom it may concern,

The Development and Design teams have extensive experience in historic renovation projects like this and are keen at picking up on hazardous materials that are likely present as well as being experienced in the anticipated abatement scope/costs based upon previous similar projects. This experience is built on hundreds of previously designed and constructed building renovations over the history of our firm that ultimately required Phase II analysis; particularly historic buildings, such as this, within the same era this building was built and with similar construction techniques and scope. The development and design team have been out to this particular building (6) times, to date, to review the building and proposed scope and we are comfortable with the estimated abatement scope and costs.

Should you have any questions, please feel free to contact me.

Sincerely,

Michael J. Kleffner Architect / Member

Michael J. Kleffner



June 20, 2016

Mr. Daniel Sailler Laguna Housing Partners, LP 16359 Chaney Lane Stillwell, KS 66085

Re: Laguna Hotel Lofts Cisco, TX

Dear Mr. Sailler,

In response to the Third Party Deficiency Review provided to us via Ms. Sharon D. Gamble's emailed inquiry, we provide the following clarification regarding the below Architectural item:

"The building floor plans indicate that there is an accessible unit on the second floor of the hotel site. Submit an explanation of how the second-floor location of this unit will be consistent with Uniform Federal Accessibility Standards ("UFAS") requirement 4.3.10* EGRESS, considering that the elevator would be the only means of egress in an emergency.

Attached is the UFAS requirement excerpt from Section 4.3.10 regarding egress requirements. "Such accessible routes and places of refuge shall comply with the requirements of the administrative authority having jurisdiction." Also attached is the model International Building Code excerpt adopted by the City of Cisco regarding requirements for "Areas of Refuge" Section 1007.3. Exceptions in the requirement for an "Area of Refuge" noted include buildings that are provided with fire suppression systems and/or in buildings of R-2 use group occupancies, fire suppression being included in the preliminary scope of work for this development and this being an R-2 use group class.

Regardless of whether the City of Cisco ultimately would approve the submitted Construction Documents not including an area of refuge as exempted by Code, we plan to include an area of refuge in a previously labeled storage closet on the $2^{\rm nd}$ floor immediately adjacent to a stairwell – see attached.

Should you or the agency have any further questions, please feel free to contact me

Sincerely,

Michael J. Kleffner Architect / Member

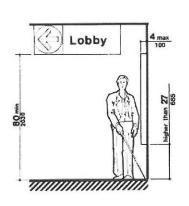
Midael J. Kleffner

Figure 7 Width of Accessible Route

- 4.3.4 PASSING SPACE. If an accessible route has less than 60 in (1525 mm) clear width, then passing spaces at least 60 in by 60 in (1525 mm by 1525 mm) shall be located at reasonable intervals not to exceed 200 ft (61 m). A T-intersection of two corridors or walks is an acceptable passing place.
- 4.3.5 HEAD ROOM. Accessible routes shall comply with 4.4.2.
- 4.3.6 SURFACE TEXTURES. The surface of an accessible route shall comply with 4.5.
- 4.3.7 SLOPE. An accessible route with a running slope greater than 1:20 is a ramp and shall comply with 4.8. Nowhere shall the cross slope of an accessible route exceed 1:50.
- 4.3.8 CHANGES IN LEVELS. Changes in levels along an accessible route shall comply with 4.5.2. If an accessible route has changes in level greater than 1/2 in (13 mm), then a curb ramp, ramp, elevator, or platform lift shall be provided that complies with 4.7, 4.8, 4.10, or 4.11, respectively. Stairs shall not be part of an accessible route.
- 4.3.9 DOORS. Doors along an accessible route shall comply with 4.13.
- 4.3.10* EGRESS. Accessible routes serving any accessible space or element shall also serve as a means of egress for emergencies or connect to an accessible place of refuge. Such accessible routes and places of refuge shall comply with the requirements of the administrative authority having jurisdiction. Where fire code provisions require more than one means of egress from any space or room, then more than one accessible means of egress shall also be provided for handicapped people. Arrange egress so as to be readily accessible from all accessible rooms and spaces.

4.4 PROTRUDING OBJECTS.

4.4.1* GENERAL. Objects projecting from walls (for example, telephones) with their leading edges between 27 in and 80 in (685 mm and 2030 mm) above the finished floor shall protrude no more than 4 in (100 mm) into walks, halls, corridors, passageways, or aisles (see Fig. 8(a)). Objects mounted with their leading edges at or below 27 in (685 mm) above the finished floor may protrude any amount (see Fig. 8 (a) and (b)). Free-standing objects mounted on posts or pylons may overhang 12 in (305 mm) maximum from 27 in to 80 in (685 mm to 2030 mm) above the ground or finished floor (see Fig. 8(c) and (d)). Protruding objects shall not reduce the clear width of an accessible route or maneuvering space (see Fig. 8 (e)).



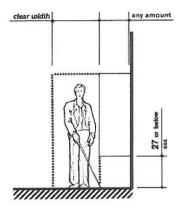


Figure 8(a) **Protruding Objects** Walking Parallel to a Wall



1007.2.1 Elevators required. In buildings where a required *accessible* floor is four or more stories above or below a *level of exit discharge*, at least one required *accessible means of egress* shall be an elevator complying with Section 1007.4.

Exceptions:

- In buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the elevator shall not be required on floors provided with a horizontal exit and located at or above the levels of exit discharge.
- 2. In buildings equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1 or 903.3.1.2, the elevator shall not be required on floors provided with a *ramp* conforming to the provisions of Section 1010.

1007.3 Stairways. In order to be considered part of an accessible means of egress, a stairway between stories shall have a clear width of 48 inches (1219 mm) minimum between handrails and shall either incorporate an area of refuge within an enlarged floor-level landing or shall be accessed from either an area of refuge complying with Section 1007.6 or a horizontal exit. Exit access stairways that connect levels in the same story are not permitted as part of an accessible means of egress.

Exceptions:

- 1. The clear width of 48 inches (1219 mm) between handrails is not required in buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.
- 2. Areas of refuge are not required at stairways in buildings equipped throughout by an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.
- 3. The clear width of 48 inches (1219 mm) between handrails is not required for stairways accessed from a horizontal exit.
- 4. Areas of refuge are not required at stairways serving open parking garages.
- 5. Areas of refuge are not required for smoke protected seating areas complying with Section 1028.6.2.
- 6. The *areas of refuge* are not required in Group R-2 occupancies.

1007.4 Elevators. In order to be considered part of an accessible means of egress, an elevator shall comply with the emergency operation and signaling device requirements of Section 2.27 of ASME A17.1. Standby power shall be provided in accordance with Chapter 27 and Section 3003. The

elevator shall be accessed from either an area of refuge complying with Section 1007.6 or a horizontal exit.

Exceptions:

- 1. Elevators are not required to be accessed from an area of refuge or horizontal exit in open parking garages.
- 2. Elevators are not required to be accessed from an area of refuge or horizontal exit in buildings and facilities equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.
- 3. Elevators not required to be located in a shaft in accordance with Section 712 are not required to be accessed from an area of refuge or horizontal exit.
- 4. Elevators are not required to be accessed from an *area of refuge* or *horizontal exit* for smoke protected seating areas complying with Section 1028.6.2.

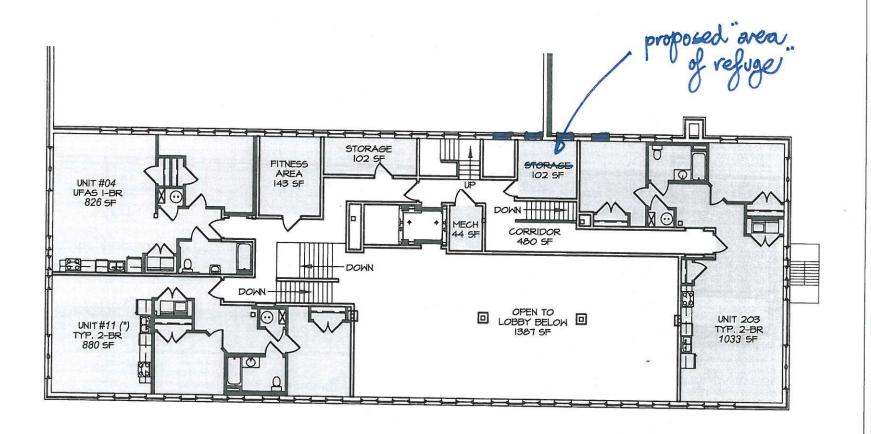
1007.5 Platform lifts. Platform (wheelchair) lifts shall not serve as part of an *accessible means of egress*, except where allowed as part of a required *accessible route* in Section 1109.8, Items 1 through 9. Standby power shall be provided in accordance with Chapter 27 for platform lifts permitted to serve as part of a *means of egress*.

1007.5.1 Openness. Platform lifts on an *accessible means* of egress shall not be installed in a fully enclosed hoistway.

1007.6 Areas of refuge. Every required area of refuge shall be accessible from the space it serves by an accessible means of egress. The maximum travel distance from any accessible space to an area of refuge shall not exceed the travel distance permitted for the occupancy in accordance with Section 1016.1. Every required area of refuge shall have direct access to a stairway complying with Sections 1007.3 or an elevator complying with Section 1007.4. Where an elevator lobby is used as an area of refuge, the shaft and lobby shall comply with Section 1022.10 for smokeproof enclosures except where the elevators are in an area of refuge formed by a horizontal exit or smoke barrier.

1007.6.1 Size. Each area of refuge shall be sized to accommodate one wheelchair space of 30 inches by 48 inches (762 mm by 1219 mm) for each 200 occupants or portion thereof, based on the occupant load of the area of refuge and areas served by the area of refuge. Such wheelchair spaces shall not reduce the required means of egress width. Access to any of the required wheelchair spaces in an area of refuge shall not be obstructed by more than one adjoining wheelchair space.

1007.6.2 Separation. Each *area of refuge* shall be separated from the remainder of the story by a *smoke barrier* complying with Section 709 or a *horizontal exit* comply-







SCALE: 1/16" = 1'-0"

MARCH 2016



LAGUNA HOTEL LOFTS RENOVATION

Cicco Tavn





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, *Viæ 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. Matt Stevenson Rocky Ridge Affordable Housing, LLC 2400 A Roosevelt Drive Arlington, Texas 76016

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16026 LAGUNA HOTEL LOFTS

Dear Mr. Stevenson:

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 several issues in the Application. Those items, along with staff's determination, are listed below:

- The request states that there is no local code regarding parking for the City of Cisco, and so the development must provide 1.5 parking spaces per tenant, free of charge.
 - A Notice of Administrative Deficiency was sent to the Applicant requesting that the Applicant submit a copy of the City of Cisco ordinance related to this issue. In the response, the Applicant provided a letter from the Mayor of the City of Cisco quoting the ordinance and a copy of the actual ordinance.
- The Development Cost Schedule lists the acquisition cost as \$200,000, which is inconsistent with the contract extension that established the price at \$250,000.
 - A Notice of Administrative Deficiency was sent to the Applicant regarding this issue. In the response, the Applicant submitted a Development Cost Schedule with the appropriate acquisition cost entered.
- The Application includes costs for demolition and asbestos abatement in Site Work Costs that should instead be included in Building Costs on the Development Cost Schedule.
 - A Notice of Administrative Deficiency was sent to the Applicant regarding this issue. In the response, the Applicant submitted a Development Cost Schedule with the appropriate demolition and asbestos abatement cost entered.
- The request expressed a concern that the UFAS unit is located in the second floor, potentially leaving the tenant stranded if the elevator is inoperable.
 - A Notice of Administrative Deficiency was sent to the Applicant regarding this issue. In the response, the Application submitted a plan to provide for an "area of refuge" pursuant to Section 1007.3 of the International Building Code. In reviewing the response, staff considered whether the whole of the issue as presented in the Application and included in the response is consistent with the requirements of 10



TAC §1.206, Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973, which states that the development must comply with the construction standards of §504 of the Rehabilitation Act of 1973, as further defined through UFAS. Staff determined that the matter was resolved to the satisfaction of the rule.

• The request pointed out suspected blight in the neighborhood and questioned whether Undesirable Site and Neighborhood Characteristics exist.

Staff visited the downtown area of Cisco to review the site. Staff was able to confirm that revitalization efforts are underway in the area, and that many of the buildings shown to be in disrepair in the pictures provided were in fact undergoing active renovation.

The request included pictures of items stored in a lot next to the Cisco Farm and Ranch Supply. Staff did verify that while some of these items appear to be what would be considered "junk", as defined in Texas Transportation Code §396.001(2), the majority of stored items are items that would be rented or sold by such a business. The junk items are not for sale, and the Cisco Farm and Ranch Supply is not "a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk," as the definition for "junkyard" in §396.001(3) requires.

Staff has determined that the level of revitalization that is evident in the area outweighs the presence of the items that are junk at Cisco Farm and Ranch Supply. As such, staff determined that an administrative deficiency regarding this issue would not be sent.

• The request pointed to several items in the Market Analysis report and compared them to information included in a 2015 report prepared for the same property but by a different preparer.

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 information included in the Market Analysis Report the application. Staff has determined that such a request is not consistent with the rule. Issues that arise from review of the submitted Market Analysis report will be addressed during the underwriting of the Application.

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

Sincerely,

Multifamily Division Director

16029

Baxter Lofts

Third Party Request for Administrative Deficiency



March 28, 2016

Sharon Gamble Housing Tax Credit Program Administrator Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701-2410

RE: Request for Third Party Administrative Deficiency TDHCA # 16029 Baxter Lofts

Dear Sharon:

We are submitting herewith our request for staff to consider an Administrative Deficiency regarding 11.9 (c)(5)(A) Educational Excellence and 11.9(e)(6) Historic Preservation. The request is based upon the following:

Incorrect High School

The applicant doesn't provide any supporting evidence of any school boundary map and attempts to claim points for Early College High School. The site is not zoned to Early College High but is actually zoned to Harlingen High School. Harlingen HS does not have a Met Standard rating and has an index 1 score of 62. This school does not meet the criteria for Educational Excellence and pursuant to the §10.101(a)(4)(B)(iv) of the Rules, disclosure to the department would have been required for any school that does not have a Met Standard rating. We are unable to verify if proper disclosures were made.

Harlingen ISD has only two zoned high schools and neither one meets an index 1 score of at least 70. Pursuant to the QAP, an attendance zone does not include schools with district-wide possibility of enrollment or no defined attendance zones. Harlingen ISD considers Early College High to be an "open campus" with district wide enrollment. This campus doesn't even have structured sports or any athletic facilities which is fundamental for any high school.

Admission to Early College High is based on competitive applications open to students within the entire district. The admission process uses a defined selection criteria such as students' prior academic record, entrance essays, financial aid status, etc. thus this school has no zoned boundary and is not eligible for Educational Excellence schools.

Please see attached proper school boundary map, school rating for Harlingen HS and application information for Early College High School. The applicant claimed 5 points for Educational Excellence under §11.9(c)(5)(A) but only qualifieds for 3 points under §11.9(c)(5)(B).

Application does not qualify for full 5 points for Historic Preservation

Because the site location qualifies for 3 points under Educational Excellence, the application can only qualify for 3 points under Historic Preservation. Five points were erroneously claimed.

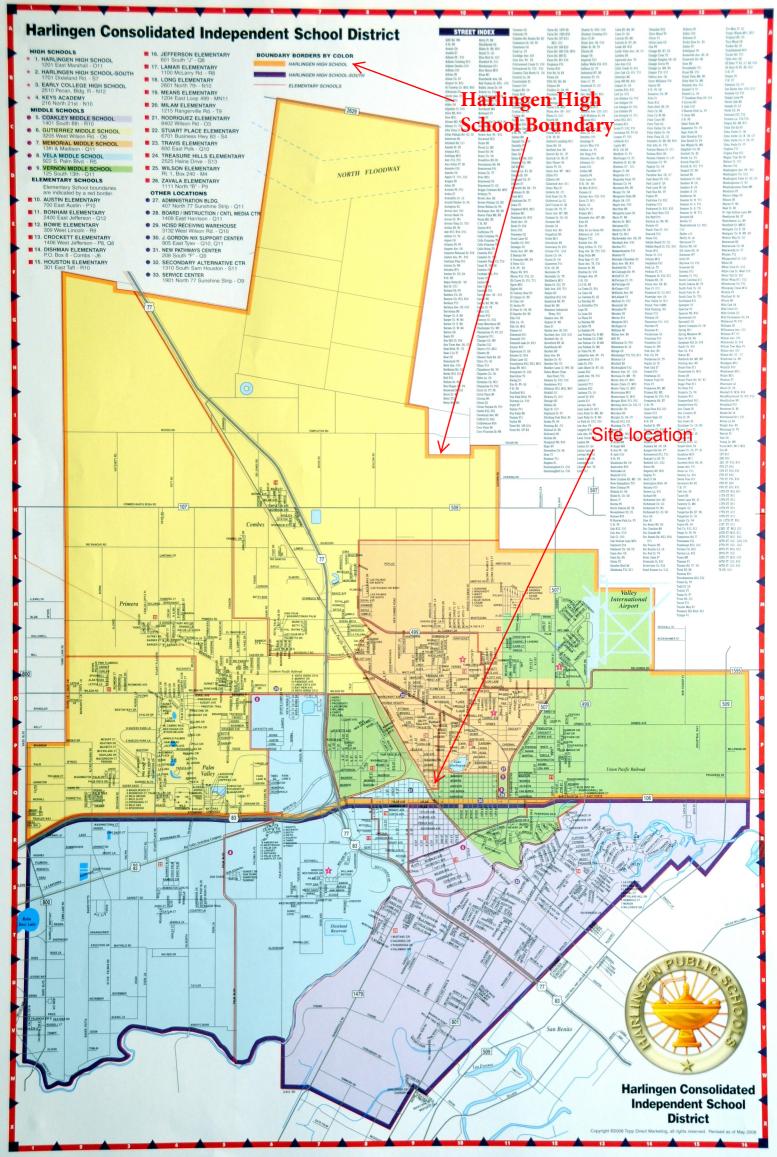
Thank you for your consideration of this request.

Sincerely,

MGROUP HOLDINGS, INC.

Mark Musemeche, Vice-President

/MM



TEXAS EDUCATION AGENCY 2015 Accountability Summary

HARLINGEN H S (031903001) - HARLINGEN CISD

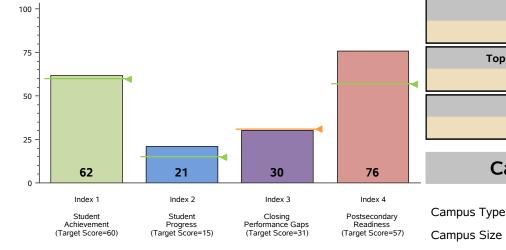
Accountability Rating

Improvement Required

Met Standards on	Did Not Meet Standards on
- Student Achievement	- Closing Performance Gaps
- Student Progress	
- Postsecondary Readiness	

In 2015, to receive a Met Standard or Met Alternative Standard rating, districts and campuses must meet targets on three indexes: Index 1 or Index 2 and Index 3 and Index 4.

Performance Index Report



Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	1,592	2,584	62
2 - Student Progress	208	1,000	21
3 - Closing Performance Gaps	237	800	30
4 - Postsecondary Readiness			
STAAR Score	10.6		
Graduation Rate Score	22.3		
Graduation Plan Score	22.6		
Postsecondary Component Score	20.2		76

Distinction Designation

Academic	Achievement	in	Reading/ELA
----------	-------------	----	-------------

NO DISTINCTION EARNED

Academic Achievement in Mathematics

NO DISTINCTION EARNED

Academic Achievement in Science

NO DISTINCTION EARNED

Academic Achievement in Social Studies

NO DISTINCTION EARNED

Top 25 Percent Student Progress

NO DISTINCTION EARNED

Top 25 Percent Closing Performance Gaps

NO DISTINCTION EARNED

Postsecondary Readiness

NO DISTINCTION EARNED

Campus Demographics

' ''	•
Campus Size	2,013 Students
Grade Span	09 - 12
Percent Economically Disadvantaged	65.9
Percent English Language Learners	4.3
Mobility Rate	14.9

State System Safeguards

Number and Percent of Indicators Met

Total	20 out of 37 = 54%
Graduation Rates	4 out of 5 = 80%
Participation Rates	11 out of 11 = 100%
Performance Rates	5 out of 21 = 24%

For further information about this report, please see the Performance Reporting Division website at http://ritter.tea.state.tx.us/perfreport/account/2015/index.html

High School

cover page from Early College High application

ECHS Application Part I:

Section A: General Student Information & Parent/Guardian Information

Section B: Student Essay

Applicant's Name: confirms Open Campus status by requesting information as to which existing zoned school student is currently enrolled

Current Middle School / High School Campus

Circle your current campus:

Coakley

Gutierrez

Memorial

Vela

Vernon

Harlingen High School

Harlingen South High School

Other: _____

NONDISCRIMINATION

[&]quot;Harlingen Consolidated Independent School District does not discriminate on the basis of race, color, national origin, age, religion, sex, disability, or any other legally protected status in employment or provision of services, programs, or activities."

[&]quot;El distrito escolar de Harlingen no discrimina en base a raza, color, origen de nacionalidad, edad, religión, sexo, discapacidad, o cualquier otro estado legalmente protegido en el empleo o en la prestación de servicios, programas o actividades."

From: Sharon Gamble

To: "dsailler@mrecapital.com"; "jmooney@mrecapital.com"

Subject: 16029 - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Date: Wednesday, March 30, 2016 12:33:00 PM

Attachments: 16029.pdf
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 #16029, Baxter Lofts. 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 even though this issue was previously raised in an administrative deficiency notice.

- 1. The requester questions whether Early College High School should be listed as the high school that residents of the proposed Development will attend on the Site Information Form II, Section 1 Educational Excellence. The provided information appears to indicate that:
 - a. The Harlingen ISD does have district boundaries, and those boundaries name Harlingen High School as the high school that residents of the proposed Development will attend.
 - b. Early College High School is what §11.9(c)(5) of the QAP describes as "schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools". The QAP further states that an attendance zone does not include such schools, and in districts with district-wide enrollment an Applicant may use the rating of the closest elementary, middle, or high schools, respectively, which may possibly be attended by the tenants.

The item offers two options for responding:

• If the development site is located within the attendance zone of qualifying public schools, then the application may qualify to receive up to 5 points...

or

• If the development site in not located within the attendance zone of qualifying public schools, then the application may use the closest school may be possibly attended...

There is no provision in the rules that gives the Applicant any other option; the form must either list the school in the attendance zone or the closest school.

The Department notes that the original selection was made based on a letter provided by the Superintendent of Schools stating that the students "have an opportunity to attend" Early College High

School. To preserve the 5 points requested for this item, provide evidence from the Superintendent of Schools that the district boundary map provided by the requester is not in effect, and that Early College High School is not what the QAP describes as a magnet school.

The Department further notes that the requester states that "The applicant claimed 5 points for Educational Excellence under \$11.9(c)(5)(A) but only qualifies (sic) for 3 points under \$11.9(c)(5)(B)". If it is determined that Harlingen High School is the school that should be listed as the high school residents of the proposed Development will attend, the Application will not qualify for 3 points under \$11.9(c)(5)(B) as the school does not have a Met Standard rating.

2. The requester questions whether the Application qualifies for the 5 points requested under §11.9(e)(6) Historic Preservation. If it is determined that the Applicant qualifies for 1 point or 3 points under Educational Excellence, the score for Historic Preservation will be adjusted as required.

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 $\S10.201(7)(A)$ 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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 , 2016. Please respond to this email as confirmation of receipt.

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities,

weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us.

Regards,

Sharon D. Gamble MSW, PMP Competitive Housing Tax Credit Program Administrator Texas Department of Housing and Community Affairs (512) 936-7834

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

About TDHCA

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



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 13, 2016

Ms. Sharon Gamble Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701

Re: Baxter Lofts in Harlingen – Response to Third Party Request for Administrative

Deficiency

TDHCA No. 16029

Dear Sharon:

This response is provided to a third party request for administrative deficiency as follows:

- 1. The requester questions whether Early College High School should be listed as the high school that residents of the proposed Development will attend on the Site Information Form II, Section 1 Educational Excellence. The provided information appears to indicate that:
 - a. The Harlingen ISD does have district boundaries, and those boundaries name Harlingen High School as the high school that residents of the proposed Development will attend.
 - b. Early College High School is what §11.9(c)(5) of the QAP describes as "schools with district-wide possibility of enrollment or no defined attendance zones, sometimes known as magnet schools". The QAP further states that an attendance zone does not include such schools, and in districts with district-wide enrollment an Applicant may use the rating of the closest elementary, middle, or high schools, respectively, which may possibly be attended by the tenants.

The item offers two options for responding:

• If the development site is located within the attendance zone of qualifying public schools, then the application may qualify to receive up to 5 points...

or

• If the development site in not located within the attendance zone of qualifying public schools, then the application may use the closest school may be possibly attended...

There is no provision in the rules that gives the Applicant any other option; the form must either list the school in the attendance zone or the closest school.

The Department notes that the original selection was made based on a letter provided by the Superintendent of Schools stating that the students "have an opportunity to attend" Early College High School. To preserve the 5 points requested for this item, provide evidence from the Superintendent of Schools that the district boundary map provided by the requester is not in effect, and that Early College High School is not what the QAP describes as a magnet school.

Response

Please find attached a letter from the Superintendent of the Harlingen Consolidated Independent School District. He confirms that, by rule, HCISD has "district-wide" enrollment for its high schools. Thus, the QAP states that ". . . in districts with district-wide enrollment an Applicant may use the rating of the closest elementary, middle, or high schools, respectively, which may possibly be attended by the tenants." The Superintendent's letter confirms that Harlingen School of Health Professions is the closest to the proposed development. When the Application was submitted, it read the QAP literally that, in situations with district-wide enrollment, the Applicant may choose the closest school but is not required to choose the closest school. (If TDHCA had wanted the Applicants to choose the closest school, it should have used the word "shall" or "must".) Thus, the Applicant provided the information with regard to Early College High School in the Application. Regardless, both Harlingen School of Health Professions and Early College High School have Met Standard ratings, as evidenced by the enclosed information.

TDHCA asked for the following response:

To preserve the 5 points requested for this item, provide evidence from the Superintendent of Schools that the district boundary map provided by the requester is not in effect, and that Early College High School is not what the QAP describes as a magnet school.

The attached letter from the Superintendent does confirm that the boundary map is not in effect, and that a student can freely attend Early College High School or Harlingen School for Health Professions. The Applicant believes this is responsive to TDHCA's request and

Ms. Sharon Gamble April 13, 2016 Page 3

compliant with the QAP for 5 points under Section 11.9(c)(5)(A) and 5 points under Section 11.9(e)(6).

If additional information is required, we are happy to respond.

Sincerely,

Cynthia L. Bast

Cynthia L Bast

enclosure

cc: Dan Sailler

Sarah Andre Sallie Burchett

HARLINGEN

Consolidated Independent School District



April 12, 2016

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

Re: Baxter Lofts, #16029

Ladies and Gentlemen:

With regard to the application for low-income housing tax credits for Baxter Lofts in Harlingen, I understand TDHCA has questions regarding the high school(s) that could be attended by residents of this proposed development. Harlingen has two high schools - Harlingen High School and Harlingen High School South. Residents of Baxter Lofts would ordinarily attend Harlingen High School.

However, both of these high schools have an "Improvement Required" (IR) rating with the Texas Education Agency for 2015. According to rules adopted by HCISD, when a campus is deemed IR, a student assigned to that campus is eligible to attend any other school in the district. Therefore, consistent with my letter dated January 27, 2016, students who would be assigned to Harlingen High School may attend Early College High School or Harlingen School of Health Professions, at their discretion. This essentially gives our high school students district-wide enrollment. We use an application process to administer the transfers for Early College High School and Harlingen School of Health Professions, but the process is not competitive. The school closest to the proposed development site is the Harlingen School of Health Professions, which provides students from $8^{th} - 12^{th}$ grade an opportunity to receive a rigorous instruction and an opportunity to learn in an environment simulating real world experiences. In addition, Early College High School was recently ranked as one of the top high schools in the nation according to the U.S. News and World Report national ranking and provides students with an opportunity to earn college credit and/or an Associate Degree prior to high school graduation.

If you need additional information, please let me know.

Respectfully,

Arturo J. Cavazos, Ed.D.

Dr. Art Cauzz

Superintendent of Schools

TEXAS EDUCATION AGENCY 2015 Accountability Summary

HARLINGEN SCHOOL OF HEALTH PROFESS (031903008) - HARLINGEN CISD

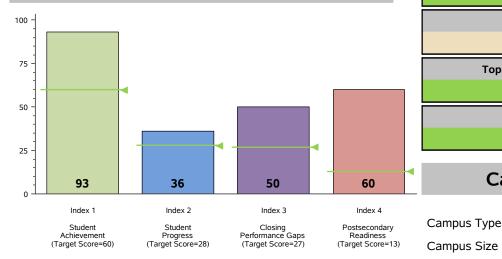
Accountability Rating

Met Standard

Met Standards on	Did Not Meet Standards on
- Student Achievement	- NONE
- Student Progress	
- Closing Performance Gaps	
- Postsecondary Readiness	
In 201E, to receive a Met Standard or Met Alter	native Standard rating districts and sampuses

In 2015, to receive a Met Standard or Met Alternative Standard rating, districts and campuses must meet targets on three indexes: Index 1 σ Index 2 σ Index 3 σ Index 4.

Performance Index Report



Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	603	650	93
2 - Student Progress	217	600	36
3 - Closing Performance Gaps	399	800	50
4 - Postsecondary Readiness			
STAAR Score	59.5		
Graduation Rate Score	N/A		
Graduation Plan Score	N/A		
Postsecondary Component Score	N/A		60

Distinction Designation



Academic Achievement in Reading/ELA

DISTINCTION EARNED

Academic Achievement in Mathematics

NO DISTINCTION EARNED

Academic Achievement in Science

NOT ELIGIBLE

Academic Achievement in Social Studies

DISTINCTION EARNED

Top 25 Percent Student Progress

NO DISTINCTION EARNED

Top 25 Percent Closing Performance Gaps

DISTINCTION EARNED

Postsecondary Readiness

DISTINCTION EARNED

Campus Demographics

Campus Size	205 Students
Grade Span	08 - 09
Percent Economically Disadvantaged	52.2
Percent English Language Learners	2.0
Mobility Rate **	N/A

State System Safeguards

Number and Percent of Indicators Met

Number and Percent of indicators wet		
Performance Rates	12 out of 12 = 100%	
Participation Rates	6 out of 6 = 100%	
Graduation Rates	N/A	
Total	18 out of 18 = 100%	

^{**} District Mobility Rate was used when the mobility rate was not available for a campus.

For further information about this report, please see the Performance Reporting Division website at http://ritter.tea.state.tx.us/perfreport/account/2015/index.html

Middle School

TEXAS EDUCATION AGENCY 2015 Accountability Summary

EARLY COLLEGE H S (031903005) - HARLINGEN CISD

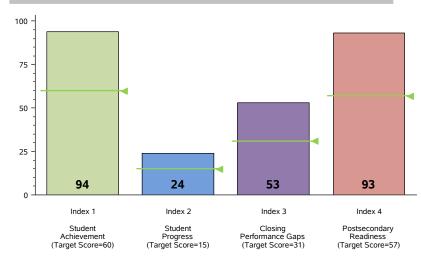
Accountability Rating

Met Standard

Met Standards on	Did Not Meet Standards on	
- Student Achievement	- NONE	
- Student Progress		
- Closing Performance Gaps		
- Postsecondary Readiness		
1. 2045 to the state of the sta		

In 2015, to receive a Met Standard or Met Alternative Standard rating, districts and campuses must meet targets on three indexes: Index 1 or Index 2 and Index 3 and Index 4.

Performance Index Report



Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	358	382	94
2 - Student Progress	97	400	24
3 - Closing Performance Gaps	423	800	53
4 - Postsecondary Readiness			
STAAR Score	19.3		
Graduation Rate Score	25.0		
Graduation Plan Score	25.0		
Postsecondary Component Score	23.7		93

Distinction Designation



Academic Achievement in Reading/ELA

DISTINCTION EARNED

Academic Achievement in Mathematics

DISTINCTION EARNED

Academic Achievement in Science

DISTINCTION EARNED

Academic Achievement in Social Studies

DISTINCTION EARNED

Top 25 Percent Student Progress

NO DISTINCTION EARNED

Top 25 Percent Closing Performance Gaps

DISTINCTION EARNED

Postsecondary Readiness

DISTINCTION EARNED

Campus Demographics

Campus Type

Campus Size	320 Students
Grade Span	09 - 12
Percent Economically Disadvantaged	52.5
Percent English Language Learners	0.9
Mobility Rate	3.2

State System Safeguards

Number and Percent of Indicators Met

Performance Rates	11 out of 11 = 100%
Participation Rates	5 out of 5 = 100%
Graduation Rates	3 out of 3 = 100%

Total 19 out of 19 = 100%

For further information about this report, please see the Performance Reporting Division website at http://ritter.tea.state.tx.us/perfreport/account/2015/index.html

High School



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, *Viæ Chair* Leslie Bingham-Escareño T. Tolbert Chisum Tom H. Gann J.B. Goodwin

June 22, 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: 16029 BAXTER LOFTS

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 high school in their request for points under §11.9(c)(5) of the 2016 Qualified Allocation Plan. We have reviewed the Application and determined the following regarding your request:

- Our review has determined that the item in your request regarding §11.9(c)(5)(A) Educational Excellence causes the Application to be eligible for 3 points under this scoring item. The Applicant was issued a revised scoring notice indicating the loss of points.
- Because the Application scored 3 points under Educational Excellence, it remains eligible for three (3) points under Historic Preservation.

The Applicant appealed the revised scoring notice, and that appeal was denied by the Governing Board at its June 16, 2016 meeting. If you have questions or require further information, please contact me.

Sincerely,

Marni Holloway
Multifamily Division Director

16071

Bluff View Senior Village
Third Party Request for
Administrative Deficiency



April 28, 2016

Sharon Gamble
Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

RE: Third Party Request for Administrative Deficiency Bluff View Senior Village - TDHCA #16071

Ms. Gamble:

This letter serves as our request for staff to consider an Administrative Deficiency for the subject Application. This request is based upon the following:

§10.204(15) Site Design and Development Feasibility Report – Fire Protection

As reflected in the submitted architectural drawings, the Development design of the subject Application consists of a three-story residential building. However, like many small municipalities, the City of Crandall Fire Department does not own or operate a truck with the aerial apparatus needed to service a three-story building and does not have immediate plans to purchase such equipment. This information has been verbally confirmed by the Crandall Fire Department and is evidenced by the attached equipment information on Crandall Fire Department's website.

Per §10.204(15), the Site Design and Feasibility Report overview should contain information regarding "development ordinances, fire department requirements, site ingress and egress requirements, building codes, and local design requirements impacting the Development." The Site Design and Development Feasibility Report is a tool designed to ensure that Applicants perform the due diligence necessary to avoid otherwise foreseeable hurdles late in the development process.

We ask that TDHCA examine the Applicant's report with regard to fire safety:

Is there a nearby fire department able to respond in the event of a three-story fire emergency at the Development site and, if so, how far is the station and what is the estimated response time? Will the fire hydrant water flow at the site be sufficient for a three-story building? Did the construction budget incorporate the noncombustible (i.e. non-wood frame) building construction materials required to meet the Crandall Fire Department's building requirements for what they consider an "assisted living" development? Will the Development design include fire sprinklers or elevators (neither were shown in the Building Unit Configuration form)?

If the above fire safety issues were not considered within the report, the Applicant should be required to provide supporting documentation from the local fire authority. Otherwise, the Development is likely to require *extensive* design and budget changes that deviate significantly from the submitted Application. Such material changes late in the Application cycle not only jeopardize the Development at hand, but also jeopardize Wait List Applicants with expiring Purchase Contracts.

§10.302(i)(1)(A) & §10.303 – Market Analysis for Qualified Elderly Developments

We ask that TDHCA independently verify the Applicant's market analysis with regard to the proposed unitmix.

The proposed Development is located in Crandall, in a small Rural municipality with a population of 2,945, and includes a high percentage of two-bedroom units, which traditionally have a higher capture rate in Senior properties. While the Applicant is *just* under TDHCA's maximum two-bedroom limit for Qualified Elderly Developments (under 70%), that metric does not guarantee that the proposed Development meets underwriting requirements and has sufficient demand.

The Department should take particular care to ensure that resources are distributed to Texans in need in the most efficient manner possible.

Thank you in advance for your consideration of this request and please do not hesitate to contact me should you have any questions.

Sincerely,

Teresa Bowyer

Development Director

Herman & Kittle Properties, Inc.

tbowyer@hermankittle.com

806-543-8645

Crandall Fire Rescue (/)

(972) 472-3679 (https://www.html

Apparatus

The Crandall Fire Department currently operates out of one station located at 500 E. May St.

A four bay metal constructed building complete with administrative offices, full kitchen, day room, bunk room with showers and a tool room.

Home (/) Join (/join.html)

Apparatus (/apparatus.html)

History (/history.html)

Staff (/staff.html)

Department Calander (https://www.google.com/calendar/render?tab=mc&pli=1)



Engine 1

2008 Pierce Arrow 750 gallons of water with a 1250 gpm pump Responds to all reported structure fires **TNT Extrication Tools** 2nd out on all motor vehicle accidents Basic Life Support Unit



Engine 2

2014 Spartan ERV 1250 gallons of water with a 1500 gpm pump Responds to all reported structure fires TNT Extrication Tools, air bags and cribbing Swift Water Rescue equipment and hazardous materials supplies 1st out on all motor vehicle accidents Basic Life Support Unit

Note: Neither of the Engine trucks have a stabilized aerial apparatus

Brush 1

2005 Ford F-450 4x4 250 gallons of water Responds to all reported grass fires



Brush 2

2006 Ford F-550 4x4 250 gallons of water Responds to all reported grass fires



Squad 1

2012 Chevy Tahoe

EMS Unit / Command Vehicle

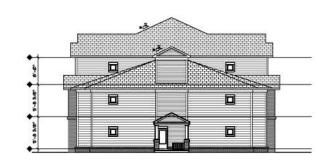
Responds to all major vehicle accidents, grass fires and structure fires by a chief officer

Full command center with several radios and command board

Basic Life Support Unit

Web Hosting (http://www.ipower.com/) by IPOWER





ELEVATION (VIEW FROM HWY

TOTAL EXTERIOR COMPOSITION (OPENINGS INCLUDED) = 2294 SQ.FT OF MATERIAL BRICK VENEER = 22% FIBER CEMENT SIDING AND TRIM = 18%

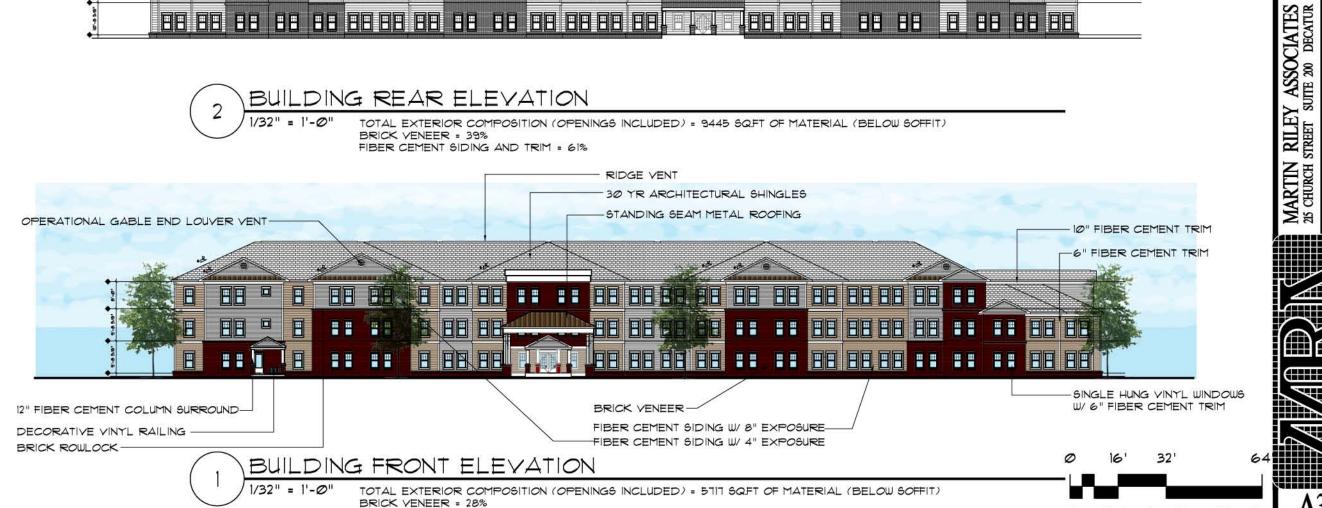
BUILDING RIGHT ELEVATION 1/32" = 1'-0" TOTAL EXTERIOR COMPOSITION = 1767 SQFT OF MATERIAL BRICK VENEER = 13% FIBER CEMENT SIDING AND TRIM = 87%



ING REAR ELEVATION

FIBER CEMENT SIDING AND TRIM = 72%

TOTAL EXTERIOR COMPOSITION (OPENINGS INCLUDED) = 9445 SQFT OF MATERIAL (BELOW SOFFIT) BRICK VENEER = 39%



BLUFF VIEW SENIOR VILLAGE CRANDALL, TEXAS

SCALE: 1/32" = 1'-0'

2016 - x 2016 - x DATE 1/28/16 DARWN BT / C

- ARCHITECTS, P.C. GEORGIA 30030-3229 404-373-2800





ELEVATION (VIEW FROM HWY 741)

TOTAL EXTERIOR COMPOSITION (OPENINGS INCLUDED) = 2294 SQ.FT OF MATERIAL BRICK VENEER = 22% FIBER CEMENT SIDING AND TRIM = 18%

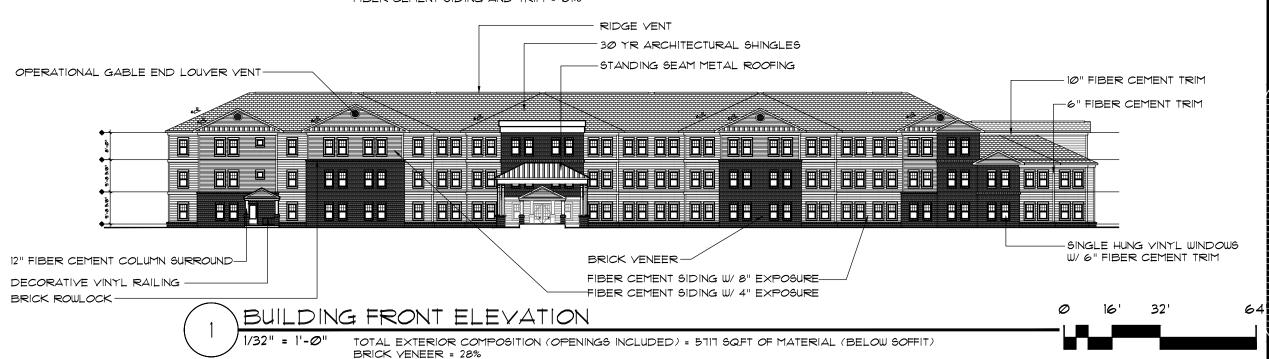
BUILDING RIGHT ELEVATION = 1'-Ø" TOTAL EXTERIOR COMPOSITION = 1767 SQ.FT OF MATERIAL BRICK VENEER = 13% FIBER CEMENT SIDING AND TRIM = 87%



TOTAL EXTERIOR COMPOSITION (OPENINGS INCLUDED) = 9445 SQ.FT OF MATERIAL (BELOW SOFFIT) BRICK VENEER = 39%

FIBER CEMENT SIDING AND TRIM = 61%

FIBER CEMENT SIDING AND TRIM = 12%



SCALE: 1/32" = 1'-0'

PROBECT
2016-X
DMTB
1/28/16
DREWNER BY / O

- ARCHITECTS, P.C. GEORGIA 30030-3329 404-373-2800

MARTIN RILEY ASSOCIATES - 215 CHURCH STREET SUITE 200 DECATUR GE
BLUFF VIEW SENIOR VILLAGE
CRANDALL, TEXAS

§10.204(15)

SPECIFICATIONS AND BUILDING/UNIT TYPE CONFIGURATION

Unit types should be entered from smallest to largest based on "# of Bedrooms" and "Sa. Ft. Per Unit." "Unit Label" should correspond to the unit label or name used on the unit floor plan. "Building Label"

should and site	conform plan. I	n to the build If additional	-	me on the are neede	building fi d, they are	loor plan. T	The total n	umber of	units per เ	ınit type a	nd totals f	or "Total #	of Units"					the rent schedule
Building Configuration (Check all that apply): Scattered Site			ruction SRO Fourplex			Transitional (per §42(i)(3)(B)) X > 4 Units Per Building			Duplex Townhome									
Develo	oment v	will have:			Fire Sprin	ıklers			Elevators			# of Eleva	ators			Wt. Capa	city	
		king Spaces(ural Drawing			Free	Paid	Attached	Garage Sp	arport Spa paces Garage Sp		Free 72	Paid	-	d Garage S ed Spaces				
Floor Co	omposit	tion & Wall I	Height:	100	% Carpet % Cerami % Other		lient Floor Describe:	nt Flooring 9 Ceiling Height Upper Floor(s) Ceiling Height (Townhome Only)										
					of Stories		3										Total # of Residential Buildings	
Unit Label	# of Bed- rooms	Unit Type # of Baths	Sq. Ft. Per Unit		of Buildin g	gs	15			Nun	nber of Un	its Per Bui	ilding				Total # of Units	Total Sq Ft for Unit Type 10,650
B B1	2	1 1	893 925				25										25 8 -	22,325 7,400 -
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				Totals			48	-	-	-	-	-	- Not Pr	-	-	-	- 48	- 40,375
Interior	Corrido	ors					9,586						ivet K	Circable 50	idale FOOT	a ₈ e nom	Rent Schedule	40,373
Total In	terior C on Area	Corridor Per	Building Label				9,586 2,748 2,748	0	0	0	0	0	0	0	0	0		9,586
Total Common Area Per Building Label Breezeways Total Breezeways Per Building Label			2,748	0	0	0	0	0	0	0	0	0		2,/10				

§10.302(i)(1)(A) & §10.303

Rent Schedule

Self Score Total:

125

ate Activity Bond Priority (For Tax-Exempt Bond Developments ONLY):

Unit types must be entered from smallest to largest based on "# of Bedrooms" and "Unit Size", then within the same "# of Bedrooms" and "Unit Size" from lowest to highest "Rent Collected/Unit".

Composition	highest "Rent Collected/Unit".															
Company Comp	Rent	_	(select from	m Drop dow	/n menu)											
	HTC Units	Loan Units (HOME	HTF Units			# of Units			(Net Rentable Sq.	Rentable		Paid Utility	Collected	Monthly		
TC-506						(A)				(A) x (B)			(E)	(A) x (E)		
TC-0195	TC 30%					1	1	1.0	710	710	396	51	345	345		
NR	TC 50%					3	1	1.0	710	2,130	660	51	609	1,827		
TX 30%	TC 60%					8	1	1.0	710	5,680	792	51	741	5,928		
TY C50%	MR					3	1	1.0	710	2,130			853	2,559		
TC 60%	TC 30%					1	2	1.0	893	893	475	61	414	414		
MR	TC 50%					3	2	1.0	893	2,679	792	61	731	2,193		
TC 30%	TC 60%					11	2	1.0	893	9,823	951	61	890	9,790		
TC 50%	MR					10	2	1.0	893	8,930			1024	10,240		
TC 60%	TC 30%					1			925			61	414			
MR	TC 50%								ł — — — — — — — — — — — — — — — — — — —			61				
	TC 60%							1.0	925		951	61	890			
	MR					2	2	1.0	925				1024	2,048		
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TOTAL 48 40,375 40,049														-		
TOTAL 48 40,375 40,049														-		
TOTAL 48 40,375 40,049 Non Rental Income \$15.00 per unit/month for: Non Rental Income 0.00 per unit/month for: Non Rental Income 0.00 per unit/month for: + TOTAL NONRENTAL INCOM \$15.00 per unit/month = POTENTIAL GROSS MONTHLY INCOME 40,769 - Provision for Vacancy & Collection Loss 9 of Potential Gross Income: 7.50% (3,058) - Rental Concessions (enter as a negative number) Enter as a negative value = EFFECTIVE GROSS MONTHLY INCOME 37,711 x 12 = EFFECTIVE GROSS ANNUAL INCOME 452,536														-		
Non Rental Income 10.00 Per unit/month for: + TOTAL NONRENTAL INCOM 15.00 Per unit/month for: - TOTA				ТОТАТ		10								40.040		
Non Rental Income Non Rental Income Non Rental Income Non Rental Income + TOTAL NONRENTAL INCOM S15.00 per unit/month for:					tal Income	48		per unit	t/month for		vending for	rfeited denos	it, ann foos			
Non Rental Income + TOTAL NONRENTAL INCOM \$15.00 per unit/month for: + TOTAL NONRENTAL INCOM \$15.00 per unit/month = POTENTIAL GROSS MONTHLY INCOME 40,769 - Provision for Vacancy & Collection Loss % of Potential Gross Income: 7.50% (3,058) - Rental Concessions (enter as a negative number) Enter as a negative value = EFFECTIVE GROSS MONTHLY INCOME 37,711 x 12 = EFFECTIVE GROSS ANNUAL INCOME 452,536										Latte Ferti,	renaing, joi	ijenea aepos	u, upp jees	720		
+ TOTAL NONRENTAL INCOM \$15.00 per unit/month 720 = POTENTIAL GROSS MONTHLY INCOME 40,769 - Provision for Vacancy & Collection Loss % of Potential Gross Income: 7.50% (3,058) - Rental Concessions (enter as a negative number) Enter as a negative value = EFFECTIVE GROSS MONTHLY INCOME 37,711 x 12 = EFFECTIVE GROSS ANNUAL INCOME 452,536																
= POTENTIAL GROSS MONTHLY INCOME - Provision for Vacancy & Collection Loss						L INCOM		4^						720		
- Rental Concessions (enter as a negative number) = EFFECTIVE GROSS MONTHLY INCOME x 12 = EFFECTIVE GROSS ANNUAL INCOME 452,536				= POTEN	TIAL GROSS	MONTH	LY INCOM									
= EFFECTIVE GROSS MONTHLY INCOME 37,711 x 12 = EFFECTIVE GROSS ANNUAL INCOME 452,536										% of				(3,058)		
x 12 = EFFECTIVE GROSS ANNUAL INCOME 452,536]	Enter as a no	egative value	27.711		
	40705	2/20/46 = ==		x 14 = EF1	ECTIVE GR	NIVIA CCU.	UAL INCC)IVIL								

§10.302(i)(1)(A) & §10.303 Rent Schedule (Continued)

		% of LI	% of Total	
	TC30%	9%	6%	3
	TC40%			0
	TC50%	21%	15%	7
HOUSING	TC60%	70%	48%	23
TAX	HTC LI Tota	al		33
CREDITS	EO			0
	MR			15
	MR Total			15
	Total Units	3		48
	MRB30%			0
	MRB40%			0
MORTGAGE	MRB50%			0
REVENUE	MRB60%			0
BOND	MRB LI Tot	tal		0
	MRBMR			0
	MRBMR T	otal		0
	MRB Total			0

		% of LI	% of Total	
	HTF30%			0
	HTF40%			0
	HTF50%			0
HOUSING	HTF60%			0
TRUST	HTF80%			0
FUND	HTF LI Tota	İ		0
	MR			0
	MR Total			0
	HTF Total			0
	30%			0
	LH/50%			0
	HH/60%			0
	HH/80%			0
HOME	HOME LI To	tal		0
	EO			0
	MR			0
	MR Total			0
	HOME Tota	ıl		0
OTHER	nits		0	

BEDROOMS	0 1 2 3		0 15 33
	5		0

ACQUISITION + HARD			
Cost Per Sq Ft	\$ 130.17		
HARD			
Cost Per Sq Ft	\$ 130.17		
BUILDING		Total Po	ints claimed:
Cost Per Sq Ft	\$ 74.97		12

Applicants are advised to ensure that figure is not rounding down to the maximum dollar figure to support the elected points.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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Leslie Bingham-Escareño
T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

June 3, 2016

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

Ms. Teresa Bowyer Development Director Herman & Kittle Properties, Inc. 500 East 96th Street Suite 300 Indianapolis, Indiana 46240

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16071 BLUFF VIEW SENIOR VILLAGE

Dear Ms. Bowyer:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the Third Party Request for Administrative Deficiency ("Request") you submitted regarding the application referenced above. You requested that the Department review whether the Site Design and Development Feasibility Report as required by §10.204(15) of the 2016 Uniform Multifamily Rules contains sufficient information regarding fire protection.

Additionally, you requested that the Department "independently verify the Applicant's market analysis with regard to the proposed unit mix" under §10.302(i)(1)(A) [relating to the maximum gross capture rate for a Qualified Elderly Development] and §10.303 [relating to Market Analysis Rules and Guidelines]. You specifically mention a "high percentage" of two bedroom units.

We have reviewed the Application and determined the following regarding your Request:

Site Design and Development Feasibility Report – Fire

At the time of application, TDHCA does not comprehensively review plans for conformance with zoning, site development requirements, building codes, and fire requirements but relies on representations and certifications at this early stage of development. We do not conduct an evaluation of whether the local fire department is equipped to handle various fire situations. We make a reasonable assumption that through the permit process, fire code requirements will be addressed. If we see obvious situations that are not addressed in the plans or Application exhibits, such as standard sprinkler requirements on multi-story residential buildings, they will be addressed as they already have been in this case through the administrative deficiency process.

However, the Site Design and Development Feasibility Report is required to address fire department requirements. In this case the report provided does not address fire department requirements and an administrative deficiency will be issued regarding this matter.

With respect to your question regarding fire sprinklers and elevators, these items were not indicated on the original Specifications and Building/Unit Type Configuration exhibit. A revised exhibit was provided by the



Applicant on March 29, 2016, in response to a previously issued administrative deficiency indicating that both of these items are to be included in the development. While not labeled, the elevator is shown on the building plan adjacent to the room labeled "Maint" in the center of the building.

• Market Analysis for Qualified Elderly Developments

Pursuant to §11.10, Third Party Request for Administrative Deficiency, "Requestors must provide sufficient credible evidence that, if confirmed, would substantiate staff issuing an administrative deficiency request to the Applicant. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered." Your correspondence puts forth that the Primary Market Area for the subject application misrepresents the "demand draw for the proposed project" and that the market study should be disqualified and the application terminated. This statement does not provide any evidence that staff would be able to confirm to determine whether an administrative deficiency request is substantiated. You have not pointed to a misapplication or violation of a rule. The information you provide seems to be the same information provided by the market analyst.

Additionally, the Market Analysis review will be performed by the Real Estate Analysis Division (REA) upon the formal underwriting of the Application. Administrative deficiencies related to the Market Analysis may be generated by REA during that process. The underwriting of this transaction is not complete at this time.

We appreciate your Request, the Department has determined that the matter relating to the fire department requirements not being addressed in the feasibility report will be the subject of an Administrative Deficiency. If you have questions or require further information, please contact me.

Sincerely,

Marni Holloway

Multifamily Division Director

16117 Indian Lake Apartment Homes Third Party Request for Administrative Deficiency



600 Congress, Suite 2200 Austin, TX 78701 Telephone: 512-305-4700 Fax: 512-305-4800 www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

June 1, 2016

Via Electronic Mail and Hand Delivery

Texas Department of Housing and Community Affairs Attn.: Ms. Marni Holloway, Dir of Multifamily Finance Attn.: Ms. Sharon Gamble, 9% HTC Program Administrator 221 East 11th Street Austin, Texas 78701

RE: Indian Lake Apartment Homes, #16117

Third Party Request for Administrative Deficiency

Dear Ms. Holloway and Gamble:

We represent the applicant for Lantana Villas, #16032. On behalf of our client and in accordance with Section 11.10 of the 2016 QAP, we are bringing new, material information about Application #16117 to staff's attention. We are requesting that staff consider whether the following matters in Application #16117 should be the subject of an Administrative Deficiency. Based upon the information presented below and in the attachments, we contend that Application #16117 should lose points and should also be terminated for failing to meet Threshold criteria. The issue is that the Applicant failed to notify the proper elected officials at the time of Pre-Application and Application. The Applicant has confirmed to TDHCA that the site is in the Town of Indian Lake and relies upon that location for several matters, including government support and local political subdivision funding. However, it appears the Applicant did not properly notify all elected officials of the governing body of the Town of Indian Lake.

Award of Pre Application Points

- 1. An applicant may score 6 points for filing a pre-application, provided that the pre-application meets all of the applicable requirements (see Section 11.9(e)(3) of the 2016 QAP attached as **Exhibit A**).
- 2. Per Section 11.8 of the 2016 QAP (attached as **Exhibit B**), a complete preapplication must meet, among others, the following requirement:

Ms. Marni Holloway Ms. Sharon Gamble June 1, 2016 Page 2

> No later than the date the pre-application is submitted, the applicant must make a prescribed notification concerning the proposed development to all elected members of the Governing Body of the municipality.

- 3. Pre-Application #16117, a copy of which is attached as <u>Exhibit C</u>, identifies the municipality for the proposed development as the Town of Indian Lake and gives the names of the elected officials of the Town's governing body that were sent the prescribed notification. The elected officials listed in the Pre-Application were: Mayor Barbara Collum, City Council Member Sondra Leigh, City Council Member Adina Romer, City Council Member Douglas Waltman, and City Council Member Mary Boss.
- 4. The Pre-Application failed to list two City Council Members. Attached as **Exhibit D** is an email from the Secretary of the Town of Indian Lake, identifying the elected members of the Town's Governing Body as of the date Pre-Application #16117 was filed. Two of the members of the Governing Body were Mayor Pro Tem Pamela Romer and City Council Member Janie Young. These individuals were not listed in the Pre-Application. The City Secretary confirms they served in such capacity both at the time of Pre-Application and the time of Application.
- 5. Accordingly, our client believes neither of these members of the Governing Body were sent the required notification before the Pre-Application was submitted. Therefore, Pre-Application #16117 did not meet all of the applicable requirements and Application #16117 should not be awarded the 6 points available for filing a pre-application.

Meeting Threshold for Public Notifications

- 1. Section 10.203 of the 2016 Uniform Multifamily Rules (attached as <u>Exhibit E</u>) requires that an Applicant must make certain Public Notifications by the Application Due Date. Included in the requirement is that the Applicant must make a prescribed notification concerning the proposed development to all elected members of the Governing Body of the municipality. Re-notification at the time of Application is not required if notification was given at the time of Pre-Application and there have been no changes.
- 2. As demonstrated above, the Applicant appears to have excluded two elected officials of the Governing Body of the municipality from notification at Pre-Application.
- 3. Attached as **Exhibit F** are copies of Tabs 14 and 16 from Application #16117. The Applicant certifies that there have been no changes requiring additional notifications. The Applicant also certifies that re-notifications have been made. Yet, the Application fails to identify any new or different elected officials on the subsequent pages where they are required to be identified. It is reasonable to assume that, even if re-notifications were made at the time of Application, they did not include the two City Council members that were not listed in the Pre-Application.
- 4. Therefore, Application #16117 did not meet the Public Notification requirements under Section 10.203 of the 2016 Uniform Multifamily Rules; it did not meet Threshold, and should be terminated.

Ms. Marni Holloway Ms. Sharon Gamble June 1, 2016 Page 3

We suggest that TDHCA confirm with the City Secretary of the Town of Indian Lake and the City Council members whether appropriate notification was timely received by all members the governing body at the time of Pre-Application and Application.

Thank you for your consideration in this matter. If you require any further information or clarification, please feel free to contact us.

Sincerely,

Cynthia L. Bast

Cynthia L'Bast

Enclosure: \$500 Check accompanies this letter

cc: Roundstone Development, LLC

Clifton Phillips, President

Exhibit A – Section 11.9(e)(3) of the 2016 QAP

Exhibit B - Section 11.8 of the 2016 QAP

Exhibit C – Pre-Application #16117

Exhibit D – E-mail from Secretary of the Town of Indian Lake

Exhibit E - Section 10.203 of the 2016 Uniform Multifamily Rules

Exhibit F – Application #16117 – Elected Officials and Public Notifications

Exhibit A

Section 11.9(e)(3) of the 2016 QAP

Area, and that qualify for 5 or 7 points under subsection (c)(4) of this section, related to Opportunity Index; or

- (iii) Eleven (11) points for Applications which include Hard Costs plus acquisition costs included in Eligible Basis that are less than \$130 per square foot.
- (3) Pre-application Participation. (§2306.6704) An Application may qualify to receive up to six (6) points provided a pre-application was submitted during the Pre-Application Acceptance Period. Applications that meet the requirements described in subparagraphs (A) (G) of this paragraph will qualify for six (6) points:
 - (A) The total number of Units does not increase by more than ten (10) percent from preapplication to Application;
 - (B) The designation of the proposed Development as Rural or Urban remains the same;
 - (C) The proposed Development serves the same Target Population;
 - (D) The pre-application and Application are participating in the same set-asides (At-Risk, USDA, Non-Profit, and/or Rural);
 - (E) The Application final score (inclusive of only scoring items reflected on the self score form) does not vary by more than six (6) points from what was reflected in the preapplication self score;
 - (F) The Development Site at Application is at least in part the Development Site at preapplication, and the census tract number listed at pre-application is the same at Application; and
 - (G) The pre-application met all applicable requirements.
 - (4) Leveraging of Private, State, and Federal Resources. (§2306.6725(a)(3))
 - (A) An Application may qualify to receive up to three (3) points if at least five (5) percent of the total Units are restricted to serve households at or below 30 percent of AMGI (restrictions elected under other point items may count) and the Housing Tax Credit funding request for the proposed Development meet one of the levels described in clauses (i) (iv) of this subparagraph:
 - (i) the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding and the Housing Tax Credit Funding Request is less than 9 percent of the Total Housing Development Cost (3 points). The Application must include a commitment of such funding; or
 - (ii) If the Housing Tax Credit funding request is less than 8 percent of the Total Housing Development Cost (3 points); or
 - (iii) If the Housing Tax Credit funding request is less than 9 percent of the Total Housing Development Cost (2 points); or

Exhibit B

Section 11.8 of the 2016 QAP

collapse, the Department will utilize the factors in this section, in the order they are presented, to determine which Development will receive preference in consideration for an award. The tie breaker factors are not intended to specifically address a tie between equally underserved subregions in the rural or statewide collapse.

- (1) Applications scoring higher on the Opportunity Index under §11.9(c)(4) of this chapter (relating to Competitive HTC Selection Criteria) as compared to another Application with the same score.
- (2) Applications proposed to be located in a census tract with the lowest poverty rate as compared to another Application with the same score.
- (3) The Application with the highest average rating for the elementary, middle, and high school designated for attendance by the Development Site, or (for "choice" districts) the closest.
- (4) Applications proposed to be located the greatest linear distance from the nearest Housing Tax Credit assisted Development. Developments awarded Housing Tax Credits but do not yet have a Land Use Restriction Agreement in place will be considered Housing Tax Credit assisted Developments for purposes of this paragraph. The linear measurement will be performed from closest boundary to closest boundary.

§11.8. Pre-Application Requirements (Competitive HTC Only).

- (a) General Submission Requirements. The pre-application process allows Applicants interested in pursuing an Application to assess potential competition across the thirteen (13) state service regions, sub-regions and set-asides. Based on an understanding of the potential competition they can make a more informed decision whether they wish to proceed to prepare and submit an Application. A complete pre-application is a pre-application that meets all of the Department's criteria, as outlined in subsections (a) and (b) of this section, with all required information and exhibits provided pursuant to the Multifamily Programs Procedures Manual.
 - (1) The pre-application must be submitted using the URL provided by the Department, as outlined in the Multifamily Programs Procedures Manual, along with the required pre-application fee as described in §10.901 of this title (relating to Fee Schedule), not later than the Pre-application Final Delivery Date as identified in §11.2 of this chapter (relating to Program Calendar for Competitive Housing Tax Credits). If the pre-application and corresponding fee is not submitted on or before this deadline the Applicant will be deemed to have not made a pre-application.
 - (2) Only one pre-application may be submitted by an Applicant for each Development Site.
 - (3) Department review at this stage is limited, and not all issues of eligibility and threshold are reviewed or addressed at pre-application. Acceptance by staff of a pre-application does not ensure that an Applicant satisfies all Application eligibility, threshold or documentation requirements. While the pre-application is more limited in scope than an Application, pre-applications are subject to the same limitations, restrictions, or causes for disqualification or termination as a full Application, and pre-applications will thus be subject to the same consequences for violation, including but not limited to loss of points and termination of the pre-application.
- (b) Pre-Application Threshold Criteria. Pursuant to Texas Government Code, §2306.6704(c) pre-applications will be terminated unless they meet the threshold criteria described in subsection (a) of this section and paragraphs (1) and (2) of this subsection:

- (1) Submission of the competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:
 - (A) Site Control meeting the requirements of §10.204(10) of this title (relating to Required Documentation for Application Submission). For purposes of meeting this specific requirement related to pre-application threshold criteria, proof of consideration and any documentation required for identity of interest transactions is not required at the time of pre-application submission but will be required at the time of full application submission;
 - (B) Funding request;
 - (C) Target Population;
 - (D) Requested set-asides (At-Risk, USDA, Nonprofit, and/or Rural);
 - (E) Total Number of Units proposed;
 - (F) Census tract number in which the Development Site is located;
 - (G) Expected score for each of the scoring items identified in the pre-application materials; and
 - (H) Proposed name of ownership entity.
- (2) Evidence in the form of a certification provided in the pre-application, that all of the notifications required under this paragraph have been made. (§2306.6704)
 - (A) The Applicant must list in the pre-application all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as of the beginning of the Application Acceptance Period.
 - (B) Notification Recipients. No later than the date the pre-application is submitted, notification must be sent to all of the persons or entities prescribed in clauses (i) (viii) of this subparagraph. Developments located in an ETJ of a city are required to notify both city and county officials. The notifications may be sent by e-mail, fax or mail with registered return receipt or similar tracking mechanism in the format required in the Pre-application Notification Template provided in the pre-application. The Applicant is encouraged to retain proof of delivery in the event the Department requires proof of notification. Acceptable evidence of such delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of delivery for fax and e-mail. Officials to be notified are those officials in office at the time the pre-application is submitted. Note that between the time of pre-application (if made) and full Application, such officials may change and the boundaries of their jurisdictions may change. By way of example and not by way of limitation, events such as redistricting may cause changes which will necessitate additional notifications at full Application. Meetings and discussions do not constitute notification. Only a timely and compliant written notification to the correct person constitutes notification.
 - (i) Neighborhood Organizations on record with the state or county as of the beginning of the Application Acceptance Period whose boundaries include the proposed Development Site;
 - (ii) Superintendent of the school district in which the Development Site is located;
 - (iii) Presiding officer of the board of trustees of the school district in which the Development Site is located;
 - (iv) Mayor of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

- (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.

Exhibit C

Pre-Application #16117

2016 Pre-Application

Submission Date

2016-01-06 11:42:35

Full Name

Melissa Adami

Address

Street Address: 16812 Dallas Parkway

City: Dallas State: Texas Zip Code: 75248

Phone Number

(972) 701-5558

Emall

Madami@Rise-Residential.com

Full Name

Bill Fisher

Phone Number

(214) 608-7201

Email

Bill.Fisher@SonomaAdvisors.com

Full Name

Bill Fisher

Phone Number

(214) 608-7201

Name of Proposed Entity

TX Indian Lakes Apartments, LP

Development Name

Indian Lake Apartment Homes

Development Type

New Construction

Target Population

General

Address

Northwest Corner of Old Alice Road and Henderson

City

Indian Lake

Zip Code

78566

ETJ?

No

County

Cameron

Region

11

Rural/Urban

Rural

Census Tract

48061012200

Total LI Units

64

Total MR Units

16

Total Units

80

HTC Request

1322138

Pre-App Fee Due

800

Has Fee already been

submitted?

Yes

Check #

1023

Set-Asides

None

U.S. Representative

Congressman Filemon Vela

District

34

State Senator

Senator Eddie Lucio

District

27

State Representative

Representative Rene Oliveira

District

37

School Superintendent

Gonzalo Salazar

District Name

Los Fresnos ISD

Address

Street Address: 600 N Mesquite Street

City: Los Fresnos Zip Code: 78566

Presiding Officer of Board of

Trustees

Sandra Garcia

Address

Street Address: 600 N Mesquite Street

City: Los Fresnos Zip Code: 78566

Name

Judge Pete Sepulveda

Office

County Judge

Name 2

Mayor Barbara Collum

Office 2

Mayor

Name 3

Sofia Benavides

Office 3

County Commissioner

Name 4

Alex Dominguez

Office 4

County Commissioner

Name 5

David Garza

Office 5

County Commissioner

Name 6

Dan Sanchez

Office 6

County Commissioner

Name 7

Sondra Leigh

Office 7	City Council Member
Name 8	Adina Romer
Office 8	City Council Member
Name 9	Douglas Waltman
Office 9	City Council Member
Name 10	Mary Boss
Office 10	City Council Member
Are there Neighborhood Organizations whos boundaries contain the Development Site?	No
Unit Sizes	8
Unit Features	7
Sponsor Characteristics	1
High Quality Housing Total	16
Income Levels of Tenants	16
Rent Levels of Tenants	11
Tenant Services	10
Opportunity Index	7
Educational Excellence	5
Underserved Area	1
Tenant Populations with Special Housing Needs	2
Proximity to Important Services	2
Serve and Support Texans Most in Need Total	54
Declared Disaster Area	10
Community Support and Engagement Total	10
Financial Feasibility	18
Cost of Development per Square Foot	12
Pre-Application Participation	6

Exhibit D

E-mail from Secretary of the Town of Indian Lake

Fw: Indian Lake elected officals

From: Bob Colvard <robert_colvard@att.net>
To: Michael Hartman <mm1370@aol.com>

Subject: Fw: Indian Lake elected officals

Date: Fri, May 6, 2016 12:45 pm

Sent from Yahoo Mail on Android

On Fri, May 6, 2016 at 12:39 PM, Secretary Indian Lake <secretary@townofindianlake.com> wrote:

Yes

On Wed, May 4, 2016 at 9:29 AM, Bob Colvard < robert_colvard@att.net > wrote:

Other than my typos, the dates are correct?

Bob Colvard

From: Secretary Indian Lake < secretary@townofindianlake.com >

To: Bob Colvard < robert colvard@att.net > Sent: Wednesday, May 4, 2016 10:08 AM Subject: Re: Indian Lake elected officals

Mayor-Barbara Collum

Mayor-Pro Tem-Pamela Romer

Alderperson-Janie Young

Alderperson-Douglas Waltman

Alderperson-Mary Boss

On Tue, May 3, 2016 at 8:46 AM, Bob Colvard <<u>robert_colvard@att.net</u>> wrote:

Ms. Gonzales:

It is my understanding that as of January 1st 2016 the elected officials for the

Town of Indian Lake were as follows:

Mayor-Barbara Collins

Mayor-Pro Tem-Pamela Romer

Alderperson-Janie Young

Alderperson-Douglas Waltman

Alderperson-Mary Doss

As of March 1st 2016 there were no changes to the above mentioned list.

Can you please confirm that my understanding is correct.

Thanks

Bob Colvard

Cell:321-446-5205

Amy Gonzales

City Secretary

Town of Indian Lake

Office (956) 233-4021

Fax (956) 233-5140

Office Hours: Monday-Friday

8:30 a.m.-1:00 p.m., 2:00 p.m.-5:30 p.m.

Office Closed on Wednesdays.

Amy Gonzales City Secretary

City Secretary Town of Indian Lake Office (956) 233-4021 Fax (956) 233-5140

Office Hours: Monday- Friday

8:30 a.m.-1:00 p.m., 2:00 p.m.-5:30 p.m.

Office Closed on Wednesdays.

Exhibit E

Section 10.203 of the 2016 Uniform Multifamily Rules

- (B) the Application is submitted after the Application submission deadline (time or date); is missing multiple parts of the Application; or has a Material Deficiency; or
- (C) for any Development utilizing Housing Tax Credits or Tax-Exempt Bonds:
 - (i) at the time of Application or at any time during the two-year period preceding the date the Application Round begins (or for Tax-Exempt Bond Developments any time during the two-year period preceding the date the Application is submitted to the Department), the Applicant or a Related Party is or has been a member of the Board or employed by the Department as the Executive Director, Chief of Staff, General Counsel, a Deputy Executive Director, the Director of Multifamily Finance, the Chief of Compliance, the Director of Real Estate Analysis, a manager over the program for which an Application has been submitted, or any person exercising such responsibilities regardless of job title; or (§2306.6703(a)(1); §2306.6733);
 - (ii) the Applicant proposes to replace in less than fifteen (15) years any private activity bond financing of the Development described by the Application, unless the exceptions in §2306.6703(a)(2) of the Texas Government Code are met.
- §10.203. Public Notifications (§2306.6705(9)). A certification, as provided in the Application, that the Applicant met the requirements and deadlines identified in paragraphs (1) - (3) of this section must be submitted with the Application. For Applications utilizing Competitive Housing Tax Credits, notifications must not be older than three (3) months from the first day of the Application Acceptance Period. For Tax-Exempt Bond Developments notifications and proof thereof must not be older than three (3) months prior to the date Parts 5 and 6 of the Application are submitted, and for all other Applications no older than three (3) months prior to the date the Application is submitted. If notifications were made in order to satisfy requirements of pre-application submission (if applicable to the program) for the same Application, then no additional notification is required at Application. However, re-notification is required by all Applicants who have submitted a change from pre-application to Application that reflects a total Unit increase of greater than 10 percent or a 5 percent increase in density (calculated as units per acre) as a result of a change in the size of the Development Site. In addition, should a change in elected official occur between the submission of a pre-application and the submission of an Application, Applicants are required to notify the newly elected (or appointed) official.

(1) Neighborhood Organization Notifications.

- (A) The Applicant must identify and notify all Neighborhood Organizations on record with the county or the state as of 30 days prior to the Full Application Delivery Date and whose boundaries include the proposed Development Site.
- (B) The Applicant must list, in the certification form provided in the Application, all Neighborhood Organizations on record with the county or state as of 30 days prior to the Full Application Delivery Date and whose boundaries include the proposed Development Site as of the submission of the Application.

- (2) **Notification Recipients.** No later than the date the Application is submitted, notification must be sent to all of the persons or entities identified in subparagraphs (A) -(H) of this paragraph. Developments located in an Extra Territorial Jurisdiction (ETJ) of a city are required to notify both city and county officials. The notifications may be sent by email, fax or mail with return receipt requested or similar tracking mechanism in the format required in the Application Notification Template provided in the Application, Evidence of notification is required in the form of a certification provided in the Application. The Applicant is encouraged to retain proof of delivery in the event it is requested by the Department. Evidence of proof of delivery is demonstrated by a signed receipt for mail or courier delivery and confirmation of receipt by recipient for fax and e-mail. Officials to be notified are those officials in office at the time the Application is submitted. Note that between the time of pre-application (if made) and full Application, such officials may change and the boundaries of their jurisdictions may change. By way of example and not by way of limitation, events such as redistricting may cause changes which will necessitate additional notifications at full Application. Meetings and discussions do not constitute notification. Only a timely and compliant written notification to the correct person constitutes notification.
 - (A) Neighborhood Organizations on record with the state or county as of 30 days prior to the Full Application Delivery Date whose boundaries include the Development Site;
 - (B) Superintendent of the school district in which the Development Site is located;
 - (C) Presiding officer of the board of trustees of the school district in which the Development Site is located;
 - (D) Mayor of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);
 - (E) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);
 - (F) Presiding officer of the Governing Body of the county in which the Development Site is located;
 - (G) All elected members of the Governing Body of the county in which the Development Site is located; and
 - (H) State Senator and State Representative of the districts whose boundaries include the Development Site.

(3) Contents of Notification.

- (A) The notification must include, at a minimum, all information described in clauses (i) (vi) of this subparagraph.
 - (i) the Applicant's name, address, individual contact name, and phone number;
 - (ii) the Development name, address, city and county;

Exhibit F

Application #16117 – Elected Officials and Public Notifications

CERTIFICATION OF NOTIFICATIONS (ALL PROGRAMS)

Pursuant to \$10.203 of the Uniform Multifamily Rules, evidence of notifications includes this sworn affidavit, and the Elected Officials and Neighborhood Organizations Forms. All Applicants, or persons with signing authority, must complete either Part 1 or Part 2 below:

Part 1. Notifications made at Pre-Application (Competitive HTC only)	:						
	I (We) certify that The pre-application included evidence of these notifications pursuant to §10.203 of the Uniform Multifamily Rules, the pre-application met all threshold requirements, and no additional notifications were required with this full application.						
Part 2. Notifications or Re-notifications made at Application							
	The pre-application for this full Application met all threshold requirements, but all required entities were re-notified as required by §10.203 of the Uniform Multifamily Rules. As applicable, all changes in the Application have been made on the Elected Officials and/or Neighborhood Organizations Form(s).						
Competitive HTC Applications and not older than three (3) mo	Competitive HTC Applications and not older than three (3) months prior to the date Parts 5 and 6 of the Application are submitted for Tax Exempt Bond Developments, and not older than three (3) months prior to the date the Application is						
x I (We) certify that, in addition to all of the required neighborhood organizations, the following entities were notified in accordance with §10.203 of the Multifamily Uniform Rules. The notifications were in the format provided in the Application Notification Template. All of the following entities were notified and are correctly listed on the Elected Officials Form and Neighborhood Organizations Form:							
 Presiding officer of the board of trustees of the sch Mayor of any municipality containing the Develop All elected members of the Governing Body of any 	 Superintendent of the school district containing the Development; Presiding officer of the board of trustees of the school district containing the Development; Mayor of any municipality containing the Development; 						
 Presiding officer of the Governing Body of the count All elected members of the Governing Body of the Governing Body of the Governing Body of the Governing the Develop State senator of the district containing the Develop State representative of the district containing the Develop 	county containing the Development; ment; and						
While not required to be submitted in this Application, I have requested by the Department at any time during the Application	e kept evidence of all notifications made and this evidence may be on review.						
Part 3. No Neighborhood Organizations exist (competitive HTC only):							
i (We) certify that no Neighborhood Organizations exist for §11.9(d)(4) of the QAP or for which notification is required.	x / (We) certify that no Neighborhood Organizations exist for which this Application would be eligible to receive points under						
By: Meller	Texas						
Signature of Applicant/Development Owner melissa adami	Notary Public, State of						
Dalids							
2/28/2016	County of						
Date	My Commission expires						
	* 1						
I, the undersigned, a Notary Public in and for said County and State, do	hereby certify that name is signed to the foregoing statement, and						

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

ASHLI TRUSCOTI
Notary Public, State of Texas
My Commission Expires
October 05, 2019

28 day of February . 2016

Notary Public Signature

Elected Officials

Elected officials were identified in the *Pre-Application*, and there have been no changes.

(If box above is checked, these forms may be left *BLANK*.)

Please identify all elected officials which represent the Development Site.

** US Representative	District			
State Senator	District	State Representative		District
Support Letter		Support Letter		
City Mayor		County Judge		
School Superintendent	District Name	Email		
Address	City		Zip	
Presiding officer of Board of	Trustees	Email		
Address	City		Zip	

^{**} While Applicants are not required to notify US Representatives, the Department is required to notify these elected officials. Therefore, Applicant must identify the appropriate US Representative of the district containing the Development.

Elected Officials (continued)		
	District/Precinct	Email or Phone

Elected Officials (Continued)		
	District/Precinct	Email or Phone

From: Sharon Gamble
To: "Melissa Adami"

Subject: 16117 - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Date: Monday, June 06, 2016 4:07:00 PM

Attachments: 16117.pdf
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 #16117, Indian Lake Apartment Homes. 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 Applicant notified Mayor Pro Tem Pamela Romer and City Council Member Janie Young.

Please review the attached. Provide evidence that Ms. Romer and Ms. Young were properly notified as required by §10.203 of the 2016 Uniform Multifamily Rules.

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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 June 13, 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 www.tdhca.state.tx.us

TOWN OF INDIAN LAKE

62 SOUTH AZTEC COVE DRIVE LOS FRESNOS, TX 78566 Phone (956) 233-4021 ~ Fax (956) 233-5140

February 26, 2016

To whom it may concern:

I am the Mayor of Indian Lake. I received the attached notice by certified delivery in January 2016.

I hereby confirm that each alderman of the Town of Indian Lake were provided and received copies of the notice upon receipt.

Your attention to this is appreciated.

Sineerely.

Sahara J. Collin Barbara Collum

Mayor

TX INDIAN LAKE APARTMENTS, L.P. 5230 LBJ FREEWAY SUITE 1200 DALLAS, TX 75240 214-608-7201 972-701-55585

January 7, 2016

Mayor Barbara Collum Town of Indian Lake

RE: Request for distribution of the attached notice to all elected officials of the Town of Indian Lake

Dear Barbara:

Please be sure and distribute this to all the alderman. We have sent notice intended to comply with the requirements for notification to elected officials under the rules.

Your help is appreciated.

Sincerely,

James R. (Bill) Fisher

Development Consultant

TX Indian Lakes Apartments, LP

January 7, 2016

Dear Elected Official,

TX Indian Lakes Apartments, LP is making an application for 9% Tax Credits, HOME Funds, and any other funding available through the Texas Department of Housing and Community Affairs for the <u>Indian Lake Apartments</u> to be located on +-15 acres of land at the northwest corner of Old Alice Road and Henderson road in Indian Lakes, Texas 78566 in Cameron County. This new construction luxury apartment community will be comprised of approximately 80 units of which 64 will be affordable housing for residents earning at or below 60% of area meeting family income.

With the help of housing tax credits, this site will fill the strong demand for quality affordable housing in Indian Lakes and Cameron County. With one, two, and three bedroom floor plans, a 3,000 square foot clubhouse, pool, fitness center, and business center, Indian Lake Apartments are the answer to our need for family oriented rental housing.

The participants in this project have developed over 5,000 residential living units around the country, specializing in high quality affordable properties. A location map of the development site is attached for your information.

There will be a public hearing to receive public comment on the proposed development. Information regarding the date, time, and location of that hearing will be disseminated at least 30 days prior to the hearing date on the Department's website (http://www.tdhca.state.tx.us/multifamily/communities.htm) for competitive HTC applications and Tax-Exempt Bond applications where the Department is the issuer. For Tax-Exempt Bond applications that utilize a local issuer interested individuals are encouraged to contact the local issuer for information regarding the public hearing.

Sincerely,

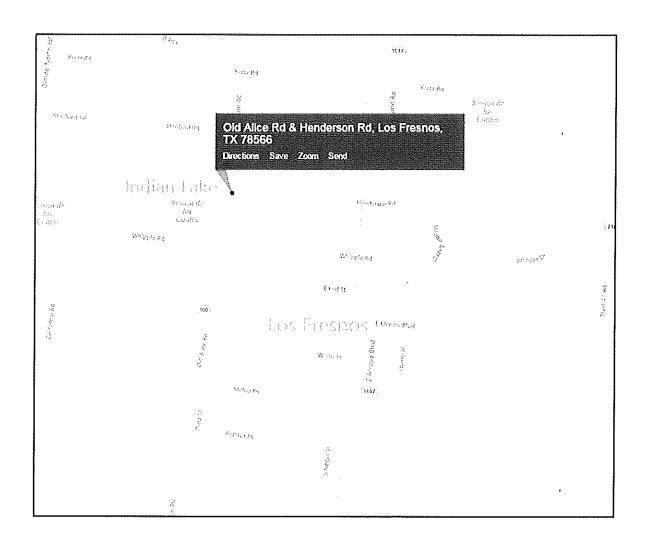
Melissa R. Adami

Representative of TX Indian Lake Apartments, LP

Madami@Rise-Residential.com

Melissa R. Adami

TX Indian Lakes Apartments, LP



Customer Service

USPS Mobile

Register / Sign In



USPS Tracking®



Customer Service > Have questions? We're here to help.



Available Actions

Get Easy Tracking Updates > Sign up for My USPS.

Tracking Number: 70151520000299425802

Updated Delivery Day: Monday, January 11, 2016

Product & Tracking Information

Postal Product:

Features:

Certified Mail¹¹⁰

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E ASSESSE

January 11, 2016 , 1:10 pm

Delivered

LOS FRESNOS, TX 78566

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January 11, 2016 , 7:21 am

Out for Delivery

SAN BENITO, TX 78586

January 11, 2016, 7:11 am

Sorting Complete

SAN BENITO, TX 78586

January 11, 2016, 6:56 am

Arrived at Unit

SAN BENITO, TX 78586

January 10, 2016, 10:45 pm

Departed USPS Facility

MCALLEN, TX 78501

January 9, 2016, 4:34 pm

Arrived at USPS Facility

MCALLEN, TX 78501

January 8, 2016 , 11:03 pm

Departed USPS Facility

NORTH TEXAS PROCESSING AND DISTRIBUTION CENTER

January 8, 2016 , 8:50 pm

Arrived at USPS Origin

NORTH TEXAS

PROCESSING AND DISTRIBUTION CENTER

January 8, 2016, 6:38 pm

Departed Post Office

DALLAS, TX 75287

January 8, 2016 , 2:54 pm

Acceptance

DALLAS, TX 75287

Track Another Package

Tracking (or receipt) number

Track It

Manage Incoming Packages

Track all your packages from a dashboard. No tracking numbers necessary.

Sign up for My USPS >



	U.S. Postal Service [™] CERTIFIED MAIL® RECEIPT
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[]	For delivery information, visit our website at www.usps.com®.
ι'n	OFFICIAL USE
9942	Certified Mail Fee S SV310),
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1520	Postage \$ Total Postage and
ru)	\$ Mayor of the City of Indian Lake
701	Barbara Collum Street and Apr. No. 62 South Aztec Cove Drive
	City, State, 21P44 Los Fresnos, TX 78566
Ì	PS Form 3800), A,

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. Article Addressed to: Mayor of the City of Indian Lake Barbara Collum 62 South Aztec Cove Drive	A. Signature X B. Received by (Printed Name) C. Date of Delive D. Is delivery address different from Item 17: Yes If YES, enter delivery address below:
Los Fresnos, TX 78566	3. Service Type L' Certified Mall ³ □ Priority Mail Express [™] □ Registered □ Return Receipt for Merchandis □ Insured Mail □ Collect on Delivery 4. Restricted Delivery? (Extra Fee) □ Yes
Article Number (Transfer from service label) 7015	1520 0002 9942 5802
PS Form 3811, July 2013 Domestic	c Return Receipt



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott GOVERNOR

J. Paul Oxer, *Chair* Juan S. Muñoz, PhD, *Vice Chair* Leslie Bingham-Escareño

T. Tolbert Chisum Tom H. Gann J.B. Goodwin

BOARD MEMBERS

June 21, 2016

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

Ms. Cynthia L. Bast Locke Lord, LLP 600 Congress, Suite 2200 Austin, TX 78701

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16117 INDIAN LAKE APARTMENT HOMES

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of the Third Party Request for Administrative Deficiency you submitted regarding the application referenced above. The request asked the Department to review whether the Application meets the requirements of §11.9(e)(3) of the 2016 Qualified Allocation Plan ("QAP") regarding Pre-Application Participation; particularly whether the Applicant failed to properly notify all required individuals, rendering the Application ineligible for points under this section of the rule. We reviewed your request and determined that a Notice of Administrative Deficiency should be issued to the Applicant.

In response to the Administrative Deficiency, the Applicant submitted a fully processed certified mail receipt and a response from the Mayor of the City of Indian Lake indicating that "each alderman of the Town of Indian Lake were provided and received copies of the notice upon receipt."

Based on this evidence, the Department has determined that the matter has been resolved and no further action is required by the Applicant. If you have questions or require further information, please contact me.

Sincerely,

Marni Holloway-

Multifamily Division Director

16118

The Standard at the Creek
Third Party Request for
Administrative 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. 11th 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						it is not					
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	\perp	\$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		0.10										
Other Annual Required Payment		-									L	
Other Annual Required Payment		ļ									_	
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	4	1.25	138	1.26	5	1.26		1,27	1.29	100	1,30
Other (Describe)										-1 7 13		
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.
- 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. 11th 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.



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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. 11th 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

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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

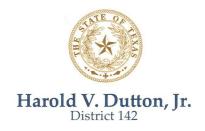
Multifamily Division Director



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

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

STATE of TEXAS HOUSE of REPRESENTATIVES



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

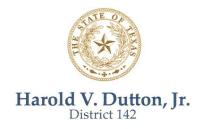
Re: Application No. 16118; The Standard at Fall Creek

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.

STATE of TEXAS HOUSE of REPRESENTATIVES



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

STATE of TEXAS HOUSE of REPRESENTATIVES

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: tim.irvine@tdhca.state.tx.us

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

Dear Mr. Irvine:

On May 2nd 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 2nd 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

STATE of TEXAS HOUSE of REPRESENTATNES



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



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T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

June 8, 2016

Writer's direct phone # 512/475-1676 Email: marni.holloway@tdhca.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 11th 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.²

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

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¹ 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.

² 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.³

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:

³ 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 2nd 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 2nd 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.⁴ 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

⁴ 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 2nd 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 2nd 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.

STATE of TEXAS HOUSE of REPRESENTATIVES



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.

Yermital Asker

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 (http://www.ridemetroapp.org/systemmap/). 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 (http://www.ridemetroapp.org/systemmap/). 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

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- 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 (http://www.ridemetroapp.org/systemmap/). 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 15th 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 th 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)	×	Millage (Tax) Rate	=	Annual	10 Years
\$10,000,000		3.39%		\$338,830	\$3,388,302

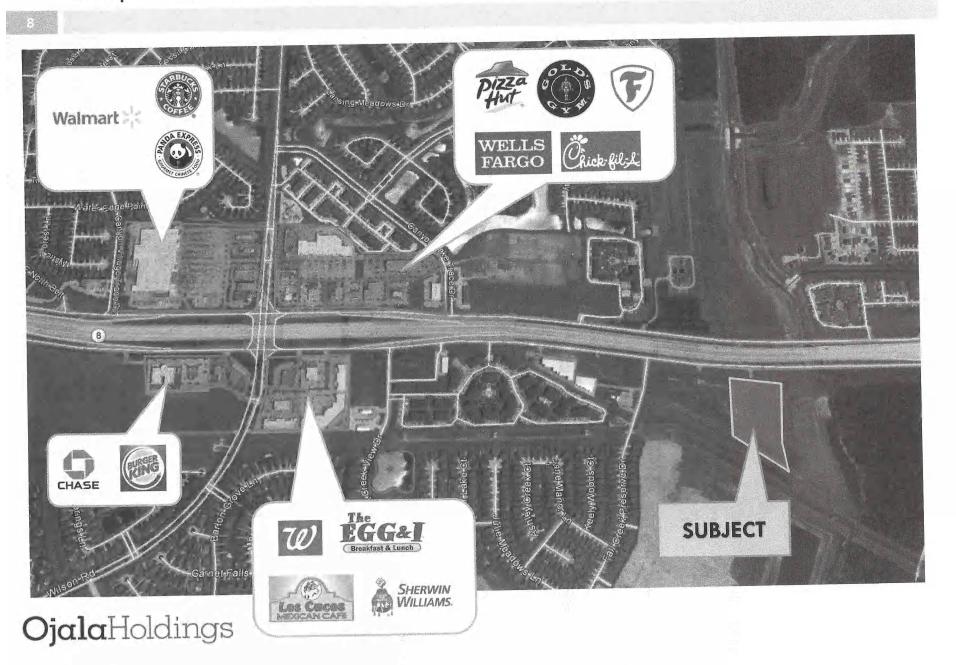
TAXING ENTITY DETAIL	DISTRICT	DEVELOPMENT VALUE	TAX RATE PER \$100	10 YEAR PAYMENT
HUMBLE ISD	18	10,000,000	1.52	1,520,000
	40	10,000,000	0.42	419,230
HARRIS COUNTY	41	10,000,000	0.03	27,330
HARRIS CO FLOOD CNTRL	42	10,000,000	0.01	13,420
PORT OF HOUSTON AUTHY	43	10,000,000		170,000
HARRIS CO HOSP DIST HARRIS CO EDUC DEPT	44	10,000,000	0.01	5,422 107,900
DONESTAR CYLLEGE SYS	45	~~1000000Q		925,000
HC MUD 49	349	10,000,000		100,000
HOEMERG SRV DIST 1	671	10,000,000		100,000
TIC EMILKO SKY DIST T	ſ	TOTAL	3.39	3,388,302

OjalaHoldings

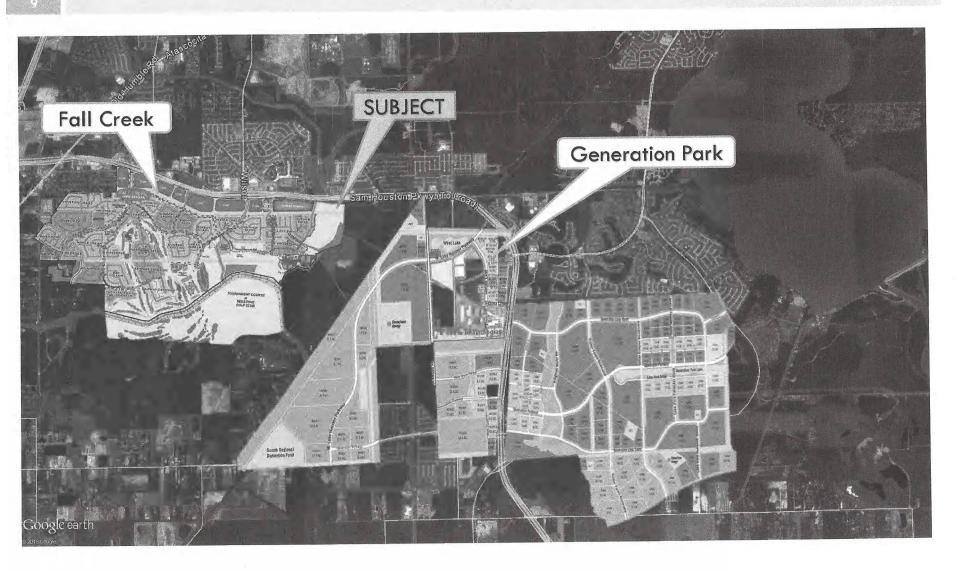
Presented to HCMUD 49 that the project brings \$3,820,825 to the City or MUD

¹ Source: http://quickfacts.census.gov/qfd/states/48/4863284.html

Map – Surrounding Uses



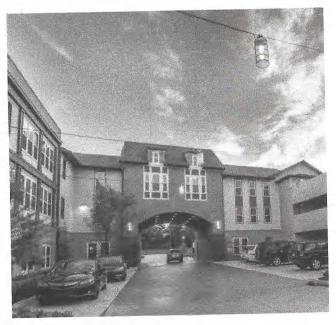
Map – Adjacent Developments



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

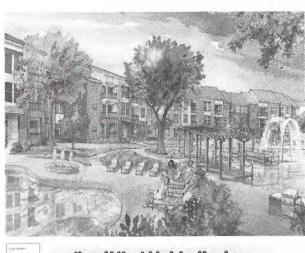
industry.

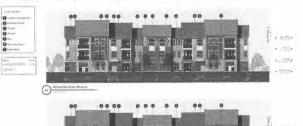
The development consists of a 264 unit apartments, offering a quiet, tree filled/lake view environment with rents priced an affordable alternative to much of the competitive set as well as nearby Houston

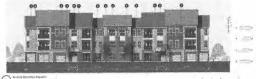
MSA from where many workers commute.

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

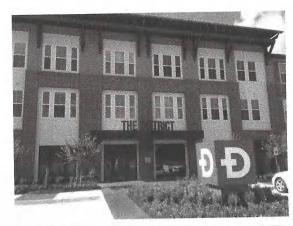
after effects of the 2008-2010 recession.

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				
	 State Representative Harold V. Dutton 				
	 Harris County Commissioner Jack Cagle 				
Amerimes.	■ After-hours learning / ■ Cyber café				
	daycare center Tropical oasis pool				
	 Executive business lounge with grilling area 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				
A 10	- bookstototototototototo				
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

C

OjalaHoldings

Conceptual Elevation NTS

12.2015 2015087 vm Coppright C | HP Study Met für Regulatory's promit or Construction: John Schräde²-Regulater of A kniesce of States of Totace, Registration No. of Azes







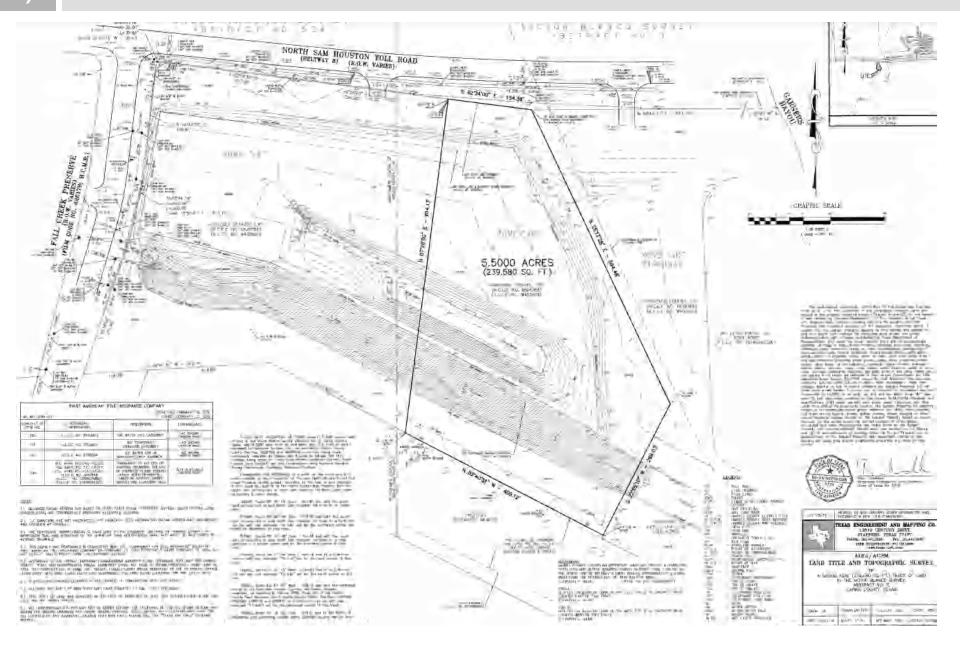


Clubhouse Building Plan

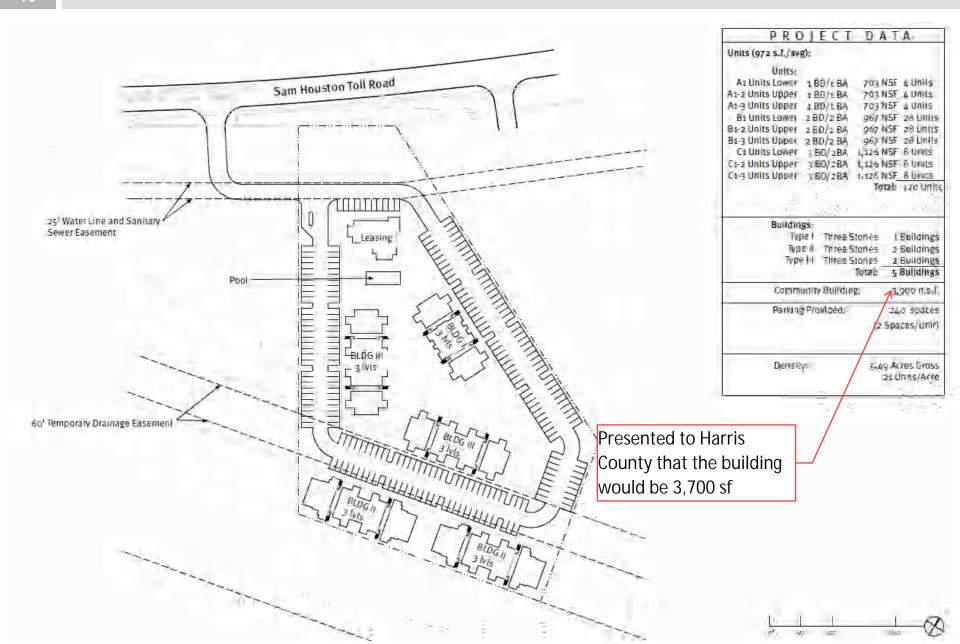




II. Site Plan



Preliminary Site Plan



Unit Mix Tabulation

PRELIMINARY PROJ Site Acreage Project Density	5.49	Gross Acre									
Project Efficiency	21.00	OING FEI A	ure								
JNIT DATA:											
Jnit		A1	A1-2	A1-3	Bt	B1-2	B1-3	CI	C1-2	C1-3	Unit
Description		1B/1B	18/18	18/1B	28/28	2B/2B	2B/2B	3B/2B	3B/2B	38/26	Totals/A
Total Number	-	4	4	4	25	28	28	8	- 5	¥.	
Vet Square Footage	- 77	759	703	701	967	967	967	1/126	1.(26)	1 (26	- 5
Gross Square Foolage	e	773	773	772	1,065	1,063	1.063	1,238	1,238	1.233	- 1
ercent of Total		39%	3.3%	1.3%	23.3%	23,3%	23.3%	6.7%	6.7%	E 7%	
ercentage of Mix			10%			70%			20%		- 10
Unit Net Totals		2,812	2812	2812	27/176	27 D7E	27,076	9,003	9,006	9 008	146,6
Init Gross Totals		3,092	3 092	1,092	29,764	29,751	29,704	9,904	9 904	9 964	128,
BUILDING DATA:		A1	A2	.A3	Bi	B2	B3	C1	C2	C3	Total U
Bldg. Type											
	1'st floor	4	0	Ü	4	n	10	0	U	0	
Т.	2'nd floor	D	4	U	0	4	ń	D	0	0	
	3rd floor	0	Ó	2	0	ď	4	Þ	0	ū	
	1'st floor	Ŭ	-0-	U	č	ŭ-	- II-	8	Ü	р	
11	2'nd floor	D	D	П	(Q	8	n	D.	-8	0	
	3rd floor	D	D	U	Ö	ď	-8	0	D	Ð	
	1'st floor	D	D	0	16	ď	Ď	0	D	ū	
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TOTAL		4	-4	4	28	28	28	ā	8	8	120
TOTAL UNITS PER		-		9	60		20	- 6		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.	€.	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			5 881,591
Box Culvert	\$1000/ft	525 ft.	\$ 525,000.00			5 57.5,000
Storm line	\$63/ft	945 ft	\$ 59,535.00			5 59.589
Storm inlets	\$2,500/inlet	11 inlets	\$ 27,500.00			5 71,900
Pavement & Sidewalk	\$45/sq. yd.	9250 sq. yd.	\$ 415,250.00			5 116,230
Sanitary line	\$50/ft	700 ft	5 35,000.00			9 95,000
Waterline	\$45/ft	1,020 ft	\$ 45,900.00			3 15,800
Water Miscellaneous (meter, BFP, etc.)	5 129,000.00		\$ 129,000.00			5 129/000
Total						\$ 1,598,380

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			\$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	Total Cost	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 th 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	CHOPSING TAXABOTA	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
	*******	******	\$\$\$\$\$\\{\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)







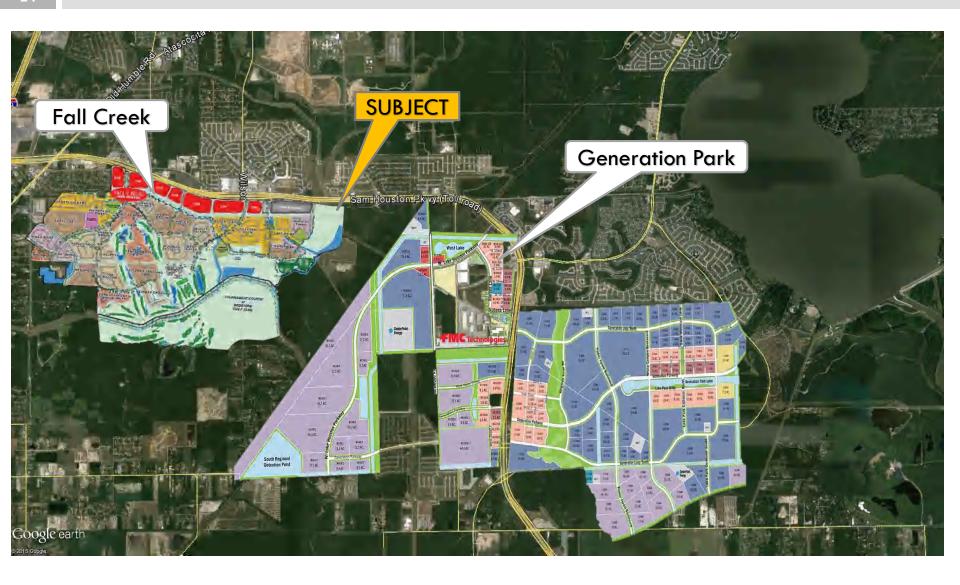
OjalaHoldings

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 www.tdhca.state.tx.us

June 23, 2016

VIA EMAIL DELIVERY:

Sharon D. Gamble
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
221 East 11th 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.¹ 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

¹ 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.² 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.³ 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.

³ 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

² 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.

⁴ 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 §

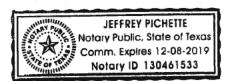
BEFORE ME, the undersigned authority, on this day personally appeared Matthew Vruggink, known to me and being by me duly sworn, according to law, upon his oath, stated the following:

- 1. 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 http://abc13.com/news/fall-creek-community-at-odds-over-proposed-low-income-housing/1270006/.

- 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.
_Alequel E. Mall
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 Clay Likover (President at Ojala 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.

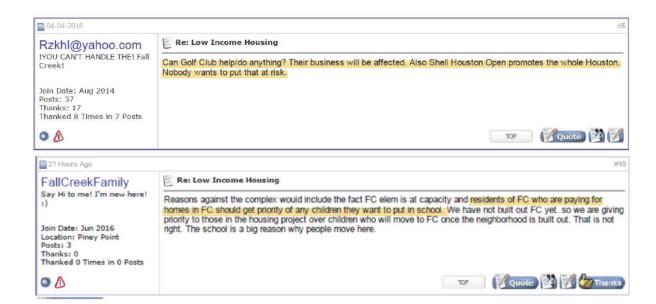
Residents have started writing to local and state elected officials to put a stop to this complex. But they understand the need won t go away.

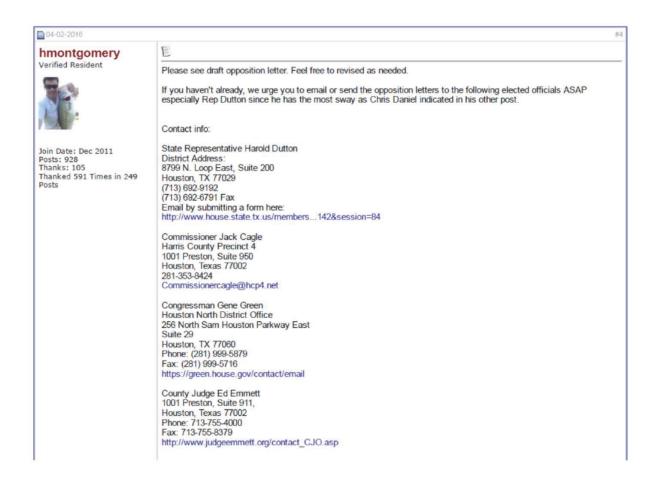




The developer says there s no timetable on construction at this point.

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.

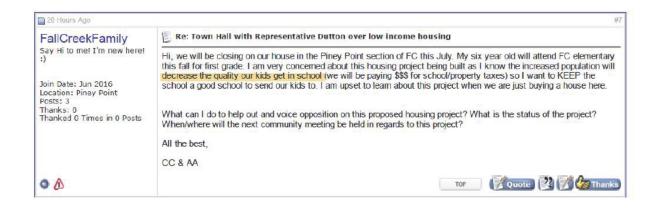


Exhibit G Fall Creek Forum Posts

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 3rd.

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: roger.brown@humble.k12.tx.us 281-641-8768

Best regards, Peggy

Peggy L. Young

Executive Assistant
Superintendent of Schools
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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

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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Leslie Bingham-Escareño
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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.¹



¹ 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.²

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

² 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

16057 Silverleaf at Mason Third Party Request for Administrative Deficiency



May 30, 2016

VIA Email to: Brent.Stewart@tdhca.state.tx.us

Mr. Brent Stewart
Director of Real Estate Analysis
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

Re: #16057 Silverleaf at Mason 9% HTC Administrative Deficiency Request

Dear Mr. Stewart,

Below is our request for an Administrative Deficiency for#16057 Silverleaf at Mason.

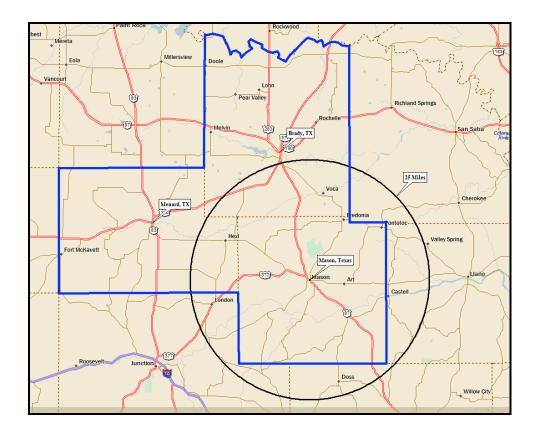
Administrative Deficiency

The Primary Market Area (PMA) used in the market study for Silverleaf at Mason (#16057) misrepresents the demand draw for the proposed project, and as such the market study should be disqualified and the application terminated.

Basis

The proposed project is located in Mason, Mason County, Texas. The market study uses a PMA that includes Mason, McCullough and Menard counties. More than 50% of the stated demand for the project comes from adjoining McCullough County. Without the additional demand from both McCullough and Menard counties, TDHCA staff would have no choice but to determine that the project was infeasible based on a capture rate that exceeded 10%.

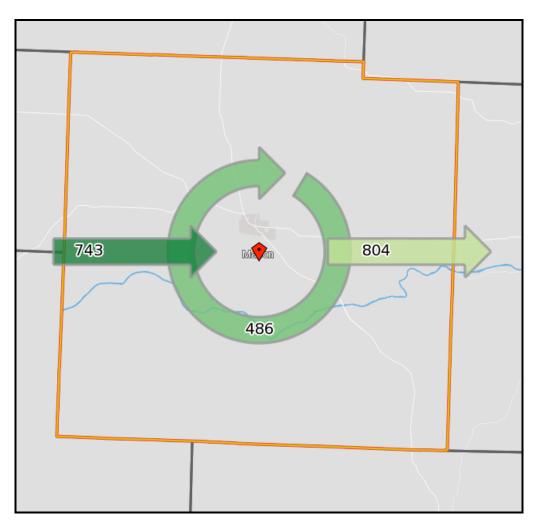
The PMA includes 2,900 square miles, with the farthest point of the PMA being 57 miles from the town of Mason. By comparison, the farthest point of the Mason County boundary is 24 miles. The town of Brady (McCullough County) is located approximately 28 miles to the north and has significantly more services including a regional hospital. Potential senior residents of Silverleaf at Mason will have to travel to either Brady (28 miles), Llano (33 miles) or Junction, Texas (37 miles) to receive hospital care.



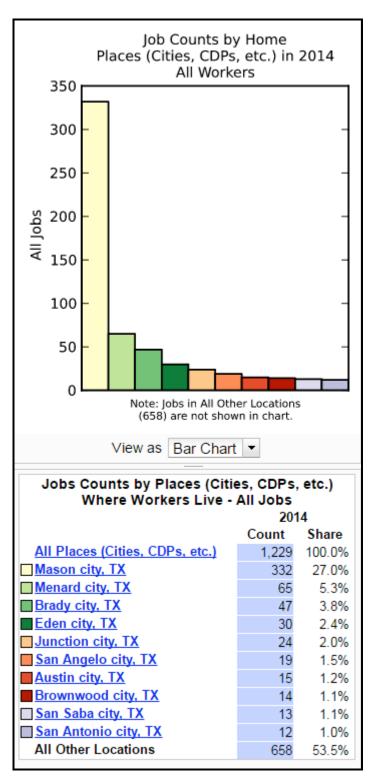
Brady also has significantly more choices in local businesses to serve area residents. As such, it is more likely that a potential senior resident would move from Mason to Brady, rather than expect the same senior to move from Brady to Mason.

As it relates to commuters between, Mason, McCullough and Menard Counties, the most current data from the U.S. Census Bureau (2014) recognizes that of 1,229 workers employed in Mason County, 486 work and reside in the county, 743 commute to Mason County, and 804 live in Mason County but work elsewhere. Data also shows that 65 workers (5.3%) from Menard (Menard County) and 47 workers (3.8%) from Brady (McCullough County) commute to Mason County for employment (see charts below)ⁱ.

Mason County, Texas Worker Inflow/Outflow

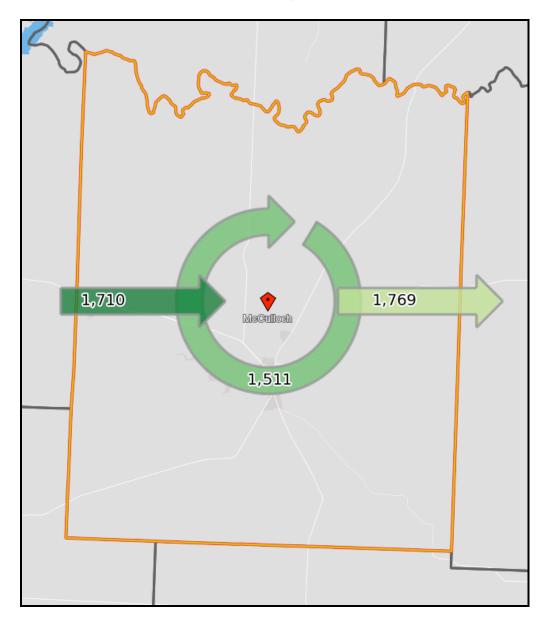


Mason County, Texas Job Counts by Where Workers Live

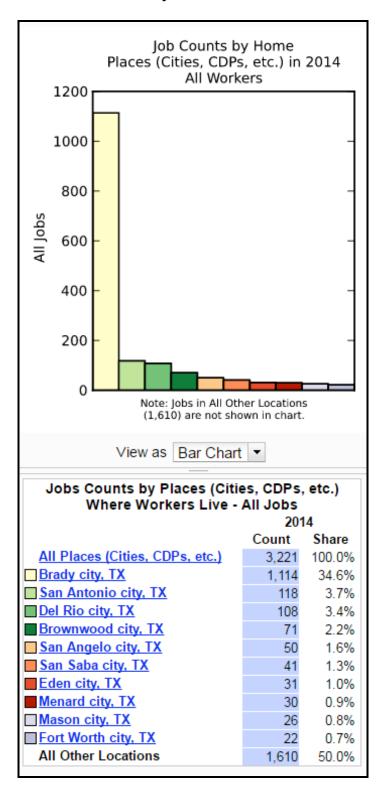


By comparison, the 2015 population of Mason County (4,009) is less than half that of McCulloch County (8,168). Menard County has a population of 2,133. The same census data show 3,221 workers employed in McCulloch County; 1,511 work and reside in the county, 1,710 commute to McCulloch County, and 1,769 live in McCulloch County but work elsewhere. Data also shows that 26 workers (0.8%) from Mason (Mason County) and 30 workers (0.9%) from Menard (Menard County) commute to McCulloch County for employment (see charts below). Based on this information, it is easy to see that Brady, Texas, is the economic hub of the three counties the market analyst used as his "Primary Market Area".

McCullough County, Texas Worker Inflow/Outflow



McCullough County, Texas Job Counts by Where Workers Live



Capture Rate Analysis

Based on the demographics by county, one can see that Mason County would only support 35 senior units. This demand represents both senior renters and home owners that would be income qualified to live at Silverleaf at Mason. Based on demand from Mason County alone, there is insufficient demand for TDHCA to underwrite the 44 units proposed by Silverleaf at Mason.

County County Seat (population center) Distance	Mason Mason O miles	McCullough Brady 28 miles	Menard Menard 38 miles
Total Households by County	1,813	3,345	993
Senior Households by County	1,161	1,882	661
Potential Demand by County - Renters	96	125	88
Potential Demand by County - Home Owners	256	556	222
Gross Demand	352	681	310
Gross Demand (%)	26.2%	50.7%	23.1%
Subjects Affordable Units	44		
Unstabilized Units	0		
Relevant Supply	44		
Relevant Supply / Gross Demand = GROSS CAPTURE RATE	12.5%		
CAPTURE RATE THRESHOLD	10.0%		

In conclusion, it is not reasonable to expect senior residents to move 28 miles from Brady (population 7,545) to Mason, Texas (population 2,072). The data herein provided clearly shows Brady (McCullough County) to be the economic hub of these three counties. But for the additional points awarded for High Opportunity, the more plausible location for the project would have been Brady. At the same time, Silverleaf at Mason should not be allowed to capture demand from other counties, but should rather have sized the project appropriately for the demand of the area. And because it is dependent on this demand from surrounding counties, TDHCA should the disqualify the market study and terminate the application for tax credits.

Please advise if any further action is required on our part.

Thank you,

Jeffrey S. Spicer

State Street Housing Development, L.P.

cc: Kelly Garrett

Mark Mayfield

i www.Onthemap.com



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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June 27, 2016

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

Mr. Jeffrey S. Spicer State Street Housing Development, L.P. 7801 Jack Finney Blvd., #101 Greenville, Texas 75402

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: TDHCA #16057 SILVERLEAF AT MASON

Dear Mr. Spicer:

The Texas Department of Housing and Community Affairs ("the Department") is in receipt of your Third Party Request for Administrative Deficiency regarding the application referenced above.

Pursuant to §11.10, Third Party Request for Administrative Deficiency, states: "Requestors must provide sufficient credible evidence that, <u>if confirmed</u>, would substantiate staff issuing an administrative deficiency request to the Applicant. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered."

Your correspondence puts forth that the Primary Market Area for the subject Application "...misrepresents the demand draw for the proposed project, and as such the market study should be disqualified and the application terminated." Along with the request, you have provided market information which you believe shows that the Primary Market Area ("PMA") as determined by the Applicant's Market Analyst is not appropriate

You have not pointed to a misapplication of or violation of a rule that would trigger an Administrative Deficiency. The Market Analysis review will be performed by the Real Estate Analysis Division (REA) upon the formal underwriting of the Application. Administrative deficiencies related to the Market Analysis may be generated by REA during that process. The underwriting of this transaction is not complete at this time.

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

Sincerely,

Marni Holloway

Multifamily Division Director



16161 Elysium Park Third Party Request for Administrative Deficiency

April 27, 2016

Ms. Nicole Fisher
Housing Specialist
Texas Department of Housing and Community Affairs

Submitted via e-mail to nicole.fisher@tdhca.state.tx.us

RE: Elysium Park project, TDHCA Application #16161

Dear Ms. Fisher,

Pursuant to Rule 11.10 of the Texas Administrative Code, the Northwood Neighborhood Association is requesting that Texas Department of Housing and Community Affairs staff review new information relating to the 2016 Housing Tax Credit application for the proposed Elysium Park project, located at 3300 – 3400 Oak Creek Drive, Austin, TX 78727.

The application filed by Elysium Park, LLC and Saigebrook Development, LLC includes a letter of support from Skillpoint Alliance, an Austin based non-profit. The letter is included in Part 7, Tab 47 "Input from Community Organizations" and is included as Exhibit 1 with this correspondence. Skillpoint Alliance entered into a memorandum of understanding with Elysium Park, LLC to provide services for the residents. A copy of the MOU is included as Exhibit 2.

Skillpoint Alliance's participation in this project creates a conflict of interest for two reasons:

- 1. The partnership will create a direct financial benefit for Skillpoint Alliance.
- 2. Megan Lasch, the primary project leader, has a financial interest in the proposed project as well. Ms. Lasch is the current Chair elect for the Board of Directors for Skillpoint Alliance. A current Board Roster is included as Exhibit 3. Skillpoint's support of the project creates a direct financial benefit for Ms. Lasch.

Based upon this information, it is our assertion that the letter of support from Skillpoint Alliance should be disqualified from review for the application and any associated points should be deducted from the total score.

Please contact us with any questions.

Sincerely,

Matt Synatschk

Northwood Neighborhood Association

mcsprez@austin.rr.com

Exhibit 1 – Skillpoint Alliance Letter of Support

Exhibit 2 – Skillpoint Alliance Memorandum of Understanding

Exhibit 3 – Skillpoint Alliance Board of Directors

2016 HTC Full Application

Part 7 Tab 47

Input from Community
Organizations



February 19, 2016

TDHCA

Tim Irvine

221 East 11th Street

Austin, TX 78701

RE: Elysium Park

Application # 16161

Dear Mr. Irvine:

I am writing this letter to voice my support for TDHCA Tax Credit Application for the proposed affordable housing development, "Elysium Park," to be located at 3300 Oak Creek Drive, in Austin, Texas, Travis County.

Skillpoint Alliance is a tax exempt civic organization that serves the community in which the development site is located with a primary purpose of the overall betterment of the community. We believe that there is a need for housing that is affordable to citizens of modest means and this development will help meet that need.

Sincerely,

Margo Dover

Executive Director



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WHO WE ARE



Skillpoint Alliance is a 501(c)3 social enterprise that builds partnerships among industry, education and the community, leading to college and career success for Central Texans, while meeting employers' needs for a qualified workforce.

Mission

We facilitate and sustain industry-led work force development solutions, while addressing the need to develop local talent and provide educational opportunities leading to college and career success for our citizens.

Vision

Every Texan is given an opportunity for growth and advancement by ensuring education and training is accessible, setting them on a path of excellence in life.

Our Programs

Skillpoint is always expanding its program offerings based on workforce needs in the region. Since the first graduating class in 1994, Skillpoint's rapid training program, Gateway, has expanded to offer six certifications across the construction, manufacturing and healthcare industries. In 1998, we began Empower, a computer proficiency program designed to help prepare adults to compete in the technology-driven workplace. After a shortage of engineers emerged in 2001, Skillpoint facilitated solutions for increasing access to STEM education. Now, we offer project-based STEM Innovation Camps for children ages 3-14, and provide underrepresented high school students the opportunity for handson experience in a STEM career through Velocity.

Since 1994, Skillpoint has impacted more than 135,000 Texans.





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Proud to Present: Our 2014-15 Annual Report

We are proud to unveil our 2014-15 Annual Report! If you're looking for details about our program success over the last year,

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Gateway Graduate Highlight: Tom Saunders

Tom Saunders was taught the value of education and responsibility at an early age. Growing up in Erie, Pennsylvania, Tom

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Celebrate the Holidays with Skillpoint!

At Skillpoint, we envision a community where every person is given the opportunity for success through access to education

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MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) by and between Skillpoint Alliance (SKILLPOINT) a 501(c)3 social enterprise located at 201 E. 2rd Street, Suite B, Austin TX 78701 and E(yslum Park, LLC (ELYSIUM) located at 421 West 3rd Street, Suite 1504, Austin TX 78701, outlines the responsibilities and expectation for both parties in support of achieving the following mutually beneficial outcomes:

Elysium will provide onsite computer laboratory/ training space include:

- One STEM Education and Adult Workforce Training Lab spaces each able to seat up to 20 people.
- Wireless internet capabilities

Skillpoint will provide:

- o Trained instructors and staff to facilitate all the programs.
- Equipment and supplies as needed to facilitate the trainings.

Skillpoint will provide the following in Year 1

Empower: Computer Proficiency

Skillpoint will increase the number of computer proficient adults by prioritizing recruitment and marketing to Elysium Park residents for Skillpoint's (Empower) 10-week Proficiency Series. The digital inclusion of low income Austin residents will mean an increase of employment opportunities and community engagement. More than computer literacy, Skillpoint's Empower program will develop proficiency skills with computers. We will offer day and/or evening classes two times a year; serving approximately 40 people.

STEM Summer Camps

Skillpoint will provide a minimum of two week long summer camps for area resident children aged 5-12 years old. Each camp will have a primary science, technology, engineering, and math focus. Available camps are Nano Tech, Future City, Solar Racers, Mine Craft, Robotics, and First Lego League. Recruitment for camps will prioritize Elysium Park residents, but also allow youth from surrounding areas. Summer camps will partner with area funders to provide scholarships for the summer camps provided. Skillpoint will offer two STEM Camps over the course of the summer; serving as many as 40 youth.

Skillpoint will provide an evaluation at the end of Year 1 in order to determine viability of the programs delivered and the possibility of adding additional trainings for Elysium Park residents starting in Year 2.

Skillpoint and Elysium agree to work collaboratively relationships with partners and stakeholders for the Austin project that has worked successfully for 20 years in Central Texas to make Skillpoint a respected and requested leader for STEM Education programs and Adult Workforce Training.

Skillpoint and Elysium agree to work collaboratively on all funding requirements to make this project a success.

Lisa Stephens

1-12-16 Dale

Authorized Agent, Elysium Park, LLC

|8|20||₀



BOARD OF DIRECTORS



Brent Schneeman, Chairman
Director of Engineering and Data Science
HomeAway, Inc.

Brent Schneeman joined HomeAway in 2010 and focuses on strengthening the data science muscle in the Technology Office. As Director of Data Science, he serves as an internal consultant on a diverse setof analytic projects such as multivariate testing, customer website behavior and applying naturallanguage processing techniques to unstructured data. Very

much a storyteller, Brent has presented at South By Southwest and has given many technological talks. Prior to joining HomeAway, Brent worked at PayPal, Visa, and other small and largecompanies. He has one degree in Mathematics and another in Electrical Engineering. Brent lives in Austin Texas with his wife and three kids and spends most of his free time mowing the lawn.





Our Featured Sponsor:



Megan Lasch, Chair-Elect Project Manager/Developer Pinnacle Housing Group

Originally from Grove, Oklahoma, Megan has ten years of experience in the project management/consulting industry. Having received her Bachelor's degree in Biosystems Engineering from Oklahoma State University, Megan began her career as an engineering consultant where she helped design a variety of public and private development projects. Currently, Megan works for Pinnacle Housing and serves as the development coordinator for all Texas projects, managing all aspects of the project life-cycle from site identification, TDHCA application

process, managing third party consultants through the design process to project completion in all Pinnacle's Texas communities. In addition to serving on the Board of Directors for Skillpoint Alliance, Megan is also a member of the Real Estate Council of Austin.

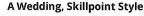


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Applications Open for NTEN's 2nd Di Inclusion Fellowship!

Great news! Skillpoint has been selected for second year as a City Host for The Nonprofit Technology Network's (NTEN)

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When Ashley signed up for Skillpoint's Gatew program, she expected to learn valuable skill have the opportunity to

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Bringing It All Together: Celebrate National Welding Month!

We are in the midst of National Welding Mor and if you're someone who does not already it circled on your calendar,

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Steven Garrett

Attorney

Attorney
Boulette Golden & Marin, LLP

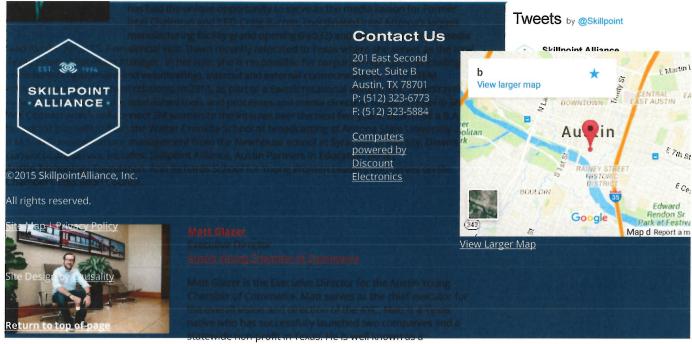
Steven Garrett is an attorney at the firm Boulette Golden & Marin where he represents clients in the field of employment law. Steven holds a degree in History from the University of Texas at Austin and a J.D. from the University of Virginia School of Law. He also serves as the current Vice President of the Austin Bar Association's Labor and Employment Section and is an Associate member of the Robert W. Calvert Inn of Court. He's not a native of Austin,

but he got here pretty darn quick. Steven's excited about charting a new way to work in the 21st Century, and believes that Skillpoint's model is the best way to help people succeed.



Dawn Jones
External Affairs Manager
Intel Corporation

Dawn began her career at Intel in 1997 as an Administrative Assistant. Since that time, Dawn has held several roles in the Corporate Affairs department which include Assistant Media Coordinator, Media Manager/Community Manager (AZ, CO, HD, UT, TX) and Southwest Region Media Manager. Dawn



communication and public relations expert winning the

Austin American Statesman's social media award in 2009 and the Austin Chronicle's "Best of..." award. In late 2010, Glazer became the inaugural Executive Director of Progress Texas and the Texas Research Institute. He helped launch the organization and when he left, it had nearly 50,000 members within 90% of the counties of Texas and a staff of seven. In addition to launching companies and a non-profit, Glazer has worked for local and national groups including — the American Heart Association, Weird Homes Tour, Texas Campaign to Prevent Teen Pregnancy, KTBC Fox 7 Austin, and dozens of political candidates and causes across the country. Glazer joined the Austin Young Chamber of Commerce, first as a member in 2012, and then as the Executive Director in 2014. Matt is responsible for the general growth and branding of the organization as well as the management of everyday operations. He oversees all AYC events, committees and staff. He is a runner, cinephile, and loves all things muppet.



Mitch Holt Integrated Marketing Manager Zenoss

Mitch Holt currently serves as the Integrated Marketing Manager at Zenoss, a leading unified IT monitoring software company in Austin, and is on the Board of Directors for Skillpoint Alliance, a 501(c)3 that offers skills and career training for the unemployed, as well as a robust suite of educational programs for elementary, middle and high schoolaged children across the state. He spends his time competing with one of his

sports teams (soccer and softball), visiting local breweries, and volunteering with the Texas Great Pyrenees Rescue and the FreeStore of Austin. @mitchholt linkedin.com/in/mitchholt



Shivani Kathuria
Business and Technical Leadership
IBM

Shivani Kathuria brings more than 25 years of experience in management, consulting and development to Skillpoint Alliance's Board of Directors. She currently works at IBM as a Business and Technical Leadership partner, where she is responsible for more than 200 key executive positions worldwide. Prior to joining IBM, Kathuria led the Human Resources department at Webify, and ran her own HR consulting practice in Austin where she led workshops on cultural intelligence and

diversity for Fortune 500 companies, government agencies and non-profit organizations. She holds two Master's degrees in Educational Psychology and Human Resource Management.



Brian Haulotte
Vice President
JE Dunn Construction

Brian was born in Ann Arbor, Michigan and relocated with his family in 1983 to Austin, attending middle and high school. He is a third generation general contractor, beginning his construction career by working as a laborer and carpenter during his high school and college breaks. After graduating with a B.S. in Construction Science from Texas A&M University, Brian began his professional career in Dallas working as an Estimator and then progressing as a Field Engineer, Project Manager, and Preconstruction Manager. He is an employee owner of JE

Dunn Construction and leads the Austin Preconstruction and Estimating team. Brian is actively involved as an Elder of Hope Presbyterian Church in Austin and enjoys volunteering his time as an 8th Grade Math Classroom Coach each week at Martin Middle School. His wife Shannon is the Assistant Principal of the Primary School at Meridian School in Round Rock. Brian and Shannon have three children and live in Cedar Park.



Chris Nieto
President
Qobe Group

Skillpoint is pleased to announce another recent appointee to its Board of Directors – Chris Nieto. He is currently president of <u>Qobe Group</u>, a company he formed to advance human capital within organizations, companies, and communities.

Aside from Qobe, Chris is active in his community by serving on numerous community Advisory Councils, including the <u>ACC Hays</u>

<u>Campus</u> Advisory Board and Destination Imagination Capital Region. He also a National Board Member for the <u>Arthritis Foundation</u> and the Board Chair for the Arthritis Foundation South Central Regional, the Chair of the JA Task Team for the Arthritis Foundation, and continues to volunteer with the <u>National Hispanic Institute</u> (NHI). Outside of work, you can find Chris with his wife and two daughters running around Town Lake or playing soccer at Zilker Park.



<u>Derrick Bonyuet-Lee</u>
Finance Controller, Commercial Business Organization
<u>Dell, Inc</u>

Derrick is a CPA with over 20 years of work experience in the finance field. He is currently working for Dell, Inc. as a finance controller in their Commercial Business Organization (CBO). Prior to Dell, he was in public accounting with Price Waterhouse. He holds an MBA in Finance from the University of Houston and a Master in International Business from Thunderbird School of Global Management. He also holds the Certified Financial PlannerTM designation and is a member of the American Institute of CPA's and Texas Society of CPA's. Derrick is also involved in academia. He has been teaching finance courses at Concordia University since 2013. He

also enjoys supporting our community and has been involved with the Volunteer Income Tax Assistance (VITA) program for many years. Other causes he supports include culture and children with special needs. During his free time, Derrick spends his time running at Town Lake, enjoying the many festivals available in Austin, and traveling around the world.



Lawrence Lyman
Director, Research and Planning
Travis Country HHS/ Veterans Services

Lawrence Lyman has over 15 years experience in public service, primarily in local government with Travis County and the City of Austin. He currently serves as the Director of Research and Planning, overseeing planning staff, and managing workforce development and education for the Travis County Health and Human Services & Veterans Service Department. Prior to this assignment, his work has

encompassed a wide range of human services issues including early childhood, youth development, basic needs, and public safety. Work in these areas has encompassed all phases of intermediary work: assessment, planning, implementation, and evaluation. Lawrence earned a Bachelor of Arts from Rice University and a Master of Public Affairs from the L.B.J. School at the University of Texas at Austin.



Alessandro Piovaccari
Senior Vice President and CTO
Silicon Labs

As Silicon Labs' Chief Technology Officer, Dr. Alessandro Piovaccari is responsible for the company's product and technology research and development. Alessandro joined Silicon Labs in 2003 to design the company's single-chip FM radio products, which have surpassed 1.2 billion device shipments. He co-architected Silicon Labs' single-chip TV tuner IC, used by nine of the world's top ten TV makers, with more than 50 percent market share. Previously, Alessandro worked as a research scientist at Tanner Research, joining the company in 1997 to develop CMOS image sensors. From 1998 to 2003, he was a member of the design services team at Cadence Design Systems, focusing on CMOS RFICs and high-speed

SerDes IP development. Alessandro holds 38 patents (32 currently issued) and is a Senior Member of IEEE and a Full Member of AES. Alessandro received Laurea and PhD degrees in electronic engineering and computer science from the University of Bologna in Italy and a Post-Master's Certificate with Honors in electrical engineering from Johns Hopkins University.

Laurie M. Rich
Deputy Director, Special Advisor
Office of the Governor

From: Sharon Gamble

To: <u>"mcsprez@austin.rr.com"</u>

Subject: RE: TDHCA Application #16161 - Elysium Park Apartments

Date: Thursday, April 28, 2016 7:36:00 AM

Good morning, Mr. Synatschk:

Thank you for your request regarding Application #16161, Elysium Park. Per §11.10 of the QAP, unrelated persons or entities may bring new, material information about an Application to staff's attention. 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.

Regarding this request, staff has determined the Application in question to not be a priority Application, and the matter will not receive further review at this time. Should the review status of the Application change, staff will review the request and contact the Applicant as applicable per the rules. You will be notified if this is the case.

Regards,

Sharon D. Gamble MSW, PMP Competitive Housing Tax Credit Program Administrator Texas Department of Housing and Community Affairs (512) 936-7834

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

About TDHCA

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

From: Matt Synatschk [mailto:mcsprez@austin.rr.com]

Sent: Wednesday, April 27, 2016 9:16 AM

To: Nicole Fisher

Subject: TDHCA Application #16161 - Elysium Park Apartments

Good morning Nicole,

Pursuant to Rule 11.10 of the Texas Administrative Code, the Northwood Neighborhood Association is requesting that the Texas Department of Housing and Community Affairs staff review new information relating to the 2016 Housing Tax Credit application for the proposed Elysium Park project, located at 3300 – 3400 Oak Creek Dr, Austin, TX 78727.

Our full request and documentation is attached	ed for your review. Plea	ase contact me with any
questions.		

Thanks,

Matt

Matt Synatschk Northwood Neighborhood Association 512-470-2529 mcsprez@austin.rr.com

16164 Saralita Senior Village Third Party Request for Administrative Deficiency



600 Congress, Suite 2200 Austin, TX 78701 Telephone: 512-305-4700 Fax: 512-305-4800 www.lockelord.com

Cynthia L. Bast Direct Telephone: 512-305-4707 Direct Fax: 512-391-4707 cbast@lockelord.com

June 1, 2016

Via Electronic Mail and Hand Delivery

Ms. Marni Holloway Ms. Sharon Gamble Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701

Re: Third Party Request for Administrative Deficiency

TDHCA No. 16164

Ladies:

We represent the application for Rolling Hills, TDHCA No. 16001, in Region 9 Rural. Pursuant to Section 11.10 of the QAP, please consider this Third Party Request for Administrative Deficiency treatment with regard to Saralita Senior Village, TDHCA No. 16164 (the "**Application**").

Our client has a concern about the proposed purchase price for the land in the Application. Oryx Capital, LLC is purchasing approximately 20 acres out of a larger 25.62 acre tract. This acreage has been listed for a total purchase price of \$1,000,000, as evidenced by the listing attached as Exhibit A. The 20 acres has been split into two purchase contracts – one for 9 acres upon which Saralita Senior Village will be developed and one for 11 acres. These two purchase contracts appear in the Application. Only the 9 acre tract has been assigned to the Applicant. The purchase price to be paid by the Applicant for the 9 acres, which purchase price will be borne by the affordable housing development, is \$800,000. Meanwhile, the purchase price to be paid for the 11 acres is \$50,000. This allocation of the purchase price seems disproportional and inconsistent with TDHCA's underwriting rules. In addition, we note that the remaining 5.62 acres, which are not part of this sale, are being re-zoned for a designation that includes small office, and the land use category is being changed from low density residential to mixed use, as evidenced by the City of Kerrville Planning & Zoning Commission agenda attached as Exhibit **B**. This change may also impact the overall value of these tracts. We respectfully request that TDHCA investigate this matter further to ensure that the purchase price being paid through tax credit subsidy is appropriate.

Ms. Marni Holloway Ms. Sharon Gamble June 1, 2016 Page 2

In addition, we have two questions with regard to matters in the Application:

Tab 35 – Financial Support. The letter from Regions Bank, as lender, references an operating pro forma attached as Exhibit A, but there is no Exhibit A attached. Is Regions Bank using the same 15 Year Rental Housing Operating Pro Forma that is included in the Application, or is Regions Bank using its own pro forma?

Tab 44 – Evidence of Experience Must be Provided Behind this Tab. Since the Application has requested 16 Direct Loan units (as evidenced by the Direct Loan application log), should the Davis Bacon Labor Standards section of this form have been completed?

A \$500 fee accompanies this request. Thank you for your time and consideration.

Very truly yours, Cynthia X Bast

Cynthia L. Bast

cc: MacDonald Companies

Exhibit A – Gottesman Residential Real Estate Listing for Acreage Exhibit B – City of Kerrville Planning & Zoning Commission Agenda

Exhibit A

Gottesman Residential Real Estate Listing for Acreage

Select Language



1335 MEDINA HIGHWAY EAST, KERRVILLE

Offered for: \$1,000,000

Status: Pending

Area: SURROUNDING AREAS,

OTHER

Postal Code: 78028 Property Type: Lot

Lot Size: 20 acres for sale, 5 acres being

kept

View: Hill Country

School District: Kerrville ISD

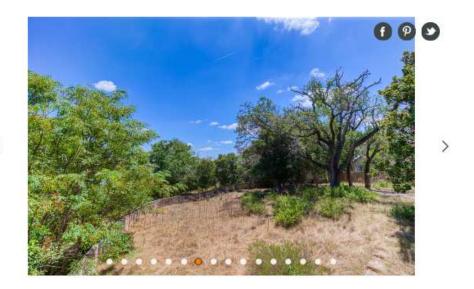
> PROPERTY WEBSITE

> MAP & DIRECTIONS

> EMAIL THIS LISTING



Tammy Koen
Broker Associate
tammy@gottesmanresidential.com
512.451.2422 x 115
512.917.3439



PROPERTY DETAILS

Sprawling hill country views accompany this breathtaking gated property. Situated at the top of the hill overlooking the town of Kerrville, this property has endless opportunities. Featuring approximately 20 acres atop the gorgeous hills of the Texas hill country, this property has an established villa and barn that could be kept or wiped clean for one private estate or multiple lots. Whether someone is looking to make this an estate or develop the land for multiple home sites, the pristine landscape and magnificent views are one of a kind.

Exhibit B

City of Kerrville Planning & Zoning Commission Agenda



CITY OF KERRVILLE PLANNING & ZONING COMMISSION AGENDA REGULAR MEETING, THURSDAY, MAY 5, 2016 4:30 P.M. CITY HALL COUNCIL CHAMBERS 701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

1. VISITORS/CITIZENS FORUM:

Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. The number of speakers will be limited to the first ten speakers and each speaker is limited to three minutes. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

2. CONSENT AGENDA:

All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.

2A. Approval of the minutes from the April 21, 2016 meeting.

3. PUBLIC HEARINGS AND ACTION

- 3A. Public Hearing & Action, Comprehensive Plan Amendment Public hearing, consideration, and action concerning a proposed Comprehensive Plan Amendment to amend the future land use category from "Low-Density Residential" to "Mixed-Use" for an approximate 5.61 acres tract. Being all of a certain tract or parcel of land out of Wm. C. Francis Survey No. 146, in the City of Kerrville, Kerr County, Texas; part of the land conveyed as 25.62 acres to Villa Saralita. Ltd. from One Kerrville, L.P. by a Warranty Deed with Vendor's Lien executed the 14th day of July, 2006 and recorded in Volume 1545 at Page 265 of the Official Public Records of Kerr County, Texas. Located on the east side of Medina Highway (Highway 16), between Southway Drive South and Fairway drive East. 1335 Medina Highway (Highway 16). (File No. 2016-020).
- 3B. Public Hearing, Consideration, and action concerning a requested zoning change from (R-3) Multifamily Residential District to (S-34) South Side 34-District for an approximate 5.61 acres tract. Being all of a certain tract or parcel of land out of Wm. C. Francis Survey No. 146, in the City of Kerrville, Kerr County, Texas; part of the land conveyed as 25.62 acres to Villa Saralita. Ltd. from One Kerrville, L.P. by a Warranty Deed with Vendor's Lien executed the 14th day of July, 2006 and recorded in Volume 1545 at Page 265 of the Official Public Records of Kerr County, Texas. Located on the east side of Medina Highway (Highway 16), between Southway Drive South and Fairway drive East. 1335 Medina Highway (Highway 16). (File No. 2016-019).

4. CONSIDERATION AND ACTION

4A. Consideration and Action, Preliminary Plat – Consideration and action concerning a proposed preliminary plat for Bandera Highway Mega Storage Phase 2 a subdivision establishing Lot 1, 4.54 acres, being in and a part of original survey no. 146, WM. C. Francis, Abstract No. 137; being one (1) lot in one (1) block; no new streets or alleys in the City of Kerrville, Kerr County, Texas. Located on the northeast side of Bandera Hwy (Highway 173), between Highway 16 and Chapman Drive East. 1225 Bandera Hwy. (File No. 2016-021).

5. STAFF REPORTS

6. ADJOURNMENT

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time: May 2, 2016 at 3:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Deputy City Secretary, City of Kerrville, Texas

From: Andrew Sinnott

To: <u>Leslie Holleman</u>; <u>blake@rueinvestments.com</u>

Cc: Sharon Gamble

Subject: RE: 16164 - 9% HTC/Direct Loan Application Deficiency Notice - TIME SENSITIVE

Date: Monday, June 13, 2016 2:44:56 PM

I apologize – the date the deficiency response is due is actually **Monday, June 20th, at 5:00pm** Austin local time.

Andrew Sinnott

Multifamily Loan Programs Administrator 512.475.0538

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

From: Andrew Sinnott

Sent: Monday, June 13, 2016 2:31 PM

To: 'Leslie Holleman'; 'blake@rueinvestments.com'

Cc: Sharon Gamble

Subject: 16164 - 9% HTC/Direct Loan Application Deficiency Notice - TIME SENSITIVE

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.

1. Tab 44 – Davis Bacon Labor Standards: No box was checked in this section of the tab despite 16 HOME units being indicated on the Rent Schedule. Please correct this section of the tab.

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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 Monday June 20, 2016.

Please respond to this email as confirmation of receipt.**

Andrew Sinnott

Multifamily Loan Programs Administrator Texas Department of Housing and Community Affairs 221 E. 11th Street | Austin, TX 78701

Office: 512.475.0538 Fax: 512.475.0764

About TDHCA

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

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

Evidence of Experience Must be Provided Behind this Tab

Pursuant to §10.204(6) of the Uniform Multifamily Rules, a Principal of the Developer, Development Owner, or General Partner must establish that they have experience in the development of 150 units or more.

Evidence of experience behind	this	tab	includes	s:
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X	An Experience certificate issued by the Department under the 2014 or 2015 Uniform Multifamily Rules.	
	An Application for experience and supporting documentation in accordance with §10.204(6)(A)(i) through (ix)	
	Evidence from the Department that the application for experience was received and is being processed	
	by the Department.	M

DUNS Number AND CCR Documentation (HOME Applications Only)

The Office of Management and Budget (OMB) requires grant applicants to provide a Dunn and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for Federal grants, including HOME funds, on or after October 1, 2003. The DUNS number will supplement other identifiers required by statute or regulation, such as tax identification numbers. Applicants must also register with the System for Award Management (SAM) database. See the website at https://www.sam.gov/portal/public/SAM/. To the Dunn & Bradstreet website а DUNS number applicants can to apply go https://iupdate.dnb.com/iUpdate/companylookup.htm

DUNS Number Registrant Name

Evidence of SAM.gov registration is attached behind this tab.

Davis Bacon Labor Standards (Direct Loan Applications Only)

24 CFR §92.354, Davis-Bacon Act (40 U.S.C. §§276(a)-276(a)(5), the Davis-Bacon Related Acts, the Contract Work Hours and Safety Standards Act, and the Copeland (Anti-Kickback) Act (40 U.S.C. §276(c)) apply to developments being assisted with HOME funds if (Select all that apply):

Twelve (12) or more HOME assisted units will be rehabilitated or constructed under one construction contract.
 Community Development Block Grant (CDBG) funds are being used to support the Development, which requires a lower number of units (8) be used as a threshold.
 The construction includes commercial/community space and the cost for such space will exceed \$2,000.
 Mortgage insurance under §223(f) of the National Housing Act is obtained on the Development, and the construction costs exceed \$6,500 per dwelling unit.

Affirmative Marketing Plan (Direct Loan Applications Only)

Complete and submit HUD's Affirmative Marketing Plan form (Form 935.2 or successors). This form may be found on the Department's website at http://www.tdhca.state.tx.us/home-division/mf-home/index.htm

The Affirmative Marketing Plan must comply with the Affirmative Marketing requirements in the Compliance Rules.

HUD approval is not necessary unless the property receives project-based Section 8 assistance.



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 22, 2016

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

Ms. Cynthia L. Bast Locke Lord, LLP 600 Congress, Suite 2200 Austin, TX 78701

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16164 SARALITA SENIOR VILLAGE

Dear Ms. Bast:

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 the proposed acquisition price for the land included the Application to ensure that the purchase price being paid through tax credit subsidy is appropriate. In addition, the request asked the Department to review whether the letter of financial support from Regions Bank included the required operating pro forma, and whether the Application, which has requested Direct Loan funds, is required to conform to the requirements of the Davis Bacon Labor Standards.

Regarding the proposed acquisition price, review of this issue will be performed by the Real Estate Analysis Division ("REA") upon the formal underwriting of the Application. Administrative deficiencies related to this issue may be generated by REA during that process. Staff determined that the issue should not be the subject of an Administrative Deficiency as part of the Multifamily Finance Division review process.

Regarding the presence in the Application of an operating pro forma from the lender, staff reviewed the Application and discovered that the pro forma, signed by the same representative from Regions Bank who signed the financing letter, is located on the page preceding the letter from the lender. No further action is required regarding this issue.

Staff determined that a Notice of Administrative Deficiency should be issued to the Applicant regarding whether the Applicant is required to indicate in the Application that the Development will conform to the requirements of the Davis Bacon Labor Standards. In its response to the notice, the Applicant provided a revised form indicating that Davis Bacon Labor Standards will apply to the Development. Staff reviewed the response provided and determined that the matter was resolved. Based on these findings, the Department has determined that no further action is required.

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

Multifamily Division Director



Havens of Hutto Third Party Request for Administrative Deficiency

THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY

to Application #16169, Havens at Hutto Rural Region 7

Submitted by DDC Merritt Starlight, Ltd.

Contact: Colby Denison, 1904 W. 35th Street, Austin, TX 78703

Ph: 512/732-1226 Fax: 512/732-1276

Colby@denisondevelopment.com

2nd Contact: Stacy Swisher Ph: 432/267-2206

Stacyswisher4@gmail.com

1904 W. 35th Street Austin, TX 78703 512/732.1226 Page 1

Ms. Sharon Gamble

Texas Department of Housing and Community Affairs

221 East 11th Street

Austin, Texas 78701-2401

Re: Third Party Request for Administrative Deficiency for the Havens at Hutto, TDHCA No.16169 (the "Challenged Application")

Dear Sharon,

On behalf of DDC Merritt Starlight, Ltd. (to be formed), and in accordance with Section 11.10 of the Qualified Application Plan ("QAP"), please accept this letter as our formal third party request for administrative deficiency to the Challenged Application. The basis of this third party request for administration deficiency relates to the following requirements of the QAP in which the Challenged Application has failed to meet:

1. The Challenged Application does not qualify for the 1 point related to section 11(c)(8)(A) Proximity to Important Services - full service grocery store. Pursuant to Section 11.9(c)(8)(A) an Application may qualify to receive up to one (1) point for being located within a three- (3)mile radius (for Developments in a Rural Area) of a full service grocery story. The definition of a full service grocery store can be found in an excerpt of the 2015 Competitive HTC Application Cycle Frequently Asked Questions attached as Exhibit A.

A full service grocery store is a store in which a typical household may buy the preponderance of its typical food and household items needs, including a variety of options for fresh meats, produce, dairy, baked goods, frozen foods, and some household cleaning and paper goods. A typical convenience store would not qualify.

The Challenged Application lists the following as full service grocery stores that are located within 3 miles of its development.

Hutto Westphalia Market 409 W. Front Street Hutto, TX 78632

HEB Grocery SH 130 and Gattis School Road Hutto, TX 78660

Neither the Hutto Westphalia Market nor the HEB Grocery store meets the TDHCA definition of a grocery store for the following reasons:

Hutto Westphalia Market

A. The Hutto Westphalia Meat Market is a butcher shop located in a strip center that offers a variety of meats and minimal household groceries comparable to a convenience store. A picture of the front is attached in **Exhibit B**. Groceries that are offered are limited in supply so that on any given day should 6-12 customers purchase the same item many items offered for sale would be depleted. The Hutto Westphalia Market is **NOT** a store in which a typical household may buy the preponderance of its typical food and household items needs. It is a butcher shop that offers limited food items. For example the following typical grocery and household items are not available:

a. Personal items

 The Hutto Westphalia Market does not offer typical personal items such as toothpaste, mouth wash, shaving cream, female hygiene products. In fact no personal items are offered for sale.

b. Baby goods

 The Hutto Westphalia Market does not offer typical baby goods items such as baby food, diapers, or formula. In fact no baby goods are offered for sale.

c. Medical items

i. The Hutto Westphalia Market does not offer typical medical items such as Neosporin, a variety of pain relief medicines, cold and flu medicine, cough medicine. In fact there are no typical household medical items offered for sale.

d. Household cleaning supplies

i. The Hutto Westphalia Market does not offer typical household cleaning supplies such as brooms, mops, dust pans, pine sol, comet, dishwashing powder, laundry detergent or many other household cleaning items commonly found at a full service grocery store.

e. Fresh Produce

 The Hutto Westphalia Market does not offer typical fresh produce such as oranges, avocados, blueberries, grapefruits, raspberries, watermelons, bananas, grapes, corn on the cob, green beans, peaches, and many other fruits and vegetables commonly found at full service grocery stores.

f. Baked goods

 The Hutto Westphalia Market does not offer typical baked goods such as pastries, muffins, bagels or croissants and many other baked goods commonly found at full service grocery stores.

g. Bottled or canned drinks

 The Hutto Westphalia Market does not offer typical bottled or canned drinks such as 12 packs of sparkling water, sprite, pepsi, root beer, lemonade or other bottled or canned drinks commonly found at a full service grocery store.

h. Pet Supplies

 The Hutto Westphalia Market does not offer typical pet supplies such as dog food, cat food, kitty litter, flea and tick treatment or other pet supplies commonly found at full service grocery stores.

i. Frozen Food Items

 The Hutto Westphalia Market does not offer typical frozen food items such as frozen pizza, corn dogs, pot pies or many other frozen food items commonly found full service grocery stores.

j. Refrigerated Food Items

i. The Hutto Westphalia Market does not offer typical refrigerated food items such as a wide variety of cheeses, yogurts, puddings, or a variety of baking items.

k. Breakfast foods

 The Hutto Westphalia Market does not offer typical breakfast food items such as waffles, yogurt, chocolate milk or other breakfast foods commonly found at full service grocery stores.

B. The Hutto Westphalia Market is approximately 1900 square feet in size compared to a typical full service grocery store in Williamson County which is 60,000 – 70,000 square feet in size. See attached **Exhibit C**

HEB Grocery Store

- A. Section 10.101(a)(2) of the Uniform Multifamily Rules requires mandatory community assets to exist or be under active construction post pad (e.g. framing the structure) by the date the Application is submitted. In this case the Application Submittal date is March 1, 2016. The HEB located at the corner of SH130 and Gattis School Road ("HEB") identified in the Challenged Application is a proposed HEB and not an existing HEB serving the public. Construction on this HEB commenced in the Spring of 2016. Please find the following evidence as to the status of the HEB as of March 1, 2016
 - Picture of the HEB construction site located at 5000 Gattis School Rd at the corner of SH 130 as of March 8, 2016 attached as Exhibit D.
 - ii. A letter from the HEB Director of Public Affairs, Leslie Lockett
 Sweet, which indicates HEB expects to pour the slab for its SH
 130 and Gattis School Road store next week attached as Exhibit
 E.
- B. The evidence provided clearly demonstrates the proposed HEB was not under active construction post slab by the date of the Application, March 1, 2016 as required by Section 10.101(a)(2) of the Uniform Multifamily Rules and therefore cannot be claimed as a full service grocery store by the Challenged Application.

We request that the Department look closely at Challenged Application's claim that a full service grocery store is located within three miles of the Challenged Application's development and make a determination that the Challenged Application does not qualify for one point awarded for being located within three miles of a full service grocery store.

If there are any questions about this submission, feel free to contact me.

Sincerely,

Stacy Swisher, Authorized Representative

Exhibit A: 2015 Competitive HTC Application Cycle Frequently Asked Questions – Grocery Store Definition

Exhibit B: Picture of the front of the Westphalia Meat Market located in a strip center Exhibit C: Spreadsheet on Williamson County grocery stores and supporting information. Exhibit D: Picture of HEB construction site and location of HEB buildings as of March 8, 2016 Exhibit E: HEB Construction Update on approximate date slab is scheduled to be poured

EXHIBIT A 2015 Competitive HTC Application Cycle Frequently Asked Questions – Grocery Store Definition



Posted: 1/22/2015 Updated: 2/2/2015 2/19/2015 3/17/2015

2015 Competitive HTC Application Cycle Frequently Asked Questions (FAQs)

Pursuant to §11.1(b) of the Qualified Allocation Plan (QAP), Department staff may, from time to time, make available for use by Applicants information and informal guidance in the form of reports, frequently asked questions, and responses to specific questions. The Department encourages communication with staff in order to clarify any issues that may not be fully addressed in the QAP or be unclear when applied to specific facts. However, while these resources are offered to help Applicants prepare and submit accurate information, Applicants should also appreciate that this type of guidance is limited by its nature and that staff will apply the rules of the QAP to each specific situation as it is presented in the submitted Application. Moreover, after the time that an issue is initially presented and guidance is provided, additional information may be identified and/or the issue itself may continue to develop based upon additional research and guidance. Thus, until confirmed through final action of the Board, staff guidance must be considered merely as an aid and an Applicant continues to assume full responsibility for any actions Applicant takes regarding an Application. In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application. These rules may need to be applied to facts and circumstances not contemplated at the time of their creation and adoption. When and if such situations arise the Board will use a reasonableness standard in evaluating and addressing Applications for Housing Tax Credits.

Following is a list of questions that the Department has received with respect to the 2015 Uniform Multifamily Rules and QAP and how various provisions of the rules will be applied to Applications submitted and reviewed by the Department during the 2015 competitive cycle. Each of the questions was received via email or phone over the past several weeks and at the application workshops held in early December. Each time an update is made the most recently updated date will be added to the box at the top right of this page. The FAQ is an opportunity to provide all Applicants and the public the same information that was relayed to the individuals who asked the questions. There are other questions which have been posed and addressed, but it was staff's assessment that they did not raise questions or issues with broad application.

Questions and answers are in the same order that their related sections appear in the rules. If questions and answers are added after the initial posting, the revision dates will appear at the top of this page and will be included next to each of the added questions. The Department may not send out a new listserv each time an update is made unless the update is extensive. Staff encourages interested individuals to check back periodically. At the January 15, 2015 board meeting, staff will present to the all questions and answers included in this FAQ for acceptance. However, staff will continue to supplement this FAQ; questions and answers with dates subsequent to any Board action will not have been reviewed by the board.

2015 Competitive Application Cycle FAQ

- **Q:** If a Development Site is located within 1.5 linear miles of a child care center that has a child care program that serves only toddlers and pre-kindergarten children (and not infants), will the Application qualify for points under §11.9(c)(4)(B)(iv)?
- **A:** Yes. The center only needs to serve at least one of the three groups in order to qualify for points.
- **Q:** If a Development Site is located within 1.5 linear miles of a child care center that has a child care program that serves toddlers, pre-kindergarten, and school-age children, can the Application qualify for points under BOTH §11.9(c)(4)(B)(ii) and (iv)?
- **A:** Yes. While one center can qualify for points under both provisions, staff is aware that there are many centers that are <u>licensed</u> to serve school-age children that do not in fact <u>serve</u> them. The Department will require evidence that school-age children are actually served by the center in addition to the center maintaining the required license. "School-age children" is defined by the Department of Family and Protective Services as a child who is five years or older and who will attend school away from the center in August or September of that year. Typically, staff would expect centers qualifying for these points to serve children 5-12 years old.
- **Q:** If a Development Site is located within 1.5 linear miles of a child care center that 1) has a child care program that currently serves toddlers and pre-kindergarten, 2) is *licensed* to serve schoolage children but does not serve them, and 3) is proposing to serve school-age children in the near future, can the Application qualify for points under BOTH §11.9(c)(4)(B)(ii) and (iv)?
- **A:** No. Staff will review the facts as they exist on February 27, 2015 in determining general eligibility as well as eligibility for points.
- **Q:** If a Development Site is located within 1.5 linear miles of a child care <u>home</u> which is licensed to serve (and actually does serve) infants, toddlers and pre-kindergarten, can the Application qualify for points under §11.9(c)(4)(B)(iv)?
- **A:** No. Only proximity to child care <u>centers</u> will qualify an application for points. Applicants should refer to the Department of Family and Protective Services website for the distinctions between child care centers and homes.
- **Q:** What qualifies as a full service grocery store? A health related facility? A senior center?
- A: A full service grocery store is a store in which a typical household may buy the preponderance of its typical food and household items needs, including a variety of options for fresh meats, produce, dairy, baked goods, frozen foods, and some household cleaning and paper goods. A typical convenience store would not qualify.

A health related facility should have licensed health professionals providing direct care medical services (*e.g.* hospital, urgent care facility, dental clinic, general practitioner medical offices, etc.). A pharmacy, retail/wholesale medical devices business, gym with professional trainers, or salon with massage or other health/beauty services would not qualify.

A senior center is a facility (not a seniors club without its own meeting space) where the primary purpose is to provide services to seniors on a regular basis, at least three times per week. The facility should have regular staff, whether paid or volunteer, and should not be a general activity center with some events and/or services for seniors (such as a YMCA). A church or other non-secular institution or club that hosts occasional events for seniors would not qualify.

DDC Merritt Starlight, Ltd.

EXHIBIT B

Picture of the front of the Westphalia Meat Market located in a strip center

1904 W. 35th Street Austin, TX 78703 512/732.1226 Page 8



DDC Merritt Starlight, Ltd.

EXHIBIT C

Spreadsheet on Williamson County grocery stores and supporting information.

1904 W. 35th Street Austin, TX 78703 512/732.1226 Page 9

		Full Service Grocer	y Stores	vs Wesph	alia Market	
					Appraisal District	Appraisal District
	<u>Name</u>	Store Location	Size (SF)	<u>County</u>	Improvement Type	Improvement Class
1	HEB	651 N US Hwy 183, Leander, Tx	148,184	Williamson	Grocery Store	MG- Grocery Store
2	HEB	1101 S I H 35 Georgetown , Tx	67,654	Williamson	Grocery Store	MG- Grocery Store
3	HEB	3750 Gattis School Rd, Round Rock, Tx	62,106	Williamson	Grocery Store	MG- Grocery Store
4	Randalls	2051 Gattis School Rd, Round Rock , Tx	59,354	Williamson	Grocery Store	MG- Grocery Store
5	Randalls	1400 Cypress Creek Rd., Cedar Park, Tx	64,810	Williamson	Grocery Store	MG- Grocery Store
	Wesphalia Market	409 W Front Street, Hutto, TX	1900*	Williamson	Strip Center	MS- Strip Center





Property R448044	Owne H E I		/ 183, LEANDER, TX 786		ssessed Value 801,734
2016 GEN	VERAL	INFORMATION		2016 VALUE INFORMATION	ON
Prop Sta	erty	Active		Improvement Homesite Value	\$0
Property T	Гуре	C3		Improvement Non-Homesite Value	\$18,342,140
Descrip	egal	S10872 <mark>- HEB LE</mark> ANDER BLK A LT 1 RESUB (1, ACRES 45.6876, [TU Pcts]	REPLAT), BLOCK A, Lot	Total Improvement Market Value	\$18,342,140
Neighborh	lood	L50MN -Neigh Shopping Ctrs. Leander/Ced	dar Park		
Acco	ount	R-17-W326-300A-0001-0002		Land Homesite Value	\$0
Rela Proper	ated rties		8, P462853, P462855, P462857, P462858, P462860, 2, P463047, P463049, P463050, P463051, P463052, Land Non-Homes		\$5,459,594
		P463053, P463111, P473967, P477022, R53 P481071, P481241, P482167, P482691, P48 P484329		Land Agricultural Market Value	\$0
Map Num	nber	4-2838,4-3638		Total Land Market Value	\$5,459,594
2016 OW	NER II	NFORMATION		Total Market Value	¢22 001 724
Owner	Name	H E BUTT GROCERY CO			\$23,801,734
Ow	ner ID	O320110		Agricultural Use	\$0
Evem	ptions			Total Appraised Value	\$23,801,734
				Homestead Cap Loss	-\$0
	ercent ership	100%		Total Assessed Value	\$23,801,734
Mailing Ad	ddress	ATTN: PROPERTY TAX OFFICE PO BOX 83 78283-3999	9999 SAN ANTONIO, TX		

2016 ENTITIES & EXEMPTIONS

TAXING ENTITY	EXEMPTIONS	EXEMPTIONS AMOUNT		TAXABLE VALUE	TAX RATE PER 100	TAX CEILING
CAD- Williamson CAD			\$0	\$23,801,734	0	0
CLE- City of Leander			\$0	\$23,801,734	0.63292	0
GWI- Williamson CO			\$0	\$23,801,734	0.441529	0
🗗 J01- Aus Comm Coll			\$0	\$23,801,734	0.1005	0
RFM- Wmsn CO FM/RD			\$0	\$23,801,734	0.04	0
SLE- Leander ISD			\$0	\$23,801,734	1.51187	0
T05- TIRZ - Leander			\$0	\$23,747,138	0	0
© W09- Upper Brshy Cr WC&ID # 1A			\$0	\$23,801,734	0.02	0
TOTALS	770000000000000000000000000000000000000				2.746819	



16 IMPRO	OVEMENTS It #1 State Code		Homesite	Ţ	otal Main Area	Market \	
provemen	F1 - Real, Commercial		No	1	49,822 Sq. Ft	\$17,883	,256
RECORD	TYPE	YEAR BUILT	SQ. FT		VALUE		ADD'L INFO
	Main Area Class MG (MG *Grocery Store)	2006 Bedroo Baths (Full, ½		148,184	\$16,3 Flooring Foundation		
Eff. Yea	ar built	Heat and			Int. Finish	SR	
Adjustn Roc	nent % 96% of Style FL	Firepla	200		Ext. Finish	TC	
2	Greenhouse	2006		6,095	\$3	36,620	∀ Details
3	Open Porch	2006		2,192	9	60,531	▶ Details
4	Asphalt	2006		385,000	\$7	39,200	∀ Details
5	Concrete	2006		15,000	5	57,600	¥ Details
6	Main Area	2006		770	5	68,199	≽ Details
7	Main Area	2006		868		76,878	∀ Details
8	Greenhouse	2006		8,449		\$93,326	≽ Detail
9	Open Porch	2006		2,273		\$82,853	¥ Detail
mproveme	ent #2 State Code F1 - Real, Commercial		Homesite No		Total Main Area 49,122 Sq. Ft	Market \$3,900	
RECORD	TYPE	YEAR BUILT	SQ. FT		VALUE		ADD'L INFO
1	Main Area	2006	A committee environment (see a representation of the second	15,900	\$1,2	62,638	
Adjust	Class MN (MN *Neighborhood Retail Center) ear Built 2006 tment % 96% oof Style FL	Bedro Baths (Full, ¹ Heat an Firepl	½, ¾) - d AC CHCA		Floorin Foundatio Int. Finis Ext. Finis	n SLB (h SR	Slab)
2	Main Area	2006		14,022	\$1	,113,504	≽ Deta
3	Main Area	2006		19,200	\$1	,524,695	≽ Deta
mproveme	ent #3 State Code F1 - Real, Commercial		Homesite No	e	Total Main Area 252 Sq. Ft	Marke \$194,	t Value 856
RECORD	ТҮРЕ	YEAR BUILT	SQ. FT		VALUE		ADD'L INFO
1	Main Area	2006		252		\$42,755	≽ Deta
2	Canopy	2006		3,072		\$78,181	¥ Deta
3	Asphalt	2006		18,000		\$30,240	¥ Deta
4	Concrete	2006	the condition of the co	13,000		\$43,680	≯ Deta
Improvem	nent #4 State Code F1 - Real, Commercial		Homesit No	te	Total Main Area 920 Sq. Ft	Marki \$107 ,	et Value 821
RECORD		YEAR BUILT	SQ. FT		VALUE		ADD'L INFO
	Main Area	2006		920		\$101,769	≽ Deta
1	A10 T01 (A10 A10 A10 A10 A10 A10 A10 A10 A10 A10						



2016 LAND SEGMENTS

LAND SEGMENT TYPE	STATE CODE	HOMESITE	MARKET VALUE	AG USE LOSS	LAND SIZE
1 - Commercial	F1 - Real, Commercial	No	\$3,701,511	\$0	1,306,800 Sq. ft
2 - Commercial	F1 - Real, Commercial	No	\$1,029,693	\$0	117,612 Sq. ft
3 - Commercial	F1 - Real, Commercial	No	\$728,390	\$0	565,740 Sq. ft
TOTALS			and the second s		1,990,152 Sq. ft / 45.687603 acres

VALUE HISTORY

YEAR	IMPROVEMENT	LAND	MARKET	AG MARKET	AG LOSS	APPRAISED	HS CAP LOSS	ASSESSED
2015	\$15.331,801	\$5,268,199	\$20,600,000	\$0	\$0	\$20,600,000	\$0	\$20,600,000
2014	\$14,291,734	\$5,708,266	\$20,000,000	\$0	\$0	\$20,000,000	\$0	\$20,000,000
2013	\$14,383,602	\$5,616,398	\$20,000,000	\$0	\$0	\$20,000,000	\$0	\$20,000,000
2012	\$15,797,521	\$5,599,376	\$21,396,897	\$0	\$0	\$21,396,897	\$0	\$21,396,897
2011	\$15,942,144	\$5,507,856	\$21,450,000	\$0	\$0	\$21,450,000	\$0	\$21,450,000



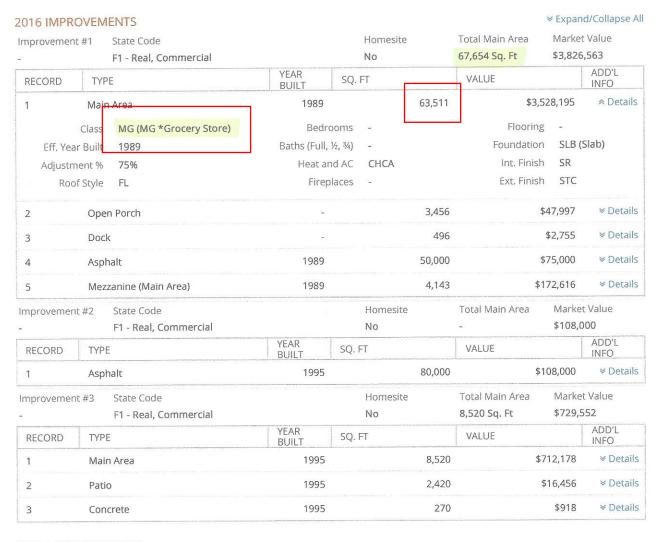


Property Owner R511419 H E BU	Property Address JTT INC 1101 S IH 35, GEORGETOWN, TX 78626		ssed Value 7,826
2016 GENERAL II Property Status Property Type	NFORMATION Active C3	2016 VALUE INFORMATION Improvement Homesite Value Improvement Non-Homesite Value	\$0 \$1,271,390
Legal Description	S10131 - HEB GEORGETOWN 1 SUB, BLOCK A, Lot 1, ACRES 10.29	Total Improvement Market Value	\$1,271,390
Neighborhood	G90MN - Neighborhood Shopping Center - East Georgetown	A 2000 P 1 2000 P 1000	***
Account	R-20-5015-000A-0001	Land Homesite Value	\$0
Related Properties	P322727, P419117, P473888	Land Non-Homesite Value	\$4,706,436
Map Number	3-1117,(3-1214),(3-1414)	Land Agricultural Market Value	\$0
2016 OWNER IN	FORMATION	Total Land Market Value	\$4,706,436
Owner Name	H E BUTT INC		
Owner ID	O003856	Total Market Value	\$5,977,826
Exemptions		Agricultural Use	\$0
Percent		Total Appraised Value	\$5,977,826
Ownership	100%	Homestead Cap Loss	-\$0
Mailing Address	PROPERTY TAX OFFICE PO BOX 839999 SAN ANTONIO, TX 78283-3999	Total Assessed Value	\$5,977,826

2016 ENTITIES & EXEMPTIONS

OTO LIVITIES & EXEM		p-10-14-14-14-14-14-14-14-14-14-14-14-14-14-			TAX CEILING
TAXING ENTITY	EXEMPTIONS	EXEMPTIONS AMOUNT	TAXABLE VALUE	TAX RATE PER 100	TAX CEILING
CAD- Williamson CAD	· · · · · · · · · · · · · · · · · · ·	\$0	\$5,977,826	0	0
CGT- City of Georgetow	n	\$0	\$5,977,826	0.434	0
© GWI- Williamson CO \$6			\$5,977,826	0.441529	0
RFM- Wmsn CO FM/RD		\$0	\$5,977,826	0.04	0
SGT- Georgetown ISD		\$0	\$5,977,826	1.398	0
TOTALS			And the second s	2.313529	





2016 LAND SEGMENTS

TOTALS					448,232 Sq. ft / 10.289991 acres
3 - Commercial	F1 - Real, Commercial	No	\$131,859	\$0	12,558 Sq. ft
2 - Commercial	F1 - Real, Commercial	No	\$1,372,917	\$0	130,754 Sq. ft
1 - Commercial	F1 - Real, Commercial	No	\$3,201,660	\$0	304,920 Sq. ft
LAND SEGMENT TYPE	STATE CODE	HOMESITE	MARKET VALUE	AG USE LOSS	LAND SIZE

VALUE HISTORY

YEAR	IMPROVEMENT	LAND	MARKET	AG MARKET	AG LOSS	APPRAISED	HS CAP LOSS	ASSESSED
2015	\$1,117,368	\$4,439,015	\$5,556,383	\$0	\$0	\$5,556,383	\$0	\$5,556,383
2014	\$1,145,538	\$4,354,462	\$5,500,000	\$0	\$0	\$5,500,000	\$0	\$5,500,000
2013	\$1,222,355	\$4,143,081	\$5,365,436	\$0	\$0	\$5,365,436	\$0	\$5,365,436
2012	\$1,137,802	\$4,227,634	\$5,365,436	\$0	\$0	\$5,365,436	\$0	\$5,365,436





Property R427402	Owner HEB G	ROCERY COMPANY LP	Property Address 3750 GATTIS SCHOOL RD, ROU		sessed Value 925,490
		NFORMATION		2016 VALUE INFORMATION	N
				Improvement Homesite Value	\$0
Property		Active		Improvement Non-Homesite	\$4,825,895
Proper	ty Type	C3		Value	
Legal Desc	cription		ub, BLOCK A, Lot 2, ACRES 7.6508	Total Improvement Market	\$4,825,895
Neighb	orhood	R20MN - Neighborhood Sh	opping Ctr - East Round Rock	Value	
F	Account	R-16-5559-000A-0002			***
Related Pro	pperties	P463642, P463643, P46454	10	Land Homesite Value	
		3-5943		Land Non-Homesite Value	\$2,099,595
	Vumber			Land Agricultural Marke	t \$0
2016 OW	/NER IN	FORMATION		Value	
Owne	er Name	HEB GROCERY COMPANY	LP	Total Land Market Value	\$2,099,595
0	wner ID	0528422			
Exe	mptions			Total Market Valu	e \$6,925,490
	Percent			Agricultural Us	e \$0
	vnership	100%		Total Appraised Valu	e \$6,925,490
Mailing	Address	PROPERTY TAX DEPT PO B	OX 839999 SAN ANTONIO, TX 78283-	Homestead Cap Los	
		3,7,7		Total Assessed Valu	e \$6,925,490

2016 ENTITIES & EXEMPTIONS

TAXING ENTITY	EXEMPTIONS	EXEMPTIONS AMOUNT		TAXABLE VALUE	TAX RATE PER 100	TAX CEILING
CAD- Williamson CAD	- ANTON		\$0	\$6,925,490	0	0
CRR- City of Round Rock			\$0	\$6,925,490	0.41465	0
€ GWI- Williamson CO			\$0	\$6,925,490	0.441529	0
€ 101- Aus Comm Coll			\$0	\$6,925,490	0.1005	0
RFM- Wmsn CO FM/RD			\$0	\$6,925,490	0.04	0
SRR- Round Rock ISD			\$0	\$6,925,490	1.3325	0
© W09- Upper Brshy Cr WC&ID #	E		\$0	\$6,925,490	0.02	0
TOTALS					2.349179	



2016 IMPROVEMENTS



2016 LAND SEGMENTS

TOTALS					333,269 Sq. ft / 7.650803 acres
1 - Commercial	F1 - Real, Commercial	No	\$2,099,595	\$0	333,269 Sq. ft
LAND SEGMENT TYPE	STATE CODE	HOMESITE	MARKET VALUE	AG USE LOSS	LAND SIZE

VALUE HISTORY

YEAR	IMPROVEMENT	LAND	MARKET	AG MARKET	AG LOSS	APPRAISED	HS CAP LOSS	ASSESSED
2015	\$4,067,908	\$2,099,595	\$6,167,503	\$0	\$0	\$6,167,503	\$0	\$6,167,503
2014	\$3,873,790	\$2,159,583	\$6,033,373	\$0	\$0	\$6,033,373	\$0	\$6,033,373
2013	\$3,781,884	\$2,159,583	\$5,941,467	\$0	\$0	\$5,941,467	\$0	\$5,941,467
2012	\$3,841,872	\$2,099,595	\$5,941,467	\$0	\$0	\$5,941,467	\$0	\$5,941,467
2011	\$4,185,374	\$1,939,626	\$6,125,000	\$0	\$0	\$6,125,000	\$0	\$6,125,000

SALES HISTORY

DEED DATE	SELLER	BUYER	INSTR#	VOLUME/PAGE
10/18/2007	ABS TX INVESTOR LP	HEB GROCERY COMPANY LP	2007095692	
6/1/2006	ALBERTSONS INC	ABS TX INVESTOR LP	2006052410	
3/22/2001	WSP DEVELOPMENT #1 LTD	ALBERTSONS INC	-	2001/019242





Property On R431090 R	wner	ALLS FOOD & DRUG LP	Property Address 2051 GATTI	ess S SCHOOL RD, R	ROUND R			8,593
2016 CENE	DAL	INFORMATION			201	6 VALUE INFOR	MATION	N
		Active			Im	provement Homesi	te Value	\$0
Property State Property Type		C3			ir	nprovement Non-H	omesite Value	\$4,585,539
Leg Descriptio		RANDALLS TOWN CENTRE SEC A, Lot 3, ACRES 6.35	1 (LTS 2&3 BL	(A REPLAT), BLOCK	- contraction of the contraction	Total Improvement	t Market Value	\$4,585,539
Neighborho	od	R20MN - Neighborhood Shop	ping Ctr - East R	ound Rock				
Accou	unt	R-16-5040-000A-0003				Land Homesi	ite Value	\$0
Relat Properti	ted ies	P453923, P453924, P453927, P453934, P465258, P465460,	P453931, P4539 P471735, P4741	32, P453933, 32, P476875,		Land Non-Homesi	ite Value	\$2,033,054
		P480983, P481744, P481834				Land Agricultura	l Market Value	\$0
Map Numb	ber	3-5927			***************************************	Total Land Mark	ot Value	\$2,033,054
2016 OWN	ER IN	NFORMATION				TO(al Latiu Mair	cec varue	42,033,03
Owner N	Name	RANDALLS FOOD & DRUG L	.P			Total Mark	ket Value	\$6,618,593
Own	ner ID	O404099				Agricult	ural Use	\$0
Exemp	tions					Total Apprais	ed Value	\$6,618,593
Pe Owne	ercent	100%				Homestead	Cap Loss	-\$0
Mailing Add		#2636 ATTN VP REAL ESTAT	TE 3663 BRIARPA	ARK DR HOUSTON, 7	TX	Total Assess	ed Value	\$6,618,593

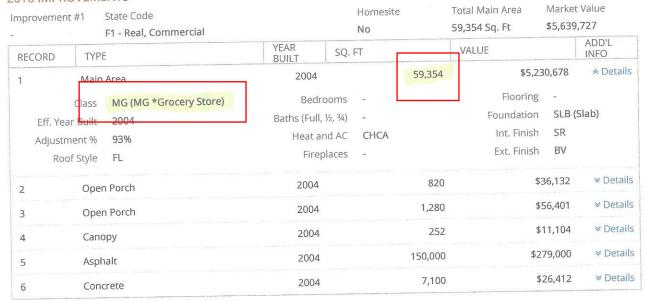
2016 ENTITIES & EXEMPTIONS

TAXING ENTITY	EXEMPTIONS	EXEMPTIONS AMOUNT		TAXABLE VALUE	TAX RATE PER 100	TAX CEILING
CAD- Williamson CAD	Annual Santana Company	and the second s	\$0	\$6,618,593	0	0
CRR- City of Round Rock			\$0	\$6,618,593	0.41465	0
GWI- Williamson CO			\$0	\$6,618,593	0.441529	0
🗗 J01- Aus Comm Coll			\$0	\$6,618,593	0.1005	0
RFM- Wmsn CO FM/RD			\$0	\$6,618,593	0.04	0
SRR- Round Rock ISD			\$0	\$6,618,593	1.3325	0
♥ W09- Upper Brshy Cr WC&ID :	#		\$0	\$6,618,593	0.02	0
TOTALS	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1				2.349179	



2016 IMPROVEMENTS

≈ Expand/Collapse All



2016 LAND SEGMENTS

LAND SEGMENT TYPE	STATE CODE	HOMESITE	MARKET VALUE	AG USE LOSS	LAND SIZE
1 - Commercial	F1 - Real, Commercial	No	\$2,033,054	\$0	276,606 Sq. ft
TOTALS	2.00				276,606 Sq. ft / 6.350000 acres

VALUE HISTORY

YFAR	IMPROVEMENT	LAND	MARKET	AG MARKET	AG LOSS	APPRAISED	HS CAP LOSS	ASSESSED
2015	\$3,664,693	\$2.033.054	\$5.697.747	\$0	\$0	\$5,697,747	\$0	\$5,697,747
2013	\$3,350,070	\$2,091,141	\$5,441,211	\$0	\$0	\$5,441,211	\$0	\$5,441,211
2014	\$3,093,534	\$2.091,141	\$5,184,675	\$0	\$0	\$5,184,675	\$0	\$5,184,675
2012	\$3,645,343	\$2.033,054	\$5,678,397	\$0	\$0	\$5,678,397	\$0	\$5,678,397
2012	\$3,949,192	\$1.878,155	\$5,827,347	\$0	\$0	\$5,827,347	\$0	\$5,827,347

SALES HISTORY

DEED DATE	SELLER	BUYER	INSTR #	VOLUME/PAGE
11/20/2002	TODAY PRA HICKERSON LP	RANDALLS FOOD & DRUG LP	2002091940	





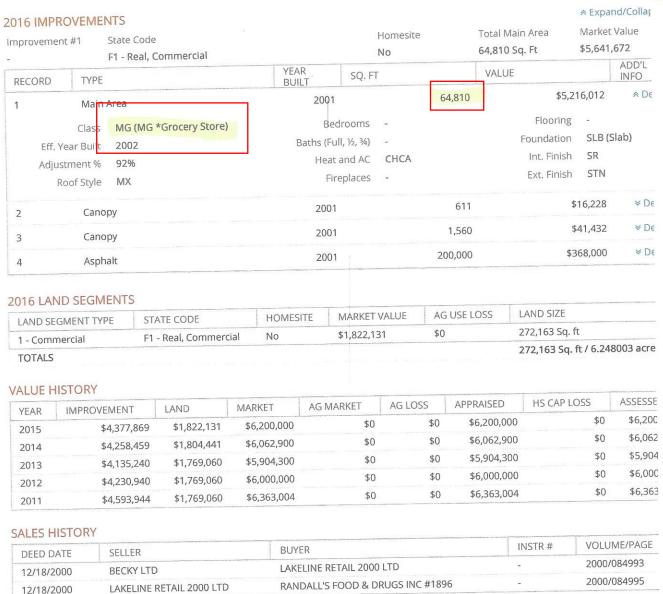
essed Va 53,615	2016 Asse	Property Address		Owner	Property
35,015	CEDAR PARK, 1X 78613 \$6,90	1400 CYPRESS CREEK RD,	ALL'S FOOD & DRUGS INC #1896	5 RAND	R406585
	2016 VALUE INFORMATION		NFORMATION	CENIEDAL I	2016 GE
	Improvement Homesite Value				
\$5,141	improvement Non-Homesite		Active	, cy a concern	200 240 1 250
+5/,	Value		C3	erty Type	Proper
\$5,141	Total Improvement Market Value	CK A, LOT 4, ACRES 6.248	CYPRESS CREEK COMMERCIAL SUB, BLO	Legal escription	Desc
	Land Homesite Value	Cedar Park	L50MN -Neigh Shopping Ctrs. Leander/C	nborhood	Neighb
\$1.822			R-17-W322-600A-0004-0008	Account	A
₽1,022	Land Non-Homesite Value	P465590, P467845, P474971,	P418867, P420182, P432372, P451895, F	Related	
	Land Agricultural Market Value	P484515	P478076, P479467, P483373, P483473, F	Properties	
\$1,822	Total Land Market Value		4-6628	p Number	Map N
+= ===			NFORMATION	OWNER IN	2016 0
\$6,963	Total Market Value	6	RANDALL'S FOOD & DRUGS INC #189	wner Name	Ow
	Agricultural Use		O512126	Owner ID	
\$6,963	Total Appraised Value				
	Homestead Cap Loss			Exemptions	EX
\$6,963	Total Assessed Value		100%	Percent Ownership	C
		00 WALNUT CREEK, CA 94596-	C/O CPTS 1371 OAKLAND BLVD STE 2 8408	ling Address	Mailin

2016 ENTITIES & EXEMPTIONS

TAXING ENTITY	EXEMPTIONS	EXEMPTIONS AMOUNT	TAXABLE VALUE	TAX RATE PER 100	TAX CEIL
CAD- Williamson CAD		\$0	\$6,963,615	0	0
CCP- City of Cedar Park		\$0	\$6,963,615	0.4795	0
© GWI- Williamson CO		\$0	\$6,963,615	0.441529	0
© 101- Aus Comm Coll		\$0	\$6,963,615	0.1005	0
RFM- Wmsn CO FM/RD		\$0	\$6,963,615	0.04	0
SLE- Leander ISD		\$0	\$6,963,615	1.51187	0
W09- Upper Brshy Cr WC&ID # 1A		\$0	\$6,963,615	0.02	0
TOTALS				2.593399	

12/18/2000









Property Owner R442404 BRC	Froperty Address 409 W FRONT ST, HUTTO, TX 78634	2016 Asset \$3,00	
2016 GENERAL Property Status		2016 VALUE INFORMATION improvement Homesite Value	\$0
Property Type	C3	Improvement Non-Homesite Value	\$2,644,260
Legal Description	LEGENDS OF LONE STAR COMMERCIAL 1 (TRS 3-5 BLK A AMENDED), BLOCK A, LOT 1A, ACRES 1.695	Total Improvement Market Value	\$2,644,260
Neighborhood	T14MS - Neighborhood Shop.Strip-Hutto		
Account	R-14-1409-010A-0001A	Land Homesite Value	\$0
Related Properties	P453189, P453742, P460120, P469702, P472330, P474128, P478373, P478401, P479378, P479508	Land Non-Homesite Value	\$358,833
Map Number	3-4357,(3-4652),(3-4654)	Land Agricultural Market Value	\$0
2016 OWNER I		Total Land Market Value	\$358,833
Owner Nam	BRC GROUP LLC	m i taa dee Wales	\$3,003,093
Owner I	00320937	Total Market Value	33.7 A
Exemption	S	Agricultural Use	\$0
Percent Ownershi	100%	Total Appraised Value	\$3,003,093
20 757 75		Homestead Cap Loss	-\$0
Mailing Addres	3 30/H EIRINIER 200	Total Assessed Value	\$3,003,093

2016 ENTITIES & EXEMPTIONS

16 ENTITIES & EXEMPTION TAXING ENTITY	EXEMPTIONS	EXEMPTIONS AMOUNT		TAXABLE VALUE	TAX RATE PER 100	TAX CEILING
CAD- Williamson CAD	A CONTRACTOR OF THE PARTY OF TH	744100111	\$0	\$3,003,093	0	0
CAD- Williamson CAD			\$0	\$3,003,093	0.5285	0
F00- Wmsn ESD #3			\$0	\$3,003,093	0.1	0
GWI- Williamson CO			\$0	\$3,003,093	0.441529	0
J02- EWC Higher Ed Center			\$0	\$3,003,093	0.045905	0
RFM- Wmsn CO FM/RD			\$0	\$3,003,093	0.04	0
SHU- Hutto ISD			\$0	\$3,003,093	1.67	0
© W09- Upper Brshy Cr WC&ID #			\$0	\$3,003,093	0.02	0
TOTALS					2.845934	



2016 IMPROVEMENTS Market Value Total Main Area Homesite Improvement #1 \$1,698,313 19,380 Sq. Ft No F1 - Real, Commercial ADD'L YEAR BUILT VALUE SQ. FT INFO RECORD TYPE Entire Strip\$1,574,710 19,380 2003 Center Size Flooring MS (MS *Strip Center) Bedrooms SLB (Slab) Foundation Baths (Full, 1/2, 3/4) Eff. Year Built 2003 Int. Finish SR Heat and AC Adjustment % 96% Ext. Finish BV Fireplaces Roof Style ▼ Details \$76,800 40,000 2003 Asphalt 2 ▼ Details \$46,803 576 Canopy 3

2016 LAND SEGMENTS

LAND SEGMENT TYPE STA	La management and the second and the	HOMESITE	MARKET VALUE	AG USE LOSS	73,834 Sq. ft
1 - Commercial F1	- Real, Commercial	No	\$358,833	\$0	73,834 Sq. ft / 1.694995 acres

VALUE HISTORY

YEAR	IMPROVEMENT	IAND	MARKET	AG MARKET	AG LOSS	APPRAISED	HS CAP LOSS	ASSESSED
2015	\$2,441,976	\$352,188	\$2,794,164	\$0	\$0	\$2,794,164	\$0	\$2,794,164
2013	\$2,212,225	\$352,188	\$2,564,413	\$0	\$0	\$2,564,413	\$0	\$2,564,413
2014	\$2,084,522	\$365,478	\$2,450,000	\$0	\$0	\$2,450,000	\$0	\$2,450,000
2012	\$2,101,672	\$345,543	\$2,447,215	\$0	\$0	\$2,447,215	\$0	\$2,447,215
2012	\$2,026,620	\$349,382	\$2,376,002	\$0	\$0	\$2,376,002	\$0	\$2,376,002

SALES HISTORY

DEED	SELLER	BUYER	INSTR#	VOLUME/PAGE
2/23/2004	CASTLE, ROBERT M & W R RUSS & CHAZ GLACE	BRC GROUP LLC	2004014454	
10/31/2003	CRR INTERESTS & CHAZ GLACE	CASTLE, ROBERT M & W R RUSS & CHAZ GLACE	2003106611	
10/28/2003	HUTTO CITY OF	CASTLE, ROBERT M & W R RUSS & CHAZ GLACE	2003107459	

DDC Merritt Starlight, Ltd.

EXHIBIT D

Picture of HEB construction site and location of HEB buildings as of March 8, 2016

1904 W. 35th Street Austin, TX 78703 512/732.1226 Page 10



DDC Merritt Starlight, Ltd.

EXHIBIT E

HEB Construction Update on approximate date slab is scheduled to be poured

1904 W. 35th Street Austin, TX 78703 512/732.1226 Page 11



Director of Public Affairs - Central Texas Region

May 23, 2016

Denison Development and Construction, Inc. Attn: Mr. Colby Denison 1904 W 35th Street Austin, Texas 78703

Re: Construction Progress of HEB at SH 130 and Gattis School Road in Hutto, Texas

Mr. Colby Denison:

A new H-E-B *plus!* store is currently under construction located at SH 130 and Gattis School Rd in Hutto, Texas. H-E-B is excited to service the needs of the Hutto community so residents won't have to travel out of their city and taxation district to get the items they regularly need from a full service grocery store. After significant rain delays, our slab is being poured this week and we look forward to a grand opening the store on November 4th, 2016 (moved from September 9th, 2016). Should you have any other questions, please do not hesitate to contact me.

Sincerely,

Leslie Sweet

Leslie Lockett Sweet Director of Public Affairs H-E-B 512.421.1000 Sweet.leslie@heb.com From: Sharon Gamble

To: "Chaz Garrett"; "Kelly Garrett"

Cc: "Jeffrey Spicer"

Subject: RE: 16169 - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Date: Tuesday, June 07, 2016 2:07:00 PM

Attachments: 16169.pdf | Importance: High

I noticed that I did not attach the request to my email yesterday.

New due date:

All deficiencies must be corrected or clarified by 5 pm on June 14, 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 www.tdhca.state.tx.us

From: Sharon Gamble

Sent: Monday, June 06, 2016 4:27 PM

To: Chaz Garrett; Kelly Garrett

Cc: 'Jeffrey Spicer'

Subject: 16169 - 9% HTC Application Deficiency Notice - TIME SENSITIVE

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 #16169, Havens at Hutto. 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 Department is reviewing whether the Application qualifies for the one (1) point related to §11(c)(8)(A) of the Uniform Multifamily Rules, Proximity to Important Services - full service grocery store. The request provided information indicating that the Hutto Westphalia Market does not carry a full line of products that one would expect to purchase in a full service grocery store, as described in the 2015 Competitive HTC Application Cycle Frequently Asked Questions document posted on the Department's website, and that the HEB does not meet the §10.101(a) (2) requirement that mandatory community assets exist or be under active construction post pad (e.g. framing the structure) by the date the Application is submitted.

Please review the attached. Provide evidence that either store meets the requirements of the Department's guidance and the 2016 Uniform Multifamily Rules.

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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 June 13, 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 www.tdhca.state.tx.us



Date: June 13, 2016

RE: THIRD PARTY CHALLENGE FOR DEFICIENCY FOR APPLICATION #16169

To: Sharon Gamble

We appreciate the opportunity to respond to the challenge submitted by DDC Merit Starlight, Ltd. The challenge asserts that the Havens of Hutto development site is not located within 3-miles of a full service grocery store. In our application we located two full service grocery stores in the area, one under development by HEB and the other, Westhphalia Meat Market ("Westphalia"). We agree with the assertion that the HEB is not at the stage of development to qualify for points in the current application cycle due to the delays which were cited in the challenge. We spoke with a representative from Bury Engineering who was more optimistic about the development schedule than what actually occurred. However, Westphalia is a full service grocery store that meets and exceeds the requirements set forth in 2016 QAP. As you know, neither the 2016 QAP nor the 2016 Rules define a full service grocery store, but for the 2015 tax credit cycle the Department provided guidance of what was intended by posting a FAQ. The FAQ for the 2015 application cycle states:

A full service grocery store is a store in which a typical household may buy the preponderance of its typical food and household items needs, including a variety of options for fresh meats, produce, dairy, baked goods, frozen foods, and some household cleaning and paper goods. A typical convenience store would not qualify.

Westphalia has a vast selection of all of the categories that are included in the FAQ and is able to provide a household with the preponderance of goods needed on a day to day basis (See Exhibit A for a list of every product sold at Westphalia in the past year). Westphalia is a full service grocery with a staff of 13 people. Seven employees are on duty during normal business hours. Westphalia is not a convenience store, nor does it sell gasoline, which leaves the employees to focus on food preparation, customer service and restocking at all times. Below please find the current selection in each category that is mentioned in the FAQ. All pictures attached as Exhibit B and all observations are from visits to Westphalia on April 27th and June 8th 2016.

1. **Fresh Meat**- Westphalia carries fresh meat as well as fresh sliced deli meat for sandwiches. On June 8th Westphalia offered a selection of 11 sliced to order deli meats, 16 cuts of beef and 9 cuts of pork.



2. **Produce**- On June 8th there was a total of 24 different types of fresh produce available for sale at Westphalia including mushrooms, avocados, jalapenos, cilantro, bell peppers, yellow potatoes, red potatoes, squash and zucchini. Westphalia works with local farmers to keep in season produce available to its customers.





3. **Dairy**- On June 8th there was a plethora of dairy options at Westphalia including whole milk, 1%, 2%, half and half and heavy whipping cream. There was also chocolate milk and buttermilk. Other dairy items available included sour cream, cream cheese, cottage cheese, shredded cheese and fresh eggs. There was also a variety of butters and margarines.





4. **Baked Goods**- On June 8th there was an assortment of fresh baked cookies and breads as well as pies and mini cakes. Additionally, Westphalia carries an entire line of Pepperidge Farms breads and buns as well as other breads.

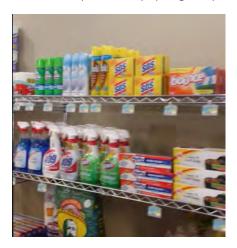




5. Frozen Foods- On June 8th I observed a large variety of frozen foods including two types of Okra, green peas, cut corn, spinach, brussels sprouts, hushpuppies, french fries, mixed vegetables, Stouffers frozen meals, Lean Cuisine frozen meals, Blue Bell Ice Cream (five flavors, gallon and pint), Sara Lee frozen desserts, Hot Pockets, frozen fish and cool whip.



6. Household Cleaning- On April 27th Westphalia had a complete selection of cleaning supplies to meet a household's needs. In stock that day was bleach, S.O.S., glass cleaner, 409 all purpose cleaner, Clorox cleaner, garbage bags, glade air freshener, Scrubbing Bubbles, Bounce Dryer Sheets. They also carry sponges, Lysol toilet cleaner and another brand of bleach.



7. Paper Goods- On June 8th I observed a large variety of paper goods available for purchase including paper towels, toilet paper, a variety of different sizes of paper/plastic plates and bowls, foam cups, plastic cups, solo style cups, napkins, ziploc storage and sandwich bags, cling wrap, aluminum foil, plastic cuttlery and a variety of aluminum baking pans.



The challenge from DDC Merritt Starlight contains many misleading characterizations of Westphalia as well as ommissions of items they do carry. While Westphalia does not carry personal items, baby goods, medical items or pet supplies, these items can all be found in a full service pharmacy which is an additional point item in the 2016 QAP. To meet these needs there is a CVS and Walgreens in Hutto, which both count as a community asset for Havens of Hutto under the 2016 QAP. Westphalia, and the FAQ of 2015, instead focus on foodstuffs, of which they have a plentiful variety for a small town.

DDC Merritt Starlight also chose to focus a great deal of its challenge on the square footage of Westphalia compared to other grocery stores throughout the county. Square footage is not a requirement in the QAP or in the 2015 FAQ, nor is it an indicator of how well stocked a full service grocery store may be. According to the owner of Westphalia, their current location is approximately 3,000 square feet with a lease signed to expand into the adjacent space and add an additional 2,200 square feet for a total square footage of 5,200. DDC Merritt cited the square footage of Westphalia Meat Maket as 1,900 square feet in their analysis which is incorrect. Westphalia also benefits from its close proximity to the original Westphalia in Lott, Texas, which is only 1 hour away and has a much larger facility. Also, when looking at the square footage, instead of comparing Westphalia to big box grocery stores a better comparison would be to the smaller, independent grocery stores in the 2014 and 2015 application cycles that were accepted by the Department as community assets. The two most relevant comparisons are in Brownsboro and Whitewright. The projects in both of these rural communities used small independent grocers and were awarded points. In Brownsboro Y's Hometown Foods was treated as a full service grocery with 5,440 total square feet.



In Whitewright Pettit's Grocery and Market was treated as a full service grocery with 8,164 total square feet.



While both of these stores are larger than Westphalia, they are both far smaller than the national chain stores which DDC Merritt is making the comparison. Also, neither of these stores has the advantage of having a second facility 1 hour away. Finally, if you consider the upcoming expansion of Westphalia, their square footage would be almost identical to Y's Hometown Foods.

DDC Merritt's Challenge pointed out many items that were not available at Westphalia , however some of these assertions were misleading or inaccurate. Below please see the list of food items that DDC Merritt claimed were not available, or ommitted their availability but were actually in stock on June 8th.

1. "Avocado"





June 8th

April 27th

2. "Wide Variety of Cheese"-On June 8th there were 13 varieties of cheese available at the deli counter as well as 5 types of shredded cheese. Also, there were Kraft singles, Velvetta and another prepackaged Cheddar Block available.







3. "Bottled or Canned Drinks"- On June 8th there were 12 packs of cans as well as two liter bottles of soda. In addition, Westphalia carries a wide variety of specialty sodas including Dublin brand, Smartwater and Snapple. Root Beer (See page 4 Exhibit A).





4. "Yogurts and Puddings"- Westphalia carries a limited selection of Yoplait Yogurts (See Exhibit A Page 14) and Snack Pack Puddings.



5. "Breakfast Foods"- Westphalia offers Yogurt (See Exhibit A Page 14), chocolate milk and many other breakfast foods such as pop tarts, quick oats oatmeal, fresh eggs and five varieties of cold cereal. There is also pancake mix and syrup available.



6. "Baking Items"- On June 8th there was a wide variety of baking good available for purchase including sugar, baking soda, baking powder, cake mixes, brownie mixes, corn meal, refrigerated cookie dough, refrigerated biscuit dough and refigerated cinnamon rolls.





We respectfully request that the Department find that the Westphalia is a full service grocery store under the 2016 QAP and consistent with past practices. Please also feel free to look at Exhibit B which shows all the photgraphs taken from our two trips to Westphalia . We believe our application qualifies for the one point awarded under the 2016 QAP and hope the information laid forth above is sufficient.

If there are any questions or concerns please do not hesitate to contact me directly.

Regards,

Kelly Garrett

State Street Housing

EXHIBIT "A"

DOLLAR LEADERS FROM: 01-01-15 TO: 12-31-15

DEPT	NAME	PACK	UPC	<u>PLU</u>
NUM	RIBEYE	2	00020000002	0
1	REGULAR BU	2	00003000005	0
1	LEAN BURGE	2	00004000004	0
1	TOP SIRLOI	2	00214000009	Ö
1	HIPPO EGGS	2	00018000007	Ö
1	NEW YORK S	2	00104000003	0
1	BUTCHERS PACK BNLS SKINL	2	00070000007	0
1	BONE IN RI	2	00041000005	0
1	SNACK STIC	2	00156000006	0
1	BEEF T BON	2	00013000002	0
1	BONE IN PO	2	00060000000 00025000007	0
i	BEEF BRISK	2	00025000007	Ö
1	BEEF JERKY	2 2	00009000009	0
1	SEASONED BEEF WESTPH W/G	2	00123000008	0
1	PLAIN SLIC	2	00162000007	0
1	PORK CHOPS	2	00061000009	0
1	BEEF TENDE	2	00023000009	0
1	J/C STUFFED CH	2	00062000008	0
1	JALAPENO POPPE	2	00036000003 00200000006	0
1	BEEF PATTIES	2 2	00122000000	Ö
1	WESTPHALIA	2	00080000004	0
1	CHUCK ROAST BACON CHEDDAR	2	00052000001	0
1	PORTERHOUS	2	00137000001	0
1	PEPPERED S	2	00163000006	0
1	J/C PATTIES	2	00053000000	0
1	FRESH HUTT	2	00208000008	0
i	J/C STUFFED PO	2	00058000005 00067000003	0
i	J/C LINK SAUSA	2	00184000009	Ö
1	STUFFED PO	2	00043000003	0
1	GROUND CHILI CHICKEN FAJITA	2	00033000006	0
1	PAN SAUSAG	2	00164000005	0
1	FLAT IRON	2	00031000008	0
1	BEEF SHORT RIB	2	00050000003	0
1	STEW MEAT	2	00044000002	0
1	WHOLE FRYE	2	00073000004 00235000002	0
1	PORK SPARE	2	00039000000	0
1	TRI TIP	2	00040000006	0
1	PORK BUTT RUMP ROAST	2	00081000003	0
1	SUMMER SAU	2	00150000002	0
1	SPLIT LONG	2	00115000009	0
1	PEPPER PORK TE	2	00051000002	0
1	CHORIZO	2	00113000001 00085000009	0
i	PORK BB BACK R	2	00207000009	0
1	HUTTO SMOK	2	67272478001	Ö
2	BUN SLI REG KOUNTRY SMOKED TUR	2	00021000001	0
1	PEPPERIDGE POTATO	1	01410009141	0
22	MISSION FLOUR TORTIL	1	07373100820	0
2	HAM OFF TH	2	00197000003	0
1	JERKY VP	2	00048000008	0
2	PEPPERIDGE SS HAMB B	1	01410007161	0
1	SMOKED PORK CH	2	00063000007	0
2	TEXAS FRESH MUSHROOM	1	05404867500 00117000007	0
1	DAISY WHEE	2	07087000100	0
2	MRS BAIRDS EXTRA TH DAISY SOUR CREAM	1	07342000011	0
5	JALAPENO H	2	00257000004	0
1	COLBY JACK	2	00189000004	0
1	HONEY TURK	2	00190000000	0
1	HAM AND CHEESE	2	00165000004	0
	PLU20001700000	2	00170000006	0
1	AMERICAN C	2	00107000000	0

PLU	UPC	PACK	NAME	NUM DEP
0	03450015136	1	LOLBUTTERQ	100
0	05070004652	1	4 CHEESE MEXICAN BLD	2
0	00182000001	2	ITALIAN FR	25
0	03935900103	1	KIEKS'S EGGS	1
0	67272478002	1	BUN SLI ONION KOUNTR	2
0	00054000009	2	BACON ENDS	2
0	82955211023	1	TAYLOR WIENERS	1
0	00093000008	2	HONEY HAM	20
0	04190007661	1	OAKFARMS 2% 1GAL	1
0	03432600042	1	B&B CHARCOAL 20#	2
0	07800008240	1	DR PEPPER 200Z	3
0	00094000007	2	BLACK FORE	16
0	00055000008	2	PORK STEAK	1
0	04190007638	1	OAK FARMS WHOLE MILK	1
0	00066000004	2	IMPORTED CATFI	2
0	05070021360	1	HYTOD CHREDER	1
0	00099000002	2	HYTOP SHREDDED COL J HARD SALAM	25
0	07087000035	1	HONEY MALEA	1
0	04964690118	1	HONEY WHEAT	2
0	05070027976	1	SPICED PEACHES	2
0	05070000801	1	HYTOP MILD CHUNK	2
0	04900004779	1	HYTOP FANCY SHREDDED	2
0	02100065893	1	COCA COLA 500ML	16
0	81222400420	1	KR.VELVEETA SHEL&CHS	2
0	00166000003	2	BBQ LINK SAUSAGE	20
0	67054185922	1	PORK AND BEEF	1
0	03432600050		PECAN BRITTLE	15
0	00089000005	1	B&B MESQ 8#	3
O	00210000003	2	ROAST BEEF	1
0	07189903720	2	RED MIDGET	1
O	00160000009	1	BLUE BELL 1/2 GAL GR	14
Õ	01312000286	2	BRATWURST	1
Ö	02100061689	1	ORIDA FRIES	4
Ö	00100000007	1	KRVELVEETA	2
Ö	04964614131	2	BOLOGNA	1
Ö	04127100595	1	AMISH BABY BEETS	2
Ö	07004182026	1	OAK FARMS 2%	2
Ö		1	SHIMP P&D 26/30 2LB.	4
0	07181700037	1	BIG RED 20 OZ	16
Ö	00035000004	2	CHOPPED HA	1
0	09747519452	1	HARLEY'S BBQ SEASON	2
0	04460031178	1	K 7.7IB CHARCOAL	1
0	67054185920	1	ORIGINAL PENUT BRITT	15
	05100012767	1	TEX TOAST GARLIC	4
0	02840000211	1	SANTITAS	6
0	04900000044	1	COKE 20 OZ	16
0	07181779999	1	BIGREDBOTT	16
0	63959610102	1	KLEMKEORBJ	23
0	00071000006	2	PORK BUTT ROAS	1
0	81222400100	1	SLOVACECK'S BEEF	20
	81222400120	1	SLOAVCEK'S PORK&BEEF	20
0	05070000348	1	HY-TOP SEASONED FRIE	4
0	81222400260	1	SLOVACEK'S GARLIC	20
0	05440000005	1	A-1 SAUCE	20
0	00037000002	2	SMOKED CHE	1
0	82977301010	1	SKLENAMSBJ	23
0	02840006399	1	REST STYLE TOSTITOS	
0	02100061223	1	PHILA.CREAM CHEESE	7
0	00211000002	2	MIDGET CHE	5
0	02000014585	1	GG NIBBLERS COB CORN	1
0	01270000002	1	SKNR.THIN SPAGHETTI	4
0	06414428243	1	ROTEL DCD.TOMATO GRN	2 2 2 2
0	04190007663	1	OF 2% MILK HG	2
0	07373106002	1	MISSION WHIT CORN 30	2
0	05070025051	1	HY-TOP LIGHTER FLUID	2
0	07800005440	1	A&W CREAM SODA	3
0	02840033579	1	DORITOS NACHO CHEESE	16
	01410007094		CARLLAS MALHOLISECT	1

	DEPT	NAME	PACK	<u>UPC</u>	PLU
(NUM	SWISS SW TEA	1	07654500187	0
	17	BUFFALO CH	2	00199000001	0
	1 16	COKE 12 OZ	1	04900000634	0
	4	ORE-IDA STEAK FRIES	1	01312000800	0
	2	AMISH OKRA	1	04964691003	0
	5	OAK FARM WHOLE MILK	1	04127100359	0
	4	OREIDA TATER TOTS	1	01312000082 04690000108	Ö
	2	RANCH STYLE BEANS	1	81788500002	o
	1	SLAP YA MAMA CAJUN	1	05070027014	0
	25	HYTOP MOZZARELLA	1	03432600081	0
	1	B&B HICKORY LUMP CHA BLUE BELL PINT GR	1	07189905101	0
	14	MUENSTER	2	00109000008	0
	1 2	RAGU SPAG.SCE.*PLAIN	1	03620000250	0
	1	BIG EYE SW	2	00155000007	0
	17	TROPICANA ORANGE	1	04850030102	0
	2	MISSION YEL CORN 20C	1	07373100328 02700038040	0
	2	HUNT CHO/CUT DICED T	1	82977303010	Ö
	23	SKLENHOTBJ	1	04900000764	Ö
	16	SPRITE 20 OZ	1	01590000099	Ö
	20	BAR S BEEF RANKS	1	04460031194	o
	1	KINGSFORD	1	07373100235	0
	2	MISSION HOMESTYLE PREMIUM CRACKERS	1	04400000057	0
	2	HARLEYS BBQ S.NO MSG	1	09747519454	0
	2	CANADIAN BACON	2	00068000002	0
	1 16	DIET COKE 20 OZ	1	04900000045	0
	2	GEBHARDT REFRIED BEA	1	04430009300	0
	2	RAGU SAUTEED O&G	1	03620000468	0
	6	LAYS CLASSIC	1	02840042158 05210009170	0
	2	MC TACO SEASONING MX	1	03432600051	0
	1	BBCHARCOAL	1 2	00220000000	0
	1	PROVOLONE	1	07343500004	0
	4	KINGS HAWAIIAN ROLLS FRIED OKRA	i	04964611182	0
	13	MRS BAIRDS 100 WHEAT	1	07087000042	0
	2	YOOHOO	1	07235000011	0
	16	DR PEPPER 2L	1	07800008246	0
	16 1	B&B OAK WOOD	1	03432600076	0
	16	SIMPLY LEMONADE RASP	1	02500000018	0
	16	COKE	1	04900005010 04400003202	0
	19	OREO	1	03338367500	Ö
	2	SOUTH MILL WHOLE MUS	1	02740010308	o
	5	COUNTRY CROCK SPREAD	1	05100001261	0
	2	CRM OF MUSHROOM O.F TRUMOO CHOCOLATE	1	04190007517	0
	5	OEP TACO SHELLS-12'S	1	04600081101	0
	2 17	GLACIER SPRING WAT	1	81896900014	0
	2	GRANDS BISC.B/M-8CT	1	01800000182	0
	3	KINGSFORD BRIQUETS	1	04460030449	0
	1	TILAPIA FILLET	2	00065000005 07770058932	Ö
	4	BREADED OKRA	1	04900001916	o
	16	FANTA ORANGE 20Z	1	04190007641	Ö
	2	OF WHOLE MILK HG	2	00114000000	0
	1	MOZZERELLA	1	04964698009	0
	2	AMISH WIDE NOODLES PF TEX-TOAST CHEESE	1	05100014002	0
	4	KERN RIDGE CARROTS	1	03338366000	0
	21	BARQS ROOT BEER 200Z	1	04900002392	0
	16	DR PEPPER 12 OZ	1	07800000315	0
	16	HY-TOP RIE FLOW CHAR	1	05070000082	0
	1	LIVER CHEESE	2	00209000007	0
	2	HUNTS MANWICH ORIG	1	02700044212 05070025141	0
	2	HYTOP CHEESE SINGLES	1	04964691012	0
	2	AMISH SWEET FIRE PIC	1	07800004140	0
	16	RCSODA DED FARMANOZIOARIA	1	05100007688	0
	4	PEP.FARM MOZ/GARLIC			

PLU	UPC	PACK	NAME	DEP
0	07002635108	1	OAK FARMS SOUR CREAM	NUM
0	02265570140	1	GROUND TURKEY	2
0	07084781116	1	MONSTER 160Z	20
0	05070025301	i	HY TOP COP COPY	18
0	04964690085	1	HY-TOP COB CORN 4-EA	4
0	03432600077	1	AMISH BB PICKLES	2
0	02100065883	1	B&B PECAN WOOD	1
0	02400016302	-	KR.MACARONI DINNER	2
0	04900000463	1	DM GOLDEN W.KER.CORN	2
0	05100002431	1	GLASS COKE	16
0	02700050006	1	SWANSON CHICKN.BROTH	2
0	07109200069	1	HUNTS PASTA SAUCE	2
Ö	04964690110	1	CHILI MIX-2 ALARM	2
Ö	02100061125	1	AMISH DILL PICKLE	2
o	02100001125	1	KR.VELVEETA-SHREDDED	25
Ö	07800005240	1	A&W ROOTBEER	16
Ö	04400003112	1	RITZ CRACKERS	19
o	63959610403	1	KLEMKE'S JALAPENO	23
	01490001270	1	WOLF CHILI-NO BEANS	
0	04127101994	1	OAK FARMS 2% HG	2
0	03400000229	1	KIT KAT CHOC.KING SI	5
0	73149510008	1	CHKN STUFFED JAMBLAY	15
0	07800011340	1	SUNKIST ORANGE	4
0	63959610703	1	KLEMKE'S TERIYAKI	16
0	04964698005	1	AMISH FINE NOODLES	23
0	05070026891	1	HY-TOP HASHBROWNS	2
0	02500000032	1	SIMPLY OPANOT MANY	4
0	05070026666	1	SIMPLY ORANGE MANGO HY-TOP CUT CORN	17
0	04964611013	1	AMISH ASSOR SLICES	4
0	05100002421	1	SWANCON DEED DE	15
0	06233801370	1	SWANSON BEEF BROTH	2
0	85900000222	1	GULF CHARCOAL STARTR	3
0	02400016286	1	MOONSHINE 16 OZ	2
0	03940001821	1	DM CUT GREEN BEANS	2
0	63959610202	1	BUSH PINTOS W/BACON	2
0	04964611012		KLEMKEHOTJ	23
0	09218731621	1	AMISH ORANGE SLICES	15
0	61300871526	1	DEXTER 10IN KNIFE	1
0	07800009940	1	ARIZGRETEA	16
0	07800011640	1	DT CHERRY DP	16
0	05150025151	1	SUNKGRAPE	16
0	05210009150	1	CRISCO CANOLA OIL	2
0	72230183994	1	MC CHILI SEASON.MIX	2
0	07618316850	1	NUTTING BUT COCONUT	15
0	07618316363	1	SNAPPLE APPLE	16
0	07618316356	1	SNAPPLE KIWI	16
o	0/010310356	1	PEACH SNAPPLE	
0	05070005755	1	HY-TOP PEANUT OIL	16
0	07257900249	1	BBESTRICEL	2 2
0	05070025844	1	HYTOPBROCC	4
0	05100001031	1	CAM.CREAM OF CHICKEN	2
0	04000000432	1	KING SIZE M&M	15
0	72972610004	1	JR'S RANCH DIP	
	04900000977	1	DASANI 20 OZ	2
0	02000027334	1	GG STEAMERS GR BEANS	17
0	63959610503	1	KLEMKE'S BLAZING	4
0	67054185921	1	TEXAS COW CHIPS	23
0	02840024053	1	FRITOS ORIGINAL	15
0	05070024942	1	HYTOP PARMESAN GR	6
0	03400000480	1	REESE PNT/BUT.CUP KI	2
0	07110000551	1	H.VAL.RANCH-ORIGINAL	15
0	05070026183	1	HY-TOP VEGETABLE OIL	2
0	05070008384	i	HYTOP CHARCOAL	2
0	04964690067	i	AMISH WED COURT	1
0	03940001612	1	AMISH WED SOUTHERN M	2
0	04900000371	1	BUSH BAKED BEANS ORI	2
0	89755500205	1	POWERADE FRUIT PUNCH	18
0	04127100360	1	DUBLIN VANILLA	16
0	04460031186	1	OAK FARMS WHOLE MILK KINGSFORD CHARCOAL	5
		1.75 (*)	TO THE PART OF THE PARTY.	

PLU	<u>UPC</u>	PACK	NAME	DEPT NUM
0	01630016056	1	FL NAT APPLE JUICE	2
0	01410007032	1	PEPPERIDGE FRENCH	22
0	05070026675	1	HY-TOP MIXED VEGES	4
0	72972610001	1	MANANA MEX DIP	2
0	04964611181	1	FRIED GREEN BEANS	13
Ö	05070027112 07800008340	1	HY-TOP SALTINES	2
ő	04400003223	1	DT DR PEPPER 20Z	16
0	09218731620	1	CHIPS AHOY CHEWY	19
ő	04150001310	1	DEXTER 6IN FLEX KNIF	1
ő	73149510001	1	FR.WORCESTERSHIRE SC	2
Ö	07800008216	1	STFD CKN JAL CORNBRE	4
O	01800000501	1	DR PEPPER 12 PK	16
0	67054185924	1	PIL.CIN.ROLL W/ICING TEXAS SNAKE BITE	2
0	01800000731	1	CC COOKIE DOUGH	15
0	61300871771	1	ARIZONA SWEET TEA	4
0	05277900201	1	MAXIMS EGGS	16
0	03620000350	1	RAGU SPAG.SCE*M/ROOM	2
0	05210009860	1	MC BROWN GRAVY MIX	2
0	61300872020	1	ARIZWATERM	2
0	07181700038	1	BIGREDZERO	16
0	04964698006	1	AMISH NOODLES	16 2
0	04100002268	1	LIPT.RICE&SCE-SPANSH	2
0	02500000024	1	SIMPLY ORANGE	17
0	04964665086	1	PEACH JALAPENO JAM	2
0	07821600414	1	TEX.JOY STEAK SEASON	2
0	02840006408	1	TOSTITOS BIG SCOOP	7
0	03940001734	1	BUSH DRK KIDNEY BNS	2
0	05070027666	1	HY-TOP GREEN PEAS	4
0	00038000001	2	SMOKED SWI	1
0	03432600041	1	B&B CHARCOAL 40#	3
0	04000000223	1	M&M PEANUT BUTTER KS	15
ő	01300000961	1	JACK DANIEL'S ORIG.#	2
ŏ	04900000790 07015240004	1	POWERADE MT BLAST 20	18
ő	01600013925	1	DELDIXI HAMB.DILL-SL	2
ŏ	81857000173	1	HB HLP CHEESE MAC	2
0	02607991560	1	VANILLA	2
O	02259243114	1	PANCHO VILLA CHARCO	1
0	02840000210	1	OZARKA SPRT.PACK WTR SANTITAS TORTILLA	17
0	72972610026	1	JAL CHEDDAR DIP MIX	1
0	07342051640	1	DAISY COTTAGE CHEESE	2
0	04100000362	1	LIP.R/SECRET ONION	5
0	07365120100	1	MARIO OLIVE OIL	2
0	81222400300	1	SLOVACEK'S JAL&CHEES	2
0	03940001916	1	GRILLING BEANS STEAK	20
0	01270000004	1	SKINNER ELBOWS	2 2
0	61300873541	1	ARIZPNA MUCHO MANGO	16
0	05070004170	1	HY-TOP LONG SPAG.BOX	2
0	07257900102	1	BROWNS B/PINTO BEAN*	2
0	01270015518	1	SKNR DUMPLINGS	2
0	02700039007	1	HUNTS SAUCE	2
0	04900005015 04964611150	1	SPRITE	16
Ö	02840043143	1	AMISH CHERRY SLICES	15
Ö	04600086121	1	RUFFLES CHEDDAR& SOU	6
ő	72972610036	1	OEP ENCHILADA SCE ME	2
Ö	04964698015	1	BAKED ENCHILADA DIP	2
Ö	01090008031	1	AMISH POT PIE NOODLE	2 2 3
ő	04964698020	1	RENOLDS SMALL FOIL	3
0	05209222321	1	AMISH GP NOODLES	2
0	04900005011	1	HANDI FOIL RST/BK PN	3
0	03940001910	1	2 LITER DIET COKE	16
0	02840015636	1	BUSH GRILL BRBN/BROW DORITOS NACHO	2
0	04400000382	1	PREMIUM CRACKERS	6
0	01490002270	1	WOLF CHILI W/BEANS	13 2
0	04470036117			

PLU	<u>UPC</u>	PACK	NAME	DEPT NUM
0	02259200401	1	OZARKA SPRING WATER	17
0	03432600075	1	B&B MESQUITE WOOD	1
0	04460030474	1	KINGSFORD BRIQUETS	3
0	02000010745 02100002688	1	GG MUSHROOMS-STM&PCS	2
ő	01600010610	1	MIRACLE WHIP-SQZ GM FLOUR-A/P	2
Ö	03760006951	1	HOR.REAL BACON BITS	2 2 2 2
0	01800000104	1	GRGOLDLYRB	2
0	02700038815	1	HUNT TOMATO PASTE	2
0	07800012240	1	DIETSUNKIS	16
0	81896900006	1	GLACIER SPRING WAT	17
0	05209202350	1	HANDI FOIL ROAST.PAN	3
0	04190007515	1	OAK FARMS TRUMOO CHO	5
0	04460030481 04127100340	1	KINGSFORD MATCHLIGHT	3
o	04000000263	1	OAK FARM HALF&HALF SNICKERS *K/SIZE* 2	5
Ö	04000000203	1	M & M *PLAIN*KG.SIZE	15 15
0	02840007098	1	CON QUESO DIP	7
0	07373107005	1	MISSION FLOUR TORTIL	2
0	89755500221	1	DUBLIN TEXAS ROOT BE	16
0	04146035552	1	W.W.FLOUR TORTILA MX	2
0	05070026644	1	HY-TOP FOAM PLATE 87	3
0	01300000640 02700039005	1	HEINZ KETCHUP SQ	2
ő	85900000223	1	HUNTS TOMATO SAUCE	2
o	02840042073	1	MOONSHINE 32 OZ DORITOS NCHO CHEESE	2 2 2 6 2 2 2
0	01270000012	1	SKINNER FETUCCINE	6
0	72972610031	1	CHEDDAR BACON DIP	2
0	01300000264	1	HZ.57 SAUCE	2
0	05070000120	1	HY-TOP SUGAR	2
0	07770000004	1	MS PEACH COBBLER	4
0	07618316357	1	SNAPPLE DT PEACH	16
0	78616220043	1	SMARTWATER	17
0	05150024392 01410007093	1	CRISCO VEG. OIL	2
0	04964698021	1	TIP SLICED HOT DOG	2 2 2 2
ő	07373109105	1	SPINACH NOODLES MISSION TOSATDAS	2
0	72972610006	1	FIESTA SPINACH DIP	2
0	02840042643	1	RUFFLES ORIGINAL	1
0	81857000180	1	WATKINS PEPPER	2
0	04600081201	1	OEP TOSTADA SHELL-12	2
0	04369507111	1	H POCKET PEPP/PIZZA	4
0	02700038249 04127100323	1	HUNTS KETCHUP-SQUEEZ	2
Ö	07218800213	1	OAK FARM WHIPPING CR	5
ŏ	02400016308	1	BURLESON HONEY BEAR DM EARLY GARDEN PEAS	2
0	02840042054	i	FRITO LAY CLASSIC	2 6
0	02259200857	1	OZARKA 200Z	17
0	00045000001	2	BEEF OXTAIL	1
0	72972610018	1	ROASTED GARLIC DIP	2
0	01600027534	1	GM LUCKY CHARMS	2
0	05070024384 05210000245	1	HY-TOP ALUM. FOIL HD	3
ő	03477262001	1	MC MONTREAL STEAK	1
Ö	04964665557	1	HUSH PUPPIES CHRISTMASSJAM	4
0	03432600088	1	B&B HARDWOOD CHARC	2
0	02687100083	1	MESQUITE CHIPS	1
0	07084781271	1	MONSTER MOCA	18
0	07260007214	1	FM JALPOPR	1
0	01590000211	1	BAR S JUMBO FRANKS	2
0	76172098749	1	MAZOLA CORN OIL	2
0	07248600220	1	JIFFY CORN MUFFIN MX	2
0	04600083251 72972610023	1	OEP GREEN CHILI-CHPD	2
ő	72972610023	1	CHIPOTLE RANCH DIP ARTICHOKE DIP MIX	2
ő	03940001880	1	BUSH BLACK BEANS	2 2 2 2
Ö	02840020285	1	RUFFLES CHEDDAR	1
				,

0 03770032204 1 C 0 02700037913 1 H 0 01510002621 1 P 0 04150077985 1 C	H BROWNIE-CHEWY FDG 2 H.WHT.DIV.PLT.10.3 3 UNT TOMATOES-STEWED 2
0 03770032204 1 C 0 02700037913 1 H 0 01510002621 1 P 0 04150077985 1 C	H.WHT.DIV.PLT.10.3
0 02700037913 1 H 0 01510002621 1 P 0 04150077985 1 C	
0 01510002621 1 P 0 04150077985 1 C	Sitt Collection of Care and Ca
0 04150077985 1 C	ENN DUTCH EGG NOODL 2
0 00755500000	ATTLEMEN BBQ SCE*CL 2
0 89755500223 1 D	UBLIN BLACK CHERRY 16
0 09218731615 1 D	EXTER 6IN WIDE 1
0 07142909535 1 Z	AT. DIRTY RICE MIX 2
0 02100002632 1 M	AYO
0 03210002016 1 S	IRAWBERRY CHEESECAK 4
0 05100007623 1 P	EP.FARM CHOC.FUDGE 4
0 02700038010 1 H	UNTS WHOLE PEELED T 2
	EVEN UP 16
0 07980198815 1 B	VALUE PLATE-PAPER 3
0 04111600595 1 To	OPPS BABY BOTTLE PO 15
0 02840020286 1 R	UFFLES SOUR CREAM A 1
0 04190007664 1 O	F 2% MILK QT 2
0 04156500007 1 P	ACE PICANTE SCE-MLD 2
0 04156500008 1 P	ACE PICANTE SCE-MED 2
0 04000000627 1 K 0 72900908657 1 F	ING ALMOND SNICKER 15
	XCALIBUR BBQ SEASON 1
	IVA PANCHO CHARCOAL 1
	AWRY SEASONED SALT 2 T DR PEPPER 12Z 16
0 0001000000	
	RAFTRMAYO 2
	EBHARDT CHILI POWDR RAFTRMAYO 2 YTOPSWCOR 2 MPERIAL SUGAR 2 ORTON FINE SEA SALT TAWBERRYJALPENOJAM 2 OOL WHIP PTON FAMILY TEA BA LASIC KOSHER SPEARS 2
	MPERIAL SUGAR 2
	ORTON FINE SEA SALT 2
	TAWBERRYJALPENOJAM 2
U 04300000953 1 C	OOL WHIP
0 04100005014 1 LI	PTON FAMILY TEA BA 2
0 05410000060 1 V	LASIC KOSHER SPEARS 2
0 81032601034 1 F	IORA TOWELS 1
0 03338366400 1 G	ARDIN FRESH CARROTS 2
U 03710267500 1 M	ONTEREY WH MUSHROOM 21
0 04400003424 1 R	ITZ CRACKERS 19
0 02840015938 1 R	UFFLES ORIGINAL 6
0 04900000658 1 D	IET COKE 12 OZ SING 16
	RENCH SQZ. YELLOW M 2
0 06414403031 1 P	AM COOKING SPRAY 2
1 11	ER. ALMD. KING SIZE 15
	YTOP BRIQUETS*REG* 3
	/ISH BONE ITALIAN 2
	F WHOLE MILK QT 2
	NORR PASTA SIDE-ALF 2
	HEETOS PUFFS 6
	ILLIEST DILL DIP 2
	OUTHWEST CHILIONION 2 UBLIN CHERRY LIMEAD 16
	10= 1/m:
0 01000000	TOP CORVE
0 04156500009 1 P	AT.RED BEANS & RICE 2 ACE PICANTE SCE-HOT 2
0 03700000080 1 D	AWN 1
0 02840024062 1 F	RITO LAY SCOOPS
101 1 R	EADY TO COOK ROAST 20
U 02550000365 1 F	OLGER 2
0 04000000460 1 S	KITTLES KING SIZE 15
0 01380010164 1 L	CUSINE FIESTA GRIL 4
0 04146039888 1 P	IO.COUNTRY GRAVY MX 2
0 02/00039104 1 H	UNTS TOMATO GARLIC 2
0 02200001609 1 S	KITTLES DESERTS 15
0 04000000405 1 T	WIX CARAMEL KING SZ 15

PLU	UPC	PACK	NAME	DEPT NUM
0	04111600592	1	DROP POP	15
0	02840000228	1	CHESTERPUF	6
0	04964698024	1	AMISH TBN	1
0	07423495113	1	CHIPOTLE PEPPERS	2
0	03820000008	1	VHSOURPICK	2
0	72972610029	1	SUNDRIED TOMATO MIX	2
0	85900000204	1	MOONSHINE SWET TEA	16
0	02840005598	1	MED SALSATO	13
0	04190007949	1	OAK FARMS HALF/HALF	5
0	02840043318 01380016610	1	CHEETOS CRUNCHY	6
0	02687100082	1	L/CUSINE GLAZED CHIC	4
Ö	07092500061	1	TEXAS HICKORY CHIPS	3
ő	01740010078	1	CHEERWINE 6PK	16
ő	85758900300	1	SUCCESS RICE	2
ő	01114087102		VICTORY ENERGIZE	18
ő	05100001251	1	HUNGRY JACK POTATOES	2
0	07110000308	1	CAM.CHICKEN NOODLE	2
0	03010019943	1	H/VAL RANCH* B/MILK	2
O	05400010183	1	KBLR.SOFT B.CHOC.CHP SCOTT 1000	19
0	07210003600	1	IMP.POWDR.SUGAR-POLY	1
0	03915600010	1	LOUIS.SEASND FISH/FR	2
0	08000000673	1	TUNA	2 2
0	04125543081	1	COMSTOCK CHRY FILLIN	2
0	05070024678	1	HY-TOP BRUSSEL SPROU	4
0	73149510004	1	CKN STUFFED RICE/PEC	4
0	05150025537	1	JIFF XTRA CRUNCHI	2
0	81222400160	1	PORK AND BEEF FP	20
0	05070000966	1	GREEN BEANS HYTOP	2
0	04100000610	1	W/BONE DRESS-ITALIAN	2
0	04690000123	1	R/STYLE PINTOS W/JAL	2
0	04800126504	1	HELLMANNS MAYONNAISE	2
0	03400000312	1	HER.SQUEEZE CHOC.SYR	2 2
o	01630022001	1	TEXSUN APPLE JUICE	2
Ö	01530043023 72972610007	1	RICE-A-RONI CHICKEN	2
ő	04100002246	1	TOASTY ONION DIP	2
ő	07260007230	1	KNOR NOODLES W/CHIC.	2
Ö	02840042071	1	LOADED BAKED POTATO	6
o	02840042049	1	DORITOS COOL RANCH	6
Ö	03700086503	1	FRITOS ORIGINAL CHARMIN ULTRA	6
0	03000003090	1	A.J.CORN MEAL*YELLOW	1
0	04000048433	1	TWIX BITES	2
0	05210074604	1	MC PEPPRCRN MEDLEY*G	15
0	07040400002	1	EXTRA VIR OLIVE OIL	2
0	89755500203	1	BUBLIN RETRO GRAPE	2 16
0	88491212971	1	FRUITY PEBBLES	1
0	07084781310	1	MONSTER JAVA	18
0	05070025425	1	HY-TOP PEAS&CARROT	4
0	65153806700	1	SWT LF TEA ORIG SWEE	17
0	07260010364	1	FM RAGIN RANCH	6
0	03400047153	1	YORK MINIS	15
0	08000000674	1	TUNA IN VEG OIL	2
0	07980198965	1	BV SPREAD	2
0	04280011400	1	TOTINO PEPPERONI PIZ	4
0	05210000971	1	SPCLASSGAP	2
0	07189962418	1	BLUE BELL KRUNCH	14
ő	01740011805 02800000788	1	MINUTE RICE	2
ő	04127100121	1	BUTTERFINGER CUPS	15
ő	04127100121	1	OAK FARMS QT WHOLE M	5
ő	02840041772	1	OAKFARMMIL	5
Ö	01600027489	1	FRITOS FLAVOR TWIST	6
o	04139000005	1	BC SCALLOPED POTATOE	2
0	05100000011	1	KIKKOMAN TERIYAKI SA CAM.TOMATO SOUP	2
0	07210005600	i	IMP.LT.BRN.SUGR-POLY	2
0	03120001605	- 1	O/SPRAY JELLIED CRAN	2
			SOLIGAT SELLIED CKAN	2

PLU	UPC	PACK	NAME	DEPT NUM
0	07339001437	1	AIR HEADS BITES	15
0	04300005789	1	SHAKE N BAKE	1
0	01270015513	1	SKNR SEA SHELLS	2
0	07210002600 01630016059	1	IMPERIAL SUGAR	2
ő	04127100358	1	FL NAT CRANBERRY CTA	2 2 5
o	72972610043	1	LOW FAT BUTTERMLK GUACAMOLE OLE DIP	5
0	07199800001	1	TONYS CREOLE SEASING	2
0	07797508281	1	PRTZDIPWHT	2
0	85900000200	1	MOONSHINE SWEET 320Z	13 16
0	07033060845	1	BIC SURE START MLTPU	3
0	04900004086	1	COKE ZERO CLA SODA P	16
0	01600041420 05210009140	1	HAMHELBEEF	2
ő	05210009140	1	MC SPAGHETI SCE-ITAL	2
ő	03400012383	1	MC BEEF STEW SEASONI	2
0	02840019078	1	HERSHEY'S SPREADS CHESTER FRIES \$2.00	15
0	05200001122	1	VAN CAMP PORK&BEANS	6
0	01330054333	1	MW CORNBRD.MX-YELLOW	2 2
0	02840023987	1	CHEETOS PUFFS	1
0	05210000651	1	MCORMICK GROUND CUMI	2
0	01410009340	1	PEPPERIDGE SLID WHTE	2 2
0	05070027308 01370082218	1	HY-TOP CHOP SPINACH	4
ŏ	05210009160	1	HEF ONE ZIP FRZR.BAG	3
Ö	07800000162	1	MC ENCHILADA SAUCE DT 7 UP BOTTLE	2
0	68670010126	i	GAMESA SUGAR WAF ST	16
0	04152501000	1	STARTRLOGS	19
0	02840004747	1	BAKENETSCH	6
0	01480058221	1	REALEMON JUICE	2
0	07365121422	1	MARIO MD PTD RIPE OL	2 2
0	07471408553 03800084497	1	MRS CUBB C/G CROUTON	2
Ö	02100061383	1	PRINGLE BBQ	2
ő	72900960990	1	KR.DIP-FRENCH ONION	2
0	04973309101	1	BLKPEPPER CHOLULAHOS	2
0	03800031710	i	POP TART FRS.STRWBRY	6
0	05070021382	1	HY-TOP BREAD CRUMBS	2 22
0	03915600046	1	LOUIS.TARTER SAUCE	2
0	01590014048	1	BAR S CORN DOGS	4
0	04190008016	1	READY LEAF SWEET TEA	2
Ö	02840014741 05070055287	1	SUN CHIPS ORIGINAL	1
Ö	85758900301	1	HY-TOP PINTO BEANS	2
0	08411411635	1	VICORY FRUIT PUNCH KETTLE JALAPENO	18
0	04692847515	1	VICTORINOX ARMY KNIF	6
0	81788500026	i	SLAP YA MAMA FISH FR	1
0	04470000004	1	OSCR MYER BUN WIENER	1 20
0	05070026670	1	HY-TOP BABY LAMA B	4
0	02800000142	1	BUTTERFINGER KNG SIZ	15
ŏ	04300005788 07015230008	1	SHAKE'N BAKE ORIG CH	1
Ö	01480058204	1	DELDIXI RELISH-SWEET	2 2
0	07339000903	1	REALIME JUICE	
0	02410019134	1	AIR HEADS XTREAMES CHEEZ IT	1
0	64420941020	1	DH YELLOW CAKE MIX	13
0	04964665556	1	HOPPINFROGJAM	2
0	03000005950	1	AUNT JEMIMA SYRUP	2 2 2 4
0	05070026668	1	HYTOP CRINKLE CARROT	4
0	04127100061	1	OAK FARMS FAT FREE M	5
0	05210005030 03800059665	1	MC BLACK PEPPER-GRND	2
ő	02570000350	1	KEL RAISIN BRAN	2
Ö	07797508280	1	ZIPLOC STORAGE-GAL. PRETZEL DIPS	3
0	02400016704	1	DM FRUIT COCKTAIL	6
0	05000032842	1	COF.MATE FRENCH VANI	5 2 2 3 6 2 2
0	04139000001	1	KIKKOMAN SOY SAUCE	/

DOLLAR LEADERS FROM: 01-01-15 TO

PLU	<u>UPC</u>	PACK	NAME	DEPT NUM
0	07189962406	1	MOO BARS 12PK	14
0	72972610009	1	TEXAS WILDFIRE MIX	2
0	07365110105	1	MARIOMACHE	
Ö	04010001785 01380055812	1	F/MANN.DRY YEAST-R/R	2 2 2
ő	72900922130	1	STOULASAGN	2
ŏ	01370082413	1	STEAKSAUCE	2
0	01600045840	1	HEF.ONE ZIP FRZR.BAG BC RTS CHOCOLATE	3
0	68670010128	1	GAMESA SUGAR WAF VA	2
0	04127100412	1	OAKF2% QUART	19 5
0	0400000603	1	3 MUSKETEERS KING	15
0	03210002011	1	SARA LEE CHEESE CAKE	4
ő	01410004380 07339001449	1	POTATO HOT DOG BUNS	2
ŏ	07639700112	1	AIR HEADS BITES	15
ō	01600041130	1	LACOSWHOLE HB HLP-LASAGNA	15
0	02840017251	1	OR CRACKER JACK	2
0	05210009020	1	MC MUSHROOM GRAVY MX	6
0	03800084496	1	PRINGLES ORIGINAL	2
0	07365111704	1	MARIO TH.STUFF.OLIVE	6 2
0	04400003742	1	NBC CHOCOLATE OREO	19
0	05210000647	1	MC ONION POWDER	2
ő	02840015224 02400016301	1	SUN CHIPS FRENCH ONI	1
Ö	02550090015	1	DM GOLD.CR.STYL.CORN	2
0	72900960130	1	NEW FOL. SPECIAL ROA SAVORYSEASONING	2 2 2
0	02570000330	1	ZIPLOC STORAGE-QUART	2
0	01800085134	1	PET RITZ PIE SHELLS	3
0	07339001448	1	AIR HEADS BITES	4 15
0	01600036830	1	BUGELS ORIGNAL	13
0	01600016010	1	CHEX MIX TRADITIONAL	13
0	05070025392 02000000180	1	CALIFORNIA BLEND VEG	4
ŏ	02430083938	1	GG BROCCOLI W/CHEESE	4
ō	04125543072	1	HONEY BUNS	1
0	01490044206	1	COMSTOCK APPL FILLIN W.B HDSUCE	2
0	01800051460	1	PILLS. ORIG. PANCAK	1
0	65272910113	1	EAGLE BRAND MILK	4
0	07260007299	1	BACON CHEDDAR JALAPE	2 6
0	07046209850	1	SOUR PATCH KIDS	15
0	03620000100	1	RAGU MEAT SAUCE	2
ő	05210003780 05210008480	1	MC CHICKEN GRAVY MIX	2
o	05210000460	1	MC SLOPPY JOE MIX	2
0	81857000179	1	MC LEMON&PEPPER CINNAMON	1
0	05070056670	i	HY-TOP PARTY CUPS	2
0	05100001051	1	CAM.CHICKEN&RICE SOU	1 2
0	04100002249	1	KNORR NOODLES W/BTR.	2
0	04116524510 04000000051	1	SOLO SAVERS PLATES	1
ő	01630022009	1	STARBURST FRUIT CHEW	15
o	05100000550	1	TEXSUN PINEAPPLE JUI	2
0	04300095117	1	CAM.CHUNKY BEEF SOUP	2
0	02840000078	1	CTIME LEMONADE BEAN DIP ORIGINAL	2
0	05210005020	1	MC BLACK PEPPER-GRND	6
0	03915600013	1	LOUSIANA CHICKEN FRY	2
0	01600051379	1	BUGLES NACHO CHEESE	2 13
0	04152501400	1	PINE MOUNTAIN FIRE O	3
0	02840005597 02400001148	1	TOSTINOS CHUNKY DIP	2
0	02400001148	1	DM MANDARIN ORANGES	2
ő	08411410707	1	KRAFT ORG BBQ SAUCE	2
0	06827429877	1	TETTLE SALT AND PEP PURE LIFE 20PK	6
0	01270012204	1	SKINNER SPAGHETTI	17
0	05210009550	1	MC MEATLOAF SEAS.MIX	2
0	07189962401	1	FUDGE BARS 12PK	2 14
0	03940001368	1	BUSH BLACKEYE PEAS	2
U	03940001368	1	BUSH BLACKEYE PEAS	

DOLLAR LEADERS FROM: 01-01-15 TO: 42 24 45

08259272715		NAME	NUM
00200212110	1	NAKED BLUE MACHINE	2
04125921474	1	BAMA STRBRY.PRES*TMB	2
05070055298	1	FROSTED FLAKES	2
		BITTERFOMGER CUPS	15
		BISQUICK	2
		FRENCH'S F/FRIED ONI	2
		WYLER BOUL.CUBE-BEEF	2
64420044000		HY-TOP SLICED STRWBE	4
03900031044		DH WHITE CAKE MIX	2
04603947537		KEL.RICE KRISPIES	2
			1
	•		2
07015250081		MCILHENNY TABASCO 2Z	2 2
02400039342		DW DEVCHES NO SHOW	
07423528451		M GBASS CHICKEN NO	2
	-	SIMPLY CRANDEDRY	2
		TRAP IAI APENO WHOLE	16
07092500062		CHEER WINE	2
03400000415	1	REESES BIG CUID	16
04000000401	1	MILKY WAY *KING SIZE	1
04000042133	1	MILKY WAY FRENCH VAN	15 15
02840041922	1	FRITOS CHILI CHEESE	6
	1	SUN CHIPS HARVEST CH	6
	1	FIGARO LIQ SMOKE	2
	1	MUNCHOS	6
	1	KETTLE JAL 3.29	7
04125875102	1	WYLER BOUL.CUBE-CHKN	2
	1	MC P PINCH ITAL SEAS	2
03800084552			6
	1		2
	1	HY-TOP CHARCOAL BRIQ	1
8075550000549	1	PETER PAN PENUT BUTT	2
	1		1
			5
		MRS BAIRDS LARGE	2
		DH DEVIL FOOD CHARCOAL	1
		CREAT CHACANGLE	2
04111600150		TOPPS PINC DOP OURS	2
09392250066		NOW & LATER ODIO	15
05000001011		CARNATION MILE	15
02840014739	1	SLIN CHIPS CHEDDAR	2
02800021580	1	NESTLE CHOC MORSELS	1
07373107300	1	MISSION FLOUR TORTII	2
07084702152	1	MONSTER REHAB PEACH	1
03800084505	1	PRINGLES RANCH	6
07471408554	1	CROUTONS	2
02840000077		FRITOS BEAN DIP 3 OZ	6
05070025207		HY-TOP SQUEEZE MUSTA	2
0/02/010024		BLACKBURN MADE SYRUP	2
04125921369		BAMA GRAPE JELLY	2 2
04900003838		DASANI LMN PRFWT NPB	17
05210000200		MCCORMICK RED PEPPER	2
01600051350		MCCORMICK PEPPER 30Z	2
021000051259		CHEX MIX POPPED	6
02840014394		KR BBQ SCE BRW SUGAR	2
05150028064		I DANIONE BOX	1
04470002455		ON LOW TUDIES OF STREET	2
		WRICLEY EXTENSION	1
		NESTLES COUNCIL	15
03470000049		VEG-ALL OBIGINAL	15
03432600079		BR WOOD DELL HIGHORY	2
01630022005		TEXSUM 100% OBANGE	1
01270015522		SKINNER TRIO ITALIANI	2 2
01370003120	1	HEFTY COMP TRAY FOR	2
	02800053970 01600042060 04150022022 04125875104 05070009498 64420941000 03800031844 04692847537 04964665088 0112100001 07015250081 02400039342 07423528451 0250000030 74815941660 07092500062 03400000415 0400000401 04000042133 02840041922 02840043782 07232900001 02840019079 02840008290 04125875102 05210000534 0380084552 01760002147 0507000085 04530000549 89755500202 81591400128 07087000200 050770008383 64420941040 07052800681 04111600150 09392250066 0500001011 02840014739 02800021580 07373107300 07084702152 03800084505 07471408554 0284000077 05070025207 07027010024 04125921369 0490003838 05210000296 0510000296 0510000296 0510000299 02800013170 0347000049 03432600079 03432600079 01630022005 01270015522	02800053970 01600042060 04150022022 04125875104 05070009498 164420941000 03800031844 104692847537 104964665088 01121000001 07015250081 02400039342 07423528451 0250000030 74815941660 07092500062 0340000415 0400000401 04000042133 02840041922 02840043782 07232900001 02840019079 02840008290 04125875102 01760002147 0507000085 0453000549 89755500202 81591400128 07087000085 10453000549 89755500202 81591400128 07087000085 0453000549 89755500202 81591400128 07087000085 0453000549 89755500202 181591400128 07087000085 0453000549 89755500202 181591400128 07087000085 0453000549 89755500202 181591400128 07087000085 0453000549 89755500202 181591400128 07087000085 0453000549 89755500202 105070008883 106420941040 107052800681 04111600150 109392250066 10500001011 02840014739 0280021580 07373107300 107084702152 103800884505 107471408554 0284000077 05070025207 07027010024 04125921369 0490003838 105210000286 10510002996 101600051259 102100005242 102840014394 105150028064 104470002455 10220000889 102800013170 103470000049 103432600079 101630022005 101270015522	02800053970 1 BITTERFOMGER CUPS 01600042060 1 BISQUICK 04150022022 1 FRERCH'S F/FRIED ONI 04125875104 1 WYLER BOUL CUBE-BEEF 05070009498 1 HY-TOP SLICED STRWBE 64420941000 1 DH WHITE CAKE MIX 03800031844 1 KEL.RICE KRISPIES 046964665088 FROGJAM 01121000001 1 MCILHENNY TABASCO 2Z 07015250081 1 DELDIXI BABY DILLS 02400039342 1 DPEACHES NO SUGAR 07423528451 1 M-GRASS CHICKEN NDL 0250000030 1 SIMPLY CRANBERRY 74815941660 1 TRAP, JALAPENO-WHOLE 07092500062 1 TREESES BIG CUP 040000042133 MILKY WAY *KING SIZE 04000042133 MILKY WAY *FRENCH VAN 02840041922 1 FRITOS CHILL CHEESE 0284001979 1 MILKY WAY *FRENCH VAN 07232900001 1 FIGARO LIQ SMOKE 0723290001 1

DOLLAR LEADERS FROM: 01-01-4

PLU	UPC	PACK	<u>NAME</u>	DEPT NUM
0	05070055714	1	HYTOP BRIQUETS*REG*	3
0	02100005228	1	KRAFT ORIGINAL BBQ	2
0	03890000139	1	DOLE SLI.P/AP.N JUIC	2
0	79357316138	1	PYRODUST SPICY	1
0	04850030569 04127100411	1	TROPICANA OJ	2
0	02840028204	1	OAKFWHQUAR	5
ő	05210009880	1	FUNYUNS	6
ő	02840002958	1	MC ONION GRAVY SEPOPCORN	2
0	01600019726	1	BC FAM.FUDGE BROWNIE	6 2
0	04142007692	1	TROLLI	15
0	02150004801	1	LAWRYS HERB AND GARL	2
0	05070004730	1	HY-TOP PEACH SLICES	2
0	07002635097	1	OAK FARMS WHIPPED TO	5
0	04470002454	1	LUNCHABLE HAM SWISS	1
0	05210015742	1	MC BAGN SEASN-POT RO	2
0	07920013116	1	CHEWY SWEET TARTS	15
ő	02460001001 60069966102	1	MORT. SALT-PLAIN	2
Ö	05070026669	1	JET PUFF MARSHMALLOW	2 2
ő	01370082410	1	HY-TOP BLACKEYE PEAS HEF SLIDER GAG FREEZ	2
Ö	72900960240	1	MEXICALITACO	1
0	01370001410	1	HEF.C/S TALL KITCHEN	2
0	03800084551	1	PRINGLES ORIGILAL	6
0	81857000121	1	CHICKEN SOUP	1 2 3 6 2 2
0	02700041900	1	SNACK PUDDING CHOCOL	2
0	02400016314	1	DM SAUERKRAUT	2
0	05000030062	1	COFFEE-MATE *LARGE	2
0	01600050887	1	NATURE VALLEY PROTAI	15
0	02259205302	1	OZARKA CASE PACK WAT	17
ő	02870011122 03900008663	1	TREE TOP APPLE SAUCE	2
0	72900921300	1	VIENNA SAUSAGE	2
ŏ	05410003000	1	EXBBQSAUCE VLAS SAUERKRAUT OLD	2
0	04850000672	1	TROP.CRANBERY COCKTL	2
0	07087000406	1	SEEDED MRSB HB BUNS	17 2
0	05210000257	1	MC PAPRIKA-GROUND	2
0	07639700511	1	LA COST JAL NACHO	2
0	05070024204	1	HY-TOP BBQ SCE REGUL	2
0	02840002815	1	CHED S CREAM RUFFLES	6
0	02840002819 07047000300	1	NACHO DORITO	6
ő	04000044651	1	YOPLAIT STRAWBERRY	2
ŏ	07920000236	1	M&M PRETZEL CHEWY SPREE	15
0	02460001003	1	MORT. SALT-IODIZED	15 2
0	07920014336	1	LAFFY TAFFY CHERRY	
0	03800000011	1	SPECIAL K STRAWBERRY	15 19
0	05210002024	1	SP CL GARLIC SALT	2
0	05210015746	1	MC BAGN SEASN-CHICKE	2
0	07891317028	1	KEEB.GRAHM CR.PIE CR	2
0	07115900133	1	CORN NUTS *ORIGINAL	13
0	05400014176 05070025299	1	SCOTTS WHITE	1
ő	03890000818	1	HY-TOP SAND BAG RECL	3
ŏ	72277620001	1	DOLE PINEAPPLE JUICE SPLENDA SWEETENER*PA	17
0	05210000251	1	MC GINGER-GROUND	2
0	03800059644	1	KEL FROSTED FLAKES	2
0	07920043361	1	SWEET TARTS CHEWY	2
0	05070024685	1	HY-TOP WHOLE ORKA	4
0	72900960020	1	GRILLINOUTSEASONING	2
0	02840009058	1	CHEESE DIP	7
0	02840008405	1	FLAM HOT MUNCH 2.89	7
0	02840008404	1	CHEESE MUNCH 3.29	7
0	04000000259 02460001987	1	STARBURSE GUMMI	15
ŏ	65153806701	1	MORTON TENDER QUICK	2
ŏ	01600012607	1	SWEET LEAF GREEN TEA	17
	3000 12001	,	CHEX MIX BOLD PARTY	13

DOLLAR LEADERS FROM: 01-01

PLU	UPC	PACK	NAME	DEPT NUM
0	04400000488	1	NBC GRAHAM CRACKER	19
0	01270015515 02800000141	1	SKINNER RIGATONI	2
ő	04000000141	1	BABY RUTH KING SIZE	15
Ö	01410007660	1	TWIX PNT BTR COOKIE PEPPERIDGE ITALIANSS	15
0	07260007279	1	SWEETCORN POPCORN	2
0	02800000355	1	BUTTERFINGER CUPS	1 15
0	05070025079	1	HY-TOP GUMBO MIX	4
0	01258700080 07142909101	1	GLAD TRASH BAG-30GAL	3
ŏ	07143000819	1	ZAT GUMBO MIX	2
0	03470035410	1	SALAD DOLE ITALIAN ALLEN PINTO BEANS	2 2 5
0	02900065150	1	PARKAY MARGARINE SQZ	2
0	79357316136	1	PYRODUST MEDIUM	1
0	07218800104 05100002025	1	BURLESON HONEY	2
ő	01410008786	1	CAM.TOMATO JUICE(PLS	17
Ö	72972690029	1	PEPPERIDE STRAWBERRY CHEESEBAL	2
0	07478505280	1	VAL.FRESH WHITE CHIC	2
0	76172007104	1	ARGO CORN STARCH	2
0	02840043774 02840002794	1	CHESTER FRIES FLAMIN	6
ő	02200000514	1	FR HONEY	6
0	02840002816	1	WRIG RAIN GUM CRY CHEETOS	15
0	01600012606	1	CHEX MIX CHEDDAR	6 13
0	02840002820	1	CRA DORITOS	6
0	01300000654	1	HZ.DILL RELISH	2
ő	03800084498 02430083566	1	PRINGLE CHEDDAR	6
Ö	02900000822	1	NUTTY BARS	1
0	72972630002	1	BLUEBONNET SPREAD QU WILD WEST SALSA DIP	2
0	04157005180	1	BLUE DIA.RSTD ALMOND	2
0	05070001164	1	HY-TOP FOAM CUPS 16	13 3
0	07618300017 02800001077	1	DIETSNAPHH	16
Ö	07980199169	1	BABY RUTH	15
0	04964665073	1	BLACK PEPPER AMISH OF TRIP BERRY	2
0	01600026469	1	NATURE VALLEY OAT	2
0	02840004768	1	ROLD GOLD PRETZELS	19 6
0	08411400996	1	KETTLE SEA SALT&VINE	6
ő	01920002922 03400021071	1	LYSOL SPRAY-SUMMER B	3
0	02700041901	1	REESES SNACK MIX SNACK PACK VANILLA	1
0	01600051333	1	NV ALMOND CRUNCH	2
0	04111600527	1	TOPPS JUMBO PUSH POP	15 15
0	07008506012	1	BAGEL BITES CHS/PEP	4
ő	01630022003 01600045960	1	TEXSUN GRAPE JUICE	2
o	04280011100	1	BC RTS CREAM CHEESE	2
0	04142011587	1	TOT PIZZA SAUSAGE TROLLI CRAWLERS	4
0	07287827533	1	HERDEZSALV	1
0	02430083532	1	LD STAR CRUNCH	2
0	60502100008 07920000164	1	MRS DASH SEASONING	2
ő	04900002890	1	SWEET TART ROLLS	15
0	01600030650	1	COKE 12 OZ BETTY CROKER COOKIES	16
0	05000039758	1	NESTLE CHOCOLATE	3
0	05070007652	1	HTPLASTCUP	1
0	02500000031 02840004743	1	SIMPLY LIMEADE	1
o	81857000174	1	BAKEN-ETS PORK SKIN	6
0	02550020083	1	WTK IMIT.CLEAR VANIL	2
0	02259200006	1	FOLGERS CLASSIC ROAS OZARKA DISTILLED WAT	1
0	05100003885	1	CAM.CLASSIC CHIC/NDL	17
0	04289765487	1	BUCKET OF BUBBLE GUM	2 15
0	08259272015 03800031110	1	NAKED GREEN MACHINE	2
J	03000031110	1	POP TART FRS. BSUG/C	2
				2

DOLLAR LEADERS FROM: 01-01

PLU	UPC	PACK	NAME	DEPT
0	07084700322	1	MONSTER ENERGY	NUM
0	07303010350	1	PINK BEAUTY SALMON	18 2
Ö	03800012495 07920032572	1	PRINGLES W DIP	6
o	04600086051	1	WONKA RANDOM	15
0	81857000153	1	OEP ENCHILADA SCE HO	2
0	81857000137	1	WATKLINAMENT	1
0	04190007702	1	WHITE LINIMENT OF FAT FREE 1GAL	1
0	07087000371	1	HAMBURGER BUNS	2
0	02840043783	1	KETTLE COOKED JALAPE	2
0	03915600029	1	LOUIS.ALL/NAT FSH FR	6
0	04964612280 04300095370	1	AMISH HOT GARDEN SLD	2 2
Ö	02430083561	1	KOOLAID BURST-GRAPE	17
0	01410007098	1	OAMEAL PIE	1
0	04178900211	1	PEPPERIDGE ONION BUN	22
0	04400000749	1	RAMEN SUPREME-CHICKN	2
0	02259233415	1	NBC OREO COOKIES OZARKA SPRING WATER	19
0	05100001161	1	CAM.CREAM OF CELERY	17
0	04190007645	1	OAK FARMS WHOLE MILK	2
0	07257900106 03890000619	1	BROWNS B/BLACKEYES*\\\\	5 2
o	04878902123	1	DOLE CRS.P/AP.N.JUIC	17
0	05070004520	1	DIAMATCHSA	3
0	03338353610	1	HY-TOP DSG PLATE 7	3
0	07920024911	1	5LBPATATOEBAG SWEETNSOUR ROPE	2
0	04000039412	1	SNICKERS PNT BTR SQU	1
0	05210015743	1	MC BAGN SEASN-PORK C	15
0	88810911095	1	HOSTESS WHITE BREAD	2
Ö	88810911096 02259200007	1	HOSTESS WHEAT	2 2
Ö	05150023913	1	OZARKA SPRING WATER	17
0	02840002796	1	CRISCO SHORTENING	2
0	03400021073	1	REG LAYS	6
0	04000049454	1	HERSHEYS SNACK MIX SNICKERS XTREME	1
0	02100065350	1	KR.HORSRADSH-CRM.STL	1
0	02200000668	1	BIG RED 15STK	2
0	07287827523	1	HERDEZSALC	15
0	03320001110	1	ARM&HAMMER BKNG SODA	2
O	05210002027 05210000698	1	CLASICLEMO	2 2
0	04142011477	1	MCCORMIC BAY LEAVES	2
0	72900921290	1	TROLLI SHARKS	1
0	88810911097	1	SWEETTANGYBBQ	2
0	01090000531	1	HOSTESS HOT DOG BUNS REYN OVEN BAG	2
0	03760013872	1	SPAM LUNCHEON MEAT	1
ő	01600019639 03800084553	1	CHEX MIX S AND S	2
0	03432600078	1	PRINGLES ORIGINAL	1 6
0	05210063476	1	BB WOOD PELLETS	1
0	03760048669	1	MC GRILL MATES CHICK	1
0	04280011600	1	HOR.PEPPERONI	2
0	05070004735	1	TOT PIZZA COMBO HY-TOP PEACHES SLICE	4
0	01600015973	1	BC HMB-HLP CHSY ENCH	2
0	04369507112	1	H POCKET HAM/CHEESE	2
0	05210063474	1	MC STEAK RUB	4
o	04157005512 05210000884	1	BLUE DIAMOND HARANED	1
Ö	02840042064	1	MC RUBBED SAGE	2
0	07047000313	1	LAYS CHEESY GARLIC B	6
0	07282708012	1	YOPLAIT STRAWBANANA	2
0	04289765497	1	VESS TONIC WATER GRAPE BUBLE GUM	16
0	04289765496	1	CHERRY BUBBLE GUM	15
0	02410012261	1	CHEEZ-IT SMALL BAG	15
0	03800013190 04100000285	1	RICE KRISPIE TREAT	13
O	05070026004	1	LIPTEABAGS	2
-		1	HY-TOP CUTLRY AST.	3

DOLLAR LEADERS FROM: 01-01-15 TO: 42 24 45

PLU	UPC	PACK	NAME	DEP'
0	01410004337	1	PEPPERIDGE SLID POTA	10.00
0	07142909523	1	ZAT JAMBALAYA MIX	2
0	03760024609	1	DINTY MOORE BF.STEW	2
0	01380018803	1	L/CUSINE CHIC.FETTUC	2
0	01258700010	1	GLAD WRAP 12	4
0	05000032822	1	HAZELNUT CREAMER	3
0	02840000024	1	J/C BEAN DIP	2
0	02840000088	1	FRITO HOT BEAN DIP	7
0	01600012609	1	CHEX MIX	2
0	02430086590	1	CHOCOLATE CUPCAKE	13
Ö	00218000005	2	BABY SWISS	1
ő	02410012796	1	CHEEZITHNS	1 13
ő	03700081008 79166903845	1	CHARMIN ULTRA SOFT	13
o	07980124664	1	3-MIN. OATS *QUICK*	2
Ö	07046254250	1	BETTER VALUTISSUE	1
Ö	02200000838	1	SWEDISH FISH	15
Ö	04100000643	1	EXTRA SENSAT WATERME	15
ő	07087000301	1	W/BONE DRS-1000 ISLE	2
Ö	07067000301	1	HOT DOG BUNS	2
ő	02259200009 02389642199	1	OZARKA DRINK WATER	17
o	05210000424	1	POPSECRET	2
ō	02840007103	1	MC THYME-GROUND	2
o	02840007095	1	TOST SPINACH	7
0	88810901070	1	RANCH DIP	6
0	88810901072	1	HOSTESS BROWNIES	1
0	01990000320	1	HOSTESS CUP CAKES	1
0	72049591035	1	CLAB.GIRL BAK.POWDER	2
0	02370900401	1	TGIF MOZZARELLA STIC	6
0	02840000152	1	DROMEDARY SLICED PIM	2
0	02840004327	1	VANILLA CREME	19
0	01600051258	1	PNB BIG COK	6
0	03400000652	1	BUGLES RANCH	6
0	02200000669	1	HERSHEYS KRACKEL	15
0	05070027631	1	WRIGLEYS WINTERFRESH HY-TOP PLASTIC FORKS	15
0	88810911098	1	HOSTESS BURGER BUNS	3
0	04175715862	1	PIMENTO CHES SPREAD	2
0	64420941160	1	DH GERMAN CHOC.CK.MX	5
0	01600045830	1	BC RTS VANILLA	2
0	04400003551	1	NUTTER BUTTER	2
0	01600016619	1	GARDETTOS ORIGNAL RE	19
0	08259266015	1	NAKED MIGHTY MANGO	13
0	01380010340	1	STOUFFER MAC & CHEES	2
0	74815940179	1	TRAPPEY'S BANANA PEP	4
0	01600051259	1	CHEX MIX P	2
0	04157005227	1	BLUE DIA JALP/SMKHS	1
0	01410009435	1	PEPPERIDGE HERB&SPIC	13
0	07087000040	1	MRS BAIRS'S H 7GRAIN	2
Ö	07287850523	1	DONMARMOLE	2 2
ŏ	04100002263	1	KNORR CKN BROCCOLL	2
Ö	02840042072 04157005179	1	DORITOS SALSA VERDE	1
0	05210002121	1	BLUE DIA ALMOND SMKH	13
0	07271410041	1	MC FAJITA MARINADE S	2
Ö	64420900456	1	TX TOOTHPICKS JAL ON	4
Ö	01270015716	1	DH FRST COCONUT PECA	2
Ö	01410004540	1	SKINNER LASAGNA	1
Ö	02840004177	1	PR FRM TOP SLICED S	22
Ö	05010050350	1	HONEY ROASTED PEANLIT	13
Ö	01410009527	1	ARMOURLARD	2
Ö	03700086529	1	PEPPERIDGE ITALIAN W	2
Ö	04139004760	1	CHARMIN ULTRA STRONG	1
ŏ	07282708002	1	KIKKOMAN SWT & SOUR	2
0	05070027746	1	VESS CLUB SODA	16
0	00046000000	1 2	DISTILLED VINEGAR	1
0	06150000363	1	HOT WESPHALIA	1
0	02840007094	1	STARS&STRIPES COLA LAYS FON DI	16
	TO THE PARTY OF TH			

DOLLAR LEADERS FROM: 01-01-15

000000000000000000000000000000000000000	06150000420 07373106300 02900001999 07339000016 07115900134 07739132111 04878941150 04300020431 05210002022 03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	NAME STAR&STRIPES LOOPY MISSION CORN TORTILL PLANERS SALTED CARE MENTOS FRUIT CORN NUTS *BBQ* BLKSTP MOL DIA. SQ/RND T/PICK JELLO INST-CHOCOLATE SP CL CINNAMON GRND PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	NUM 16 2 13 15 13 1 2 2 1 13 15 1 1 2 2 6 13 15
000000000000000000000000000000000000000	02900001999 07339000016 07115900134 07739132111 04878941150 04300020431 05210002022 03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	MISSION CORN TORTILL PLANERS SALTED CARE MENTOS FRUIT CORN NUTS *BBQ* BLKSTP MOL DIA. SQ/RND T/PICK JELLO INST-CHOCOLATE SP CL CINNAMON GRND PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	2 13 15 13 1 3 2 2 1 13 15 1 1 2 2 6 13
000000000000000000000000000000000000000	07339000016 07115900134 07739132111 04878941150 04300020431 05210002022 03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	PLANERS SALTED CARE MENTOS FRUIT CORN NUTS *BBQ* BLKSTP MOL DIA. SQ/RND T/PICK JELLO INST-CHOCOLATE SP CL CINNAMON GRND PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	13 15 13 1 3 2 2 1 13 15 1 1 2 2 6
000000000000000000000000000000000000000	07115900134 07739132111 04878941150 04300020431 05210002022 03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	MENTOS FRUIT CORN NUTS *BBQ* BLKSTP MOL DIA. SQ/RND T/PICK JELLO INST-CHOCOLATE SP CL CINNAMON GRND PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	15 13 1 3 2 2 1 13 15 1 1 2 2 6
000000000000000000000000000000000000000	07739132111 04878941150 04300020431 05210002022 03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	CORN NUTS *BBQ* BLKSTP MOL DIA. SQ/RND T/PICK JELLO INST-CHOCOLATE SP CL CINNAMON GRND PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	13 1 3 2 2 1 13 15 1 1 2 2 6 13
000000000000000000000000000000000000000	04878941150 04300020431 05210002022 03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	BLKSTP MOL DIA. SQ/RND T/PICK JELLO INST-CHOCOLATE SP CL CINNAMON GRND PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	1 3 2 2 1 13 15 1 1 2 2 6 13
000000000000000000000000000000000000000	04300020431 05210002022 03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	JELLO INST-CHOCOLATE SP CL CINNAMON GRND PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	3 2 2 1 13 15 1 1 2 2 6
0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	05210002022 03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	JELLO INST-CHOCOLATE SP CL CINNAMON GRND PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	2 2 1 13 15 1 1 2 2 6 13
0 0 0 0 0 0 0 0 0 0 0 0	03400038005 01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1 1 1	PAYDAY SNACK BITES GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	2 1 13 15 1 1 2 2 6 13
0 0 0 0 0 0 0 0 0 0	01600050278 02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1 1 1	GARDETTOS GALIC RYE NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	1 13 15 1 1 2 2 6 13
0 0 0 0 0 0 0 0 0	02800017310 02430083520 02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1	NESTLE KING CRUNCH LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	15 1 1 2 2 6 13
0 0 0 0 0 0 0	02840042075 05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1 1 1	LD FROSTED DONUTS DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	1 1 2 2 6 13
0 0 0 0 0 0 0	05210002992 05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1 1	DORITOS SPICY NACHO MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	1 2 2 6 13
0 0 0 0 0 0	05210000738 08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1 1	MCCORMICK MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	2 2 6 13
0 0 0 0	08411403313 02900002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1 1	MC PARSLEY FLAKES KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	2 6 13
0 0 0 0	0290002001 07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1	KETTLE CHEDDAR BEER PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	6 13
0 0 0	07339000011 05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1 1	PLANTERS SALT VINEGA MENTOS MINT MC VANILLA EXTRACT	13
0	05210007086 02200000317 04300095543 04300095561 02100003934	1 1 1	MENTOS MINT MC VANILLA EXTRACT	
0	0220000317 04300095543 04300095561 02100003934	1	MC VANILLA EXTRACT	1.3
0	04300095543 04300095561 02100003934	1		2
	04300095561 02100003934	100	ORBITWINTE	15
0	02100003934	1	KOOLAID-TROP.PUNCH	2
0	05100010===	1	KOOLAID-STRAWBERRY	2
0	05100013736	1	TACO BELL TACO SEASO	2
0.	05100014982	1	CAMBELS TOMATO SOUP CAMBELLS CHK NODL SU	2
0	05210015744	1	MC BAGN SEASN-MEAT L	2
0	04190008017	1	READY LEAF ICE TEA L	2
0	06414404322	1	CBRD SPAG&MEAT BALLS	2
Ö	88810901067	1	HOSTESS HONEY RUN	2
ő	06414404315 03800084500	1	CBRD RAVIOLI-REFE	1 2
Ö	02840040923	1	PRINGLES SOUR CREAM	6
0	04300020004	1	CHESTER FRIES FMAMINI	6
0	04000040265	1	JELLO-ORANGE	2
0	07667710071	1	M & M PRETZEL SINGLE	15
0	04300020433	1	FAMOUS AMOS DBL CHOC	19
0	02400016313	1	JELLO INST-VANILLA DM NEW POTATOES	2
0	05440000172	1	A1 MARINADE CAJUN	2
0	05440000164	1	A1 MARINADE MESQUITE	2
0	07339001394	1	MENTOS GUM	2
0	04160061402	1	FISHER BOY FISH STK	15
ŏ	03700080049 02840019080	1	BOUNCE O-FRESH SHTS	4
Ö	07142110947	1	SABRITONES	3 1
0	04131301762	1	BOG AZ CJEESEBIRGER	1
0	01410009390	1	ADAMS LEMON PEPPEP	2
0	01254600783	i	PEPPERIDGE SLIDERS W TRIDENT LAYERS	2
0	07639700212	1	LACOSSLICE	1
0	02840002953	1	LAYS DILL PICKLE	15
0	02840003741	1	LAYSKETTLE	6
0	02840002802	1	LIMON LAYS	6
0	05209220316	1	THREE LOAF PAN	6
0	02200000488	1	WRIG.ORBIT W/MINT S/	1
Ö	02200000667 04142011099	1	WRIG JUICEYFRUIT 15	15
Ö	02840004176	1	TROLLI CRAWLERS	15
Ö	04470000677	1	MNSLTPEANT	15 13
Ö	76172005110	1	OM LC HAM/AMERICAN F	2
0	03100012015	1	KARO SYR-RD I BI -I GHT	2
0	01113212552	1	BANQ.CHICKEN NUIGGETS	4
0	04900002891	1	ALPO PRIME CUTS DIET COKE	3
0	05070027003	1	HY-TOP DI ACTIO ODE	16
0	85006700082	1	HY-TOP PLASTIC SPOON MR.COFFEE FILTERS	3
0	05070007742	1	HY-TOP NAPKINS	2
0	05210002035	1	GROUND RED PEPPER	3
U	04131301723	1	ADAMS CHILI POWDER	1
			- ONDER	2

DEP	NAME	PACK	UPC	PLU
NUM		1	05400044130	0
1	SCOTT EXTRA SOFT	1	01600041729	0
2	HAMBURGER HELPER BEE	1	02100002689	0
2	NOAFT TARTAR SALICE	1	01600041300	0
2	HAMHELSPAG		04878904546	0
3	DIA MATCH STRIKE ON	1	05070048613	0
	HY-TOP CINNAMON GRALL	1	03700012783	0
19	GAIN LIQ/2X FRSH 161	1	03700012783	ő
3	MENTOS GUM PURE SDEA	1	07339001387	0
15	JUICY FRUIT CHERRY	1	02200001748	Ö
15	WRIGLEY EXTRA PEPMNT	1	02200000891	
15	WRIGLEY DMINT 15STIC	1	02200000666	0
15	SARDINES-OIL	1	02010000006	0
2	KB BBO SOF STIEVE	1	02100005232	0
2	KR BBQ SCE SPICY HON	1	02840007844	0
13	SAB JAL NUTS .50	1	02430083785	0
1	LD CRUNCH DONUTS	1		4
20	LEAN GROUND		02200011701	0
	WRIGLEY 5 REACT MI	1	02840002763	0
15	FRITOS	1	02840002703	0
6	FRITO REGULAR	1	02840002795	0
6	CLOROX REG	1	04460030768	0
1	NESCAFE CLASICO DAWN	1	02800046701	
2	JELLO-CHERRY	1	04300020003	0
2	HERSHEY DAVING SEE	1	03400005200	0
2	HERSHEY BAKING COCOA OMLBOLCHSC	1	04470036002	0
2 2	MCCORMIC STIFF	1	05210009180	0
2	MCCORMIC BURRITO SEA	1	00980089500	0
2	NUTELLA	1	05070024521	0
3	HY-TOP LAWN & LEAF B		04470002411	0
2	OM LCH.W/CHEES DIZZA	1	04300002826	0
	KA JAMMER CHERRY	1	02840004320	0
17	CHOCOLATE CHIP	1	02340001602	0
19	SOFT SCRUB W/BLEACH	1	02340001602	0
3	TROLLI BRITECRAWLERS	1	02070901230	
15	HZ.HOT DOG RELISH	1	01300000631	0
2	RAID ANT&ROACH *FRES	1	04650021612	0
3	JUICY DROPS TAFFY	1	04111600582	0
15	PRINCIPS INFFY	1	03800012498	0
6	PRINGLES ORIG JAL DI	1	03600018840	0
3	HUGGIE BABY WIPES	1	04460000889	0
3	FORMULA 409-REG./TRI	476	05070049592	0
4	HY-TOP BLUEBERRIES	1	02200000665	0
	WRIG SP 15 ST	1	02200001749	0
15	JUICY FRUIT	1	08610601183	0
15	LDASSORTCR	1	02200000898	0
.2	EXTRA POLAR ICE	1	720700000898	Õ
15	CHIPOTLE CHEESERALI	1	72972690010	Ö
2	FOLGERS DECAE	1	02550020085	0
2	NAT VAL ROASTED CRU	1	01600051332	_
15	CAMBELS BEEF WITH VE	1	05100014878	0
2	POWERRAD CHOO	1	09742118051	0
1	POWERBAR CHOC PENUTB	1	02900007880	0
13	PL.FRUIT & NUT MIX		04480000101	0
2	SWEET&LOW SUGAR SUB.		08259263232	0
2	NAKED ORANGE CARROT		2727112128	0
2	BRIANNAS CHIPOTI E CH	1	6172005010	0
2	MAKO SYR-BLIRI-DADK		2972610017	0
2	HOEDOWN BROCCOLL		113130007	
2 2 2 2	GLZD PRK CHOPS	1	4131309354	
2	ADAMS VANILLA CIN SU	1	4131301737	
1	MC CUMIN-GROUND	1	5210000810	
2 2 2 2 6	ADAMS EN UTA OFFE		4131302472)
2	ADAMS FAJITA SEASON RANCHMX3OZ		7110021004)
2	MORT DOOK SALE		2460004212)
2	MORT.ROCK SALT(ICECR		2840042063)
6	AYS LIMON		4116524508)
1	SOLO BOWLS		5070000857)
19	Y-TOP ICE CREAM CON	1 1	4178900122	
19	MAR.CUP-BEEF	1 1	1410007024	
2 2	INER ROLLS	1 [1650098041	
2	O.S. SOAP PADS	1 8	703307070	
3	UGARY SAM YAMS	1 5	7032070523	

P	U UPC	PACK	NAME	DEPT
	0 02070901231	1	INAIVIE	NUM
	0 05070055658	1	THOUSE SOUR ROITE OF	A 200
	03160052000	1	111-10P FIREI OGG	15
	0 03800084526	1	SCHOLD LEWING AFRAGA	3
	0 03338365020	1	MINGLES CHENDAR CH	3
	0 09733900005	1	FELLOCE	21
	0 02840000620	1	VALENTINA SALSA RED	2
	0 02100005228	1	JALAPENO MUNCHERS	13
	0 07287851524	1	KRAFT BBQ	1
	0 04000048507	1	DONA MARIA NOPALITOS	2
	04300020001	1	SNICKERS ROCIN NUT R	15
	0 01600051258	1	JELLO-STRAWBERRY BUGLES RAN	2
	00075000002	2	CATFISH FILLET	1
	03700023992	1	CHAPMIN III TOTA	1
	02070000229	1	CHARMIN ULT/STRONG R SPUFFCORN HOT	3
49	01210000/UII	1	INPERIAL CUBE SUGAR	6
48		1	GROUND PORK	2
Č	00020000000	1	RAGU PIZZA SAUCE	20
ò	00070003245	1	HTPARTYCUP	2
Ö	200401003333	1	AERO SHOT LIME	3
0	00070100317	1	AERO SHOT RASPBERRY	1
Ö	0.000000323	1	CGBAKEPOWD	1
Ö		1	REESES TREE	2
o	07260000366	1	FLAVOR MILL HOT SAUC	15
ő	02800047253	1	BUNCHA CRU	6
ő	01600051333 07006212195	1	NV ALMOND	1
o	04400003658	1	SHORT HANDI E BRO MOD	1
0	01600050582	1	NOTIER BUTTER	3
0	07800000323	1	CHEX MIX JALAPENO CH	19
0	02430083526	1	DI DK PEPP	13
0	02430083521	1	LD GLAZED DONUTS	16
0	05070025232	1	LD POWDERED DONLITS	1
0	05210003850	1	MY-TOP COCONIT ELAKE	1
0	02200011697	1	DEEF STROGANOFF	2
0	02840002814	1	WRIGLEY 5 REACTED	2 15
0	02840043090	1	MUNCHES CHEESE FIX	
0	02840002814	1	RUFFLES SOUR CREAM	6
0	07010001666	1	MUNCH CHEE	6 1
0	07667710071	1	RATH HOT DOGS	2
0	07282708005	1	FA DBL CHO	1
0	02840000090	1	VESS GINGER ALE	16
0	02200000483	1	HOT BEAN DIP	6
0	02200000484	1	WRIG.ORBIT SWEETMINT	15
0	02200000489	1	ORBIT SPEARMINT	15
0	02840003906	1	WRIG.ORBIT BUBBLEMIN SUNFLRSEED	15
0	02840000056	1	LAYS RANCH DIP SMALL	6
0	08411411588	1	KETTLE JALAPENO	6
0	07260007230	1	BAKED POTA	6
0	04900000658	1	DIET COKE	1
0	03338366000	1	CARROTS	16
0	02430086541	1	LD ICED HONEY BUNS	21
0	01600026479	1	NAT. VALLEY P/NUT BTR	1
0	04300095563	1	KOOLAID-GRAPE	13
0	04178900212	1	RAMEN SUPREME-BEEF	2
0	04000049483	1	OOLVEINE-RFFL	2
0	09218731618	1	DEXTER 6IN STIFF	1
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EXHIBIT "B"

































































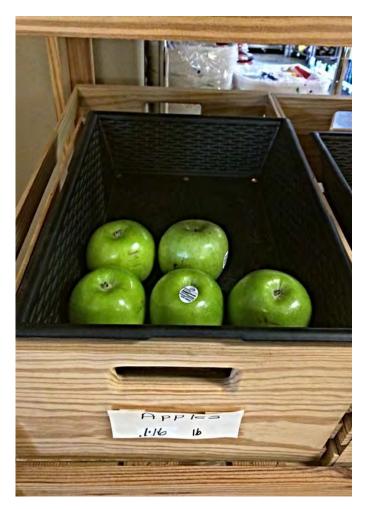


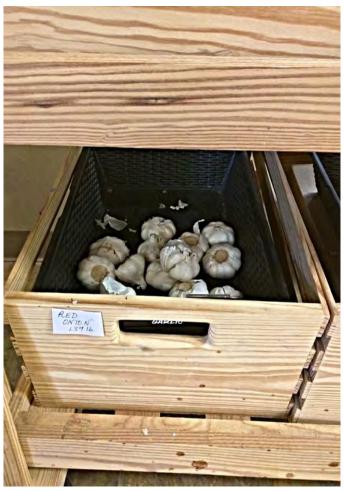


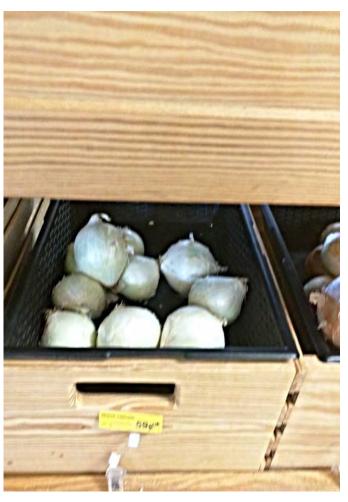
































































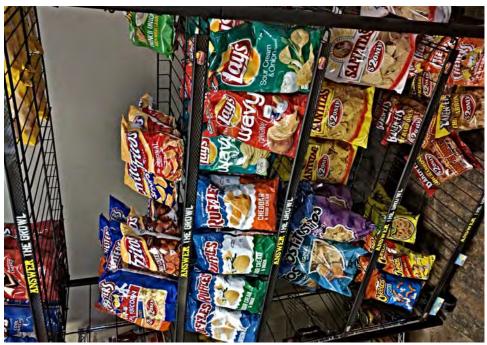






























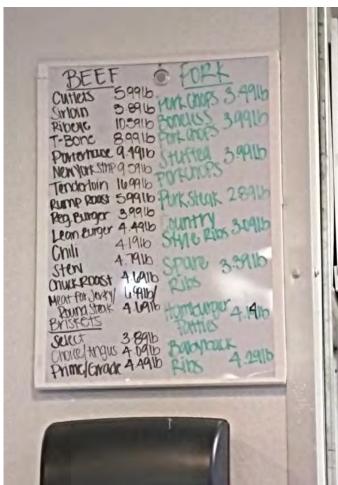


























TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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T. Tolbert Chisum Tom H. Gann J.B. Goodwin

June 22, 2016

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

Mr. Colby Denison DDC Merritt Starlight, Ltd 1904 W. 35th Street Austin, TX 78703

THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY:

16169 HAVENS AT HUTTO

Dear Mr. Denison:

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 qualified for the one (1) point related to §11.9(c)(8)(A) of the Qualified Allocation Plan ("QAP"), Proximity to Important Services - full service grocery store, as neither the Hutto Westphalia Market nor the HEB Grocery store meets the Department's definition of a grocery store. The request provided information indicating that the Hutto Westphalia Market does not carry a full line of products that one would expect to purchase in a full service grocery store, and that the HEB does not meet the §10.101(a)(2) requirement that mandatory community assets exist or be under active construction post pad (e.g. framing the structure) by the date the Application is submitted. The request included information not previously provided to the Department, and staff determined that a Notice of Administrative Deficiency was appropriate.

On June 7, 2016, staff issued a deficiency notice requiring the Applicant to provide evidence that a least one of the grocery stores met all requirements to qualify as a community asset under §11.9(c)(8)(A). In response to the notice, the Applicant conceded that the HEB does not qualify as construction had not progressed as the Applicant had hoped. The Applicant submitted an accounting of the items carried by the Hutto Westphalia Market. Staff visited the market to visually confirm whether the market met the intent of the 2015 FAQ quoted in the request. Staff found that regardless of its size, the market did offer a household "the preponderance of its typical food and household items needs, including a variety of options for fresh meats, produce, dairy, baked goods, frozen foods, and some household cleaning and paper goods."

After reviewing the response and visiting the market, staff determined that the market is an eligible fullservice grocery store.

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

Sincerely,

Multifamily Division Director



16263

Starlight

Third Party Request for Administrative Deficiency



May 3, 2016

Sharon Gamble Housing Tax Credit Program Administrator Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701-2410

RE: Request for Administrative Deficiency TDHCA # 16263

Dear Sharon,

We hereby request staff to consider an Administrative Deficiency regarding Starlight, TDHCA #16263, meeting the requirements for 2X the State Average of HTC Units per Capita in Murillo. We believe failure to obtain a 2X Units Per Capita resolution may speak to threshold eligibility for the project. The reasons for such request are as follows:

Application is in Murillo, a CDP which has more than twice the State Average for HTC Units per Capita

The Starlight Application specifies in Tab 7 that the site is "located in Edinburg ETJ (Murillo CDP)." Murillo is an unincorporated Census Designated Place (CDP) in Hidalgo County and its boundaries are defined and limited by the full city limits of Edinburg. The City of Edinburg completed annexation of certain service areas in December 2013 and March of 2015 that included portions of Murillo. The annexations resulted in a significant reduction to the area of Murillo but more importantly, a reduction of its population that existed prior to the annexation. These annexations are not reflected in the population of Murillo as shown in the 2016 Site Demographic Characteristics Report.

TDHCA published the Site Demographic Characteristics report for use in the 2016 HTC cycle and notified the development community that 1) dataset used was the 2009-2013 ACS; 2) applicants should verify the information of the property inventory; and 3) TDHCA, in particular, put the applicants on notice that in some cases, developments listed may be located in ETJ's, and that might affect the results. Moreover, applicants that choose to submit a site location within a Place that is an unincorporated area are solely responsible for their due diligence and run the risk of finding inconsistent Place boundaries, datasets and population figures from those published by TDHCA because all of the TDHCA ACS datasets are based on the geography mapping of the 2010 Decennial Census. They are therefore not updated to reflect annexations unless specifically identified by the United States Census Bureau at the time each American Community Survey is published. No such ACS notification has been published by US Census regarding Edinburg since 2010.

Some, but not all notices by TDHCA to applicants include:

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. [Notice on 2X Units Per Capita report]

In addition, although the Department may compile data from outside sources in order to assist Applicants in the Application process, it remains the sole responsibility of the Applicant to perform independently the necessary due diligence to research, confirm, and verify any data, opinions, interpretations, or other information upon which an Applicant bases an Application or includes in any submittal in connection with an Application. [Section 10.2(b) of the 2016 Uniform Multifamily Rules]

The population figure used for Murillo in the Site Characteristic Report was 7202 based upon the 2009-2013 ACS. Clearly this dataset was published prior to the recent annexations and therefore could not include any reduction to population as a result of the annexations that occurred in December of 2013 and March of 2015. During the annexation process, the City of Edinburg published population estimates for each service area to be annexed. The service areas that were annexed from Murillo were (i) Areas 8 and 9 from the 2013 annexation (1489 population) and (ii) Areas 4 and 9 from the 2015 annexation (565 population). The total population of these four services areas was 2054 people, which reduced the population of Murillo to 5148 persons. See attached exhibits from the City Annexation publications.

The number of existing HTC units in Murillo as of March 1, 2016 is 126 units, which is not reflected in the 2X Units Per Capita report. The 126 HTC units are TDHCA # 15264 – La Palmilla, which the TDHCA's Property Inventory indicates is located in Edinburg. According to its 2015 application for 9% HTCs, La Palmilla is actually located in the Edinburg ETJ (Murillo CDP), and this information is provided in the 2015 HTC awards log. The Starlight Applicant certainly knew about this because Versa Development is the developer for both Starlight and La Palmilla.

Without any reduction to the population of Murillo due to annexations, the number of units for two times the State average for Murillo based on the 2009-2013 ACS population figure would be 1.988 units. Indeed, the minimum population allowed for Murillo CDP as of March 1, 2016 before triggering the two times per State average per capita is 7160, a reduction of only 42 people from the published Site Characteristic report number of 7202.

There is no doubt that the population of Murillo is significantly less due to the annexations that occurred <u>AFTER</u> the publication of the 2009-2013 ACS dataset but before March 1, 2016. After the 2015 annexation, the Murillo 2X Units Per Capita for State Average is 2.158 based on the 2015 annexation alone but if you also add in the 2013 annexation, the Murillo 2X Units Per Capita for State Average is actually 2.775.

Page 3 – Request for Administrative Deficiency TDHCA #16263

The applicant for Starlight, Versa Development, had full knowledge not only of Versa's existing La Palmilla HTC development in Murillo but Versa was also fully aware of the ongoing annexations in Edinburg because Versa submitted a Challenge to a competitor application in the 2015 round using annexation as a basis for the challenge. Versa had every opportunity to seek guidance from the Department of the potential 2X Units Per Capita issue but also could have ensured a safe harbor and compliance to the rules by providing the proper Governing Body resolution.

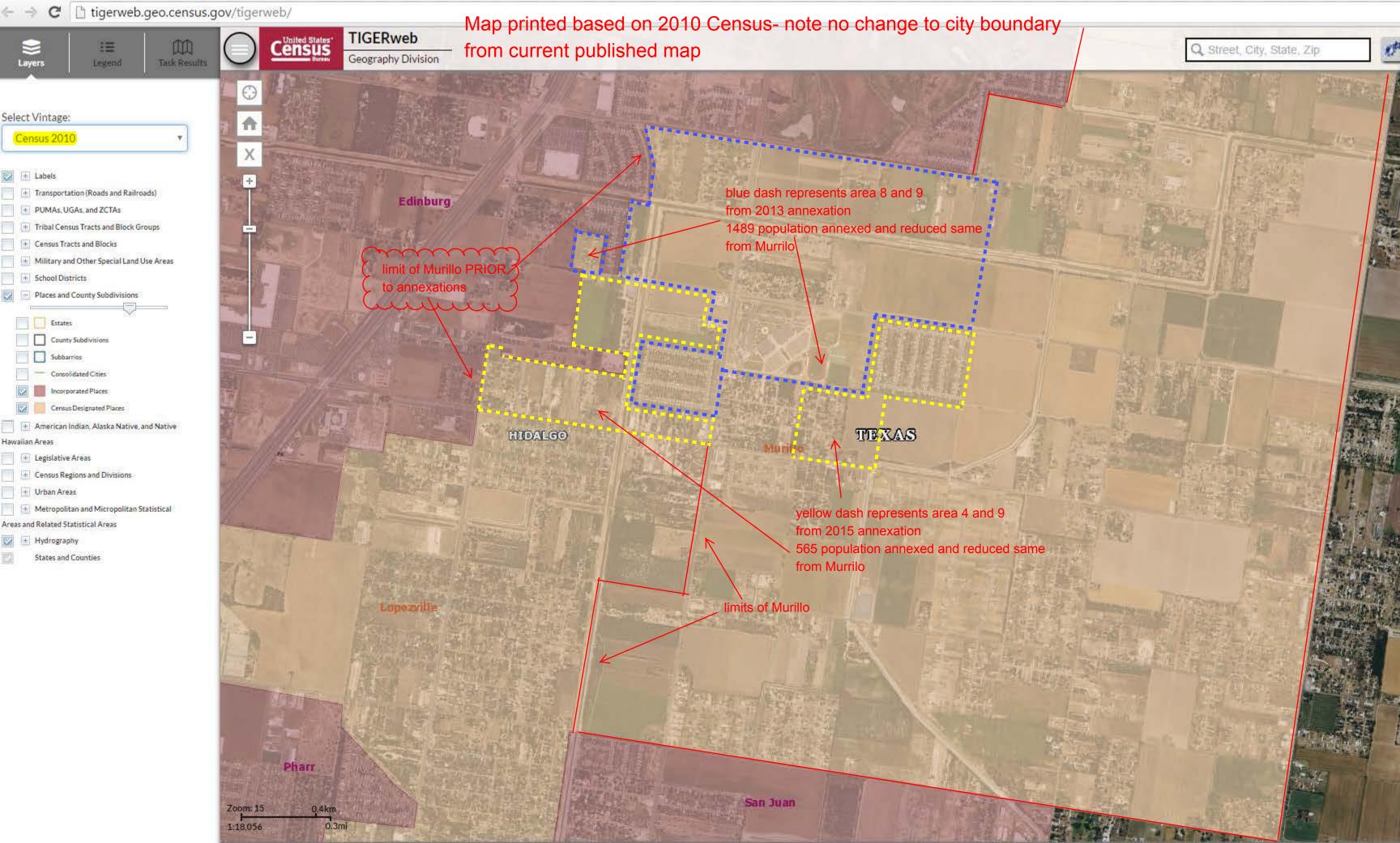
We are unable to verify within the application if the proper Governing Body resolution addressing the 2X Units Per Capita rule was provided. If such a resolution was not provided from both Hidalgo County and the City of Edinburg, then threshold eligibility issues under Section 11.3(b) of the 2016 Qualified Allocation Plan should be considered by staff.

Sincerely,

MGROUP HOLDINGS, INC.

Mark Musemeche

MDM/oe





2013 annexation

ORDINANCE NO. 2013-3694

AN ORDINANCE PROVIDING FOR THE CITY-INITIATED ANNEXATION OF APPROXIMATELY 2,281.65 ACRES, SAID ACREAGE LYING ADJACENT TO AND ADJOINING THE PRESENT BOUNDARY LIMITS OF THE CITY OF EDINBURG, TEXAS; AND PROVIDING FOR THE EXTENSION OF THE CITY'S BOUNDARIES AND EXTRATERRITORIAL JURISDICTION, THEREBY; PROVIDING WAIVER OF THREE SEPARATE READINGS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, on August 20, 2013, the City Council directed the staff of the City of Edinburg to prepare Service Plans for the provision of City services to certain tracts of land, described herein as Exhibits "A" through "Q" said tracts being Areas 1, thru 17, proposed to be annexed by the City of Edinburg; and

WHEREAS, two public hearings on the proposed service plans of the hereinafter described territory were held on October 1, 2013 and October 15, 2013, before the City Council in accordance with the Charter and Ordinances of the City of Edinburg and the laws of the state, and notice of such hearings was published in accordance with Section 43.052, Tex. Local Gov't. Code, in The Edinburg Daily Review on Wednesday, September 18, 2013 and Wednesday, October 2, 2013, said newspaper being the official newspaper of the City; and

WHEREAS, the hereinafter described property lies within the extraterritorial jurisdiction of the City of Edinburg; and

WHEREAS, the property hereinafter described lies adjacent to, adjoins, and is

contiguous to the City of Edinburg; and

WHEREAS, upon final passage of this Ordinance, the annexation procedures concerning the hereinafter described property will have been completed within ninety (90) days of the date the City Council instituted said proceedings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDINBURG TEXAS, THAT:

SECTION I. The City finds that all requirements of law have been met in the passing of this ordinance.

SECTION II. The land described in Exhibits "A" through "Q", being Areas 1 through 17, attached hereto and made a part hereof for all purposes, being territory adjacent to and adjoining the City of Edinburg, Texas, is hereby added and annexed to the City of Edinburg, Texas, and said property therein described shall be included within the boundary limits of such City, and the present boundary limits of such City, at the various points contiguous to the areas hereinafter described, are altered and amended so as to include said areas within the corporate limits of the City of Edinburg.

SECTION III. Pursuant to the provisions of Section 43.056, Tex. Local Gov't. Code (Vernon 1988 and Vernon Supp. 1994) and all other applicable statutes & case law, the City staff has prepared Service Plans for the properties to be annexed. Such Service Plans are attached hereto for Areas 1 through 17, and by reference are made a part hereof; and are adopted hereby as the Service Plans for the Areas indicated therein upon the passage of this Ordinance.

SECTION IV. The herein described property and the tracts so annexed shall be a part of the City of Edinburg, Texas, and the property so added hereby shall bear its <u>pro rata</u> share of the taxes levied by the City of Edinburg, Texas. The inhabitants thereof shall be entitled to all of the rights and privileges of citizens of the City of Edinburg, Texas, in areas having similar characteristics of topography, land utilization, and population density, and shall be bound by the acts, ordinances, resolutions, and regulations of the City of Edinburg, Texas.

SECTION V. Upon annexation, the herein described property shall be temporarily zoned Agricultural District, until permanently zoned by the City Council of the City of Edinburg or upon request by property owner within the tracts being annexed.

SECTION VI. The extraterritorial jurisdiction of the City of Edinburg shall expand in conformity with this annexation and shall comprise an area around the new corporate limits of the City, consistent with state law.

SECTION VII. In computing the total amount of territory that the City of Edinburg may annex in the year 2013, approximately 2,281.65, acres more or less, are being annexed on the initiative of the City of Edinburg.

SECTION VIII. Upon annexation of the herein described property, the acreage within the City limits of Edinburg will be increased by approximately 2,281.65, more or less, which does not exceed the statutory limitations as set out in Section 43.055, Tex. Local Gov't. Code (Vernon 1988 and Vernon Supp. 1994).

SECTION IX. The final reading of this ordinance is waived; the second reading is final; and the requirements of three separate readings is waived.

SECTION X. The City Secretary is hereby authorized and directed to cause a true and correct copy of this Ordinance, as well as a description of the property annexed, to be published in a newspaper having general circulation in the City of Edinburg, Texas, and in the territory to be annexed hereby.

SECTION XI. Upon final passage, this Ordinance shall be published in the official newspaper of the City of Edinburg, Texas, as provided by law, and shall be and remain in full force and effect ten (10) days from date of final passage.

SECTION XII. If any section, part, phrase, provision, or sentence of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, or if any tract of land or portion of any tract of land hereby annexed shall be held to be ineligible for annexation or wrongfully annexed, then in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION XIII. In accomplishing the annexation of the property herein described, the City of Edinburg has strictly followed the provisions of the Charter of the City of Edinburg, and the state statutes as they apply to annexations and any possible deviation from these provisions was unintentional and not material to the accomplishment of this annexation.

READ, CONSIDERED, PASSED AND APPROVED on first reading at a Regular Meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 4th day of November, 2013.

READ, CONSIDERED, PASSED AND APPROVED on second and final reading at a Special Meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 10th day of December, 2013.

CITY OF EDINBURG

ATTEST:

By: Richard H. Garcia Mayor

By Myra L. Ayala Garza, City Secretary

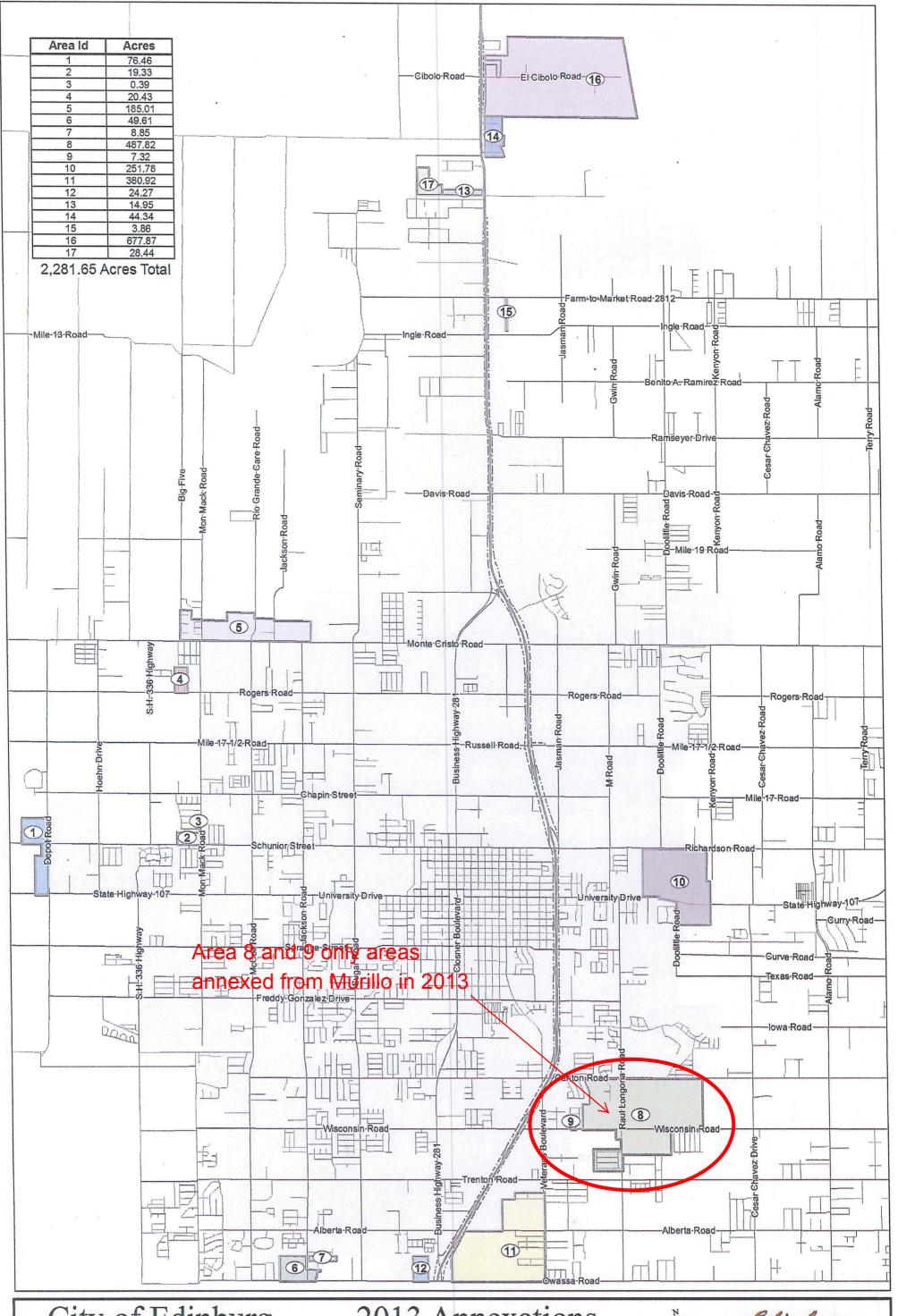
APPROVED AS TO FORM:

PALACIOS & ASSOCIATES, P.C.

By:

City Attorney

RMH/dmg-annexationslordinances/2013 annexation



City of Edinburg

2013 Annexations

*Applies to Involuntary Annexations only







City of Edinburg

2013 Annexation Plan

*Applies to Involuntary Annexations only





AREA 8 DATA

- 535.94 Acres
- 520 Tracts
 - 455 Residential
 - 1 Commercial
- Estimated Population 1476

AREA 9 DATA

- 7.31 Acres
- 7 Tracts
 - 4 Residential
- Estimated Population 13

2015 annexation

ORDINANCE NO. 2015-3818

AN ORDINANCE PROVIDING FOR THE CITY-INITIATED ANNEXATION OF APPROXIMATELY 681 ACRES, SAID ACREAGE LYING ADJACENT TO AND ADJOINING THE PRESENT BOUNDARY LIMITS OF THE CITY OF EDINBURG, TEXAS; AND PROVIDING FOR THE EXTENSION OF THE CITY'S BOUNDARIES AND EXTRATERRITORIAL JURISDICTION, THEREBY; PROVIDING WAIVER OF THREE SEPARATE READINGS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, on October 21, 2014, the City Council directed the staff of the City of Edinburg to prepare Service Plans for the provision of City services to certain tracts of land, described herein as Exhibits "A" through "F" said tracts being Areas 3, 4, 5, 7, 8 and 9 proposed to be annexed by the City of Edinburg; and

WHEREAS, two public hearings on the proposed service plans of the hereinafter described territory was held on January 6, 2015 and January 20, 2015 before the City Council in accordance with the Charter and Ordinances of the City of Edinburg and the laws of the state, and notice of such hearings was published in accordance with Section 43.052, Tex. Local Gov't. Code, in The Edinburg Daily Review on Wednesday, December 24, 2014, and Wednesday, January 7, 2015, said newspaper being the official newspaper of the City; and

WHEREAS, the hereinafter described property lies within the extraterritorial jurisdiction of the City of Edinburg; and

WHEREAS, the property hereinafter described lies adjacent to, adjoins, and is contiguous to the City of Edinburg; and

WHEREAS, upon final passage of this Ordinance, the annexation procedures concerning the hereinafter described property will have been completed within ninety (90) days of the date the City Council instituted said proceedings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDINBURG TEXAS, THAT:

SECTION I. The City finds that all requirements of law have been met in the passing of this ordinance.

- SECTION II. The land described in Exhibits "A" through "F", being Areas 3, 4, 5, 7, 8 and 9, attached hereto and made a part hereof for all purposes, being territory adjacent to and adjoining the City of Edinburg, Texas, is hereby added and annexed to the City of Edinburg, Texas, and said property therein described shall be included within the boundary limits of such City, and the present boundary limits of such City, at the various points contiguous to the areas hereinafter described, are altered and amended so as to include said areas within the corporate limits of the City of Edinburg.
- SECTION III. Pursuant to the provisions of Section 43.056, Tex. Local Gov't. Code (Vernon 1988 and Vernon Supp. 1994) and all other applicable statutes & case law, the City staff has prepared Service Plans for the properties to be annexed. Such Service Plans are attached hereto for Areas 3, 4, 5, 7, 8 and 9, and by reference are made a part hereof; and are adopted hereby as the Service Plans for the Areas indicated therein upon the passage of this Ordinance.
- SECTION IV. The herein described property and the tracts so annexed shall be a part of the City of Edinburg, Texas, and the property so added hereby shall bear its <u>pro rata</u> share of the taxes levied by the City of Edinburg, Texas. The inhabitants thereof shall be entitled to all of the rights and privileges of citizens of the City of Edinburg, Texas, in areas having similar characteristics of topography, land utilization, and population density, and shall be bound by the acts, ordinances, resolutions, and regulations of the City of Edinburg, Texas.
- SECTION V. Upon annexation, the herein described property shall be temporarily zoned Agricultural District, until permanently zoned by the City Council of the City of Edinburg or upon request by property owner within the tracts being annexed.
- **SECTION VI.** The extraterritorial jurisdiction of the City of Edinburg shall expand in conformity with this annexation and shall comprise an area around the new corporate limits of the City, consistent with state law.
- **SECTION VII.** In computing the total amount of territory that the City of Edinburg annex in the year 2015, approximately 681 acres more or less, are being annexed on the initiative of the City of Edinburg.
- **SECTION VIII.** Upon annexation of the herein described property, the acreage within the City limits of Edinburg will be increased by approximately 681, more or less, which does not exceed the statutory limitations as set out in Section 43.055, Tex. Local Gov't. Code (Vernon 1988 and Vernon Supp. 1994).
- **SECTION IX.** The final reading of this ordinance is waived; the second reading is final; and the requirements of three separate readings is waived.
- SECTION X. The City Secretary is hereby authorized and directed to cause a true and correct copy of this Ordinance, as well as a description of the property annexed, to be published in a newspaper having general circulation in the City of Edinburg, Texas, and in the territory to be annexed hereby.

SECTION XI. Upon final passage, this Ordinance shall be published in the official newspaper of the City of Edinburg, Texas, as provided by law, and shall be and remain in full force and effect ten (10) days from date of final passage.

SECTION XII. If any section, part, phrase, provision, or sentence of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, or if any tract of land or portion of any tract of land hereby annexed shall be held to be ineligible for annexation or wrongfully annexed, then in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION XIII. In accomplishing the annexation of the property herein described, the City of Edinburg has strictly followed the provisions of the Charter of the City of Edinburg, and the state statutes as they apply to annexations and any possible deviation from these provisions was unintentional and not material to the accomplishment of this annexation.

READ, CONSIDERED, PASSED AND APPROVED on first reading of the Ordinance at a Regular Meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 17th day of February, 2015.

READ, CONSIDERED, PASSED AND APPROVED on second and final reading of the Ordinance at a Regular Meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 17th day of March, 2015.

ATTEST:

By:

Richard H. Garcia, Mayor

Myra L. Ayala Garza, City Secretary

APPROVED AS TO FORM:

PALACIOS, GARZA & THOMPSON, P.C.

RMH/dmg-annexations\ordinances/2014 annexation-2nd and final reading-3-17-15

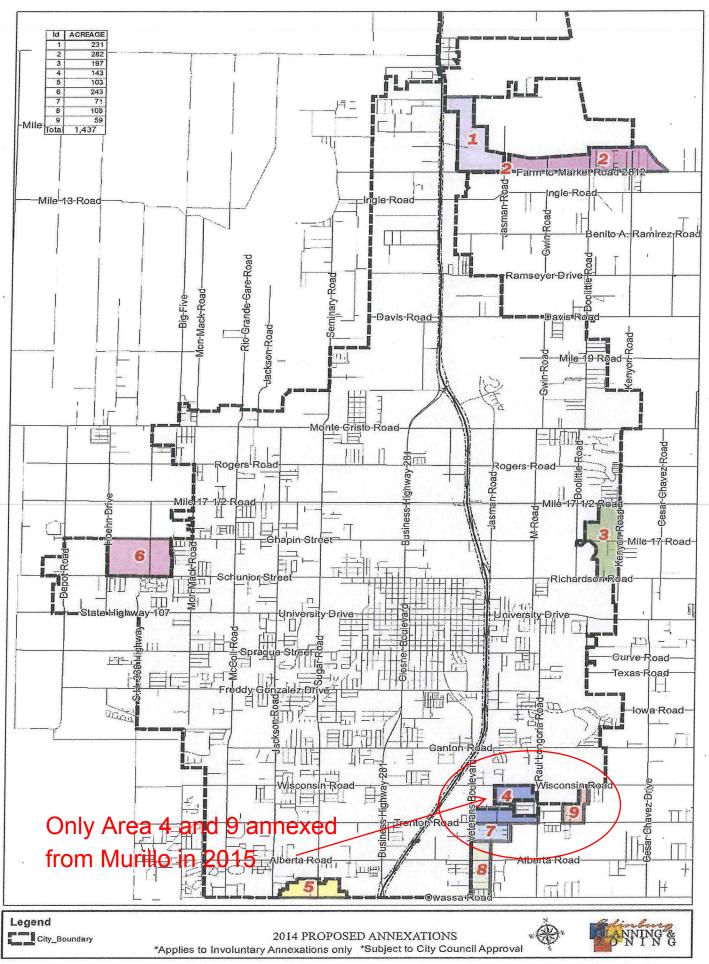
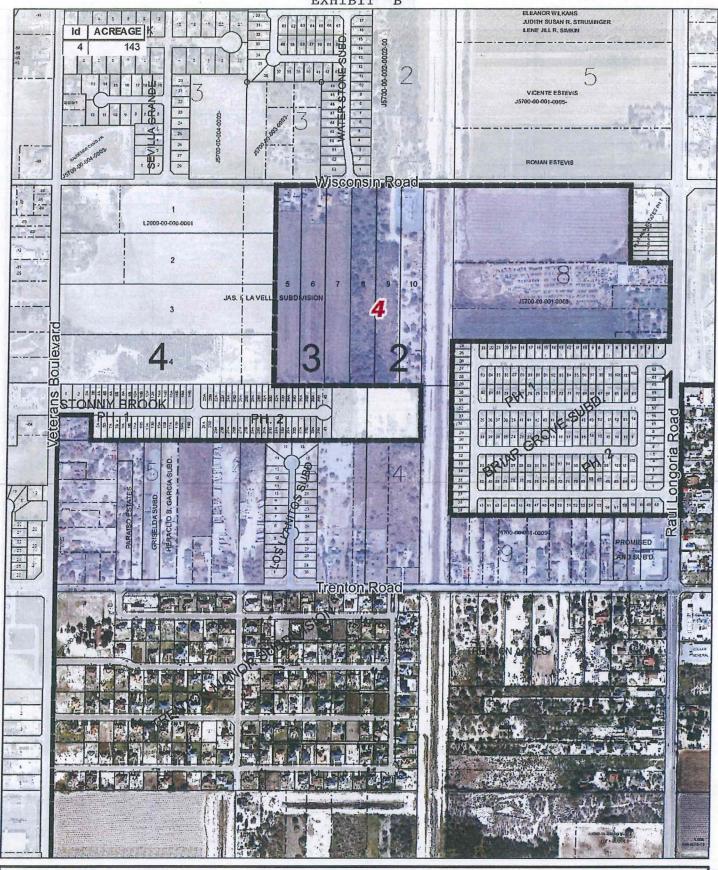


EXHIBIT "B"



Legend City_Boundary 2014 PROPOSED ANNEXATIONS

AREA 4

*Subject to City Council Approval





EXHIBIT "F"



Legend

City_Boundary

2014 PROPOSED ANNEXATIONS

AREA 9

*Subject to City Council Approval









- 143 Acres
- 78 Tracts
 - 41 Residential
 - 8 Commercial
- Estimated Population 152
- Exemptions
 - Less then 100 Residential Tracts





- 59 Acres
- 144 Tracts
 - 128 Residential
 - 1 Commercial
- Estimated Population 413
- Exemptions
 - Less then 100 Residential Tracts
 - Colonia



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Greg Abbott GOVERNOR BOARD MEMBERS

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June 20, 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: 16263 STARLIGHT

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 meets the requirements of §11.3(b) of the 2016 Qualified Allocation Plan ("QAP") regarding Twice the State Average Per Capita. The request provides evidence of annexations by the City of Edinburg in December 2013 and March 2015 that included portions of the Murillo Census Designated Place ("CDP"), and posits that the resulting loss in population by the Murillo CDP raises the per capita count of units in Murillo to more than twice the state average.

§11.3(b) of the 2016 Qualified Allocation Plan ("QAP") regarding Twice the State Average Per Capita, states in part:

As provided for in Texas Government Code, §2306.6703(a)(4), if a proposed Development is located in a municipality, or if located completely outside a municipality, a county, (emphasis added) that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board), the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development

This section of the QAP does not consider the population of Census Designated Places, but rather recognizes only municipalities and counties. The proposed site for the Starlight development is located in Hidalgo County, and therefore the resolution (i.e. "prior approval" from the "Governing Body") is required under §11.3(b) if Hidalgo County exceeds the "twice the state average of units per capita" figure. Currently, the state average of units per capita supported by Housing Tax Credits or private activity bonds is 0.0088 At the time of application, Hidalgo County had 0.0071 units per capita supported by Housing Tax Credits or private activity bonds. For your information, the Murillo CDP is listed in the 2016 HTC Site Demographic Characteristics Report (as of November 12, 2015) as having no prior units supported by housing tax credits or private activity bonds, so it would have zero percent units per capita.



Third Party Request for Administrative Deficiency: 16263 Starlight June 20, 2016 Page 2

Accordingly, 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.

Multifamily Division Director

Avanti Canyon Third Party Request for Administrative Deficiency



Empowering families for nearly 25 years by providing safe, high-quality, affordable housing and support services.

May 3, 2016

Ms. Marni Holloway Director of Multifamily Finance Texas Department of Housing and Community Affairs 221 East 11th Street Austin. Texas 78701-2410

RE: TDHCA #16292 – Third Party Request for Administrative Deficiency Avanti Canyon, Schertz, TX; Region 9

Dear Ms. Holloway,

In accordance with §11.10 of the 2016 Qualified Allocation Plan (QAP), we are submitting this Request for an Administrative Deficiency (Request) because we believe that the 9% tax credit application #16292 for Avanti Canyon to be located in Schertz, TX (Application) has not met a minimum threshold requirement as detailed below. We are submitting this Request because the administrative deficiencies identified by TDHCA Staff and posted on the TDHCA website did not include the items identified below. The required Third Party Deficiency Request Fee in the amount of \$500 payable to TDHCA is attached.

Requested Administrative Deficiency: The Application does not identify the minimum six (6) community assets within one mile of the proposed development site as required by the 2016 Uniform Multifamily Rules §10.101(a)(2) of Subchapter B – Site and Development Requirements and Restrictions.

As detailed in the "Avanti Canyon Community Assets Map" included in the Application and attached as Exhibit A, the following items were represented as qualified community assets:

- 1. "Schertz Fire Station" Fire Station;
- 2. "Sippel Elem" Public School;
- 3. "SAS Shoes Retail" Department or Retail Merchandise Store;
- 4. "Gill's Ranch House Bar and Grill" Restaurant/Fast Food;
- 5. "Bussey's Flea Market Retail" Department or Retail Merchandise Store;
- 6. "Bussey's Flea Market ... Snack Bar Fast Food" Restaurant/Fast Food;
- 7. "YMCA Licensed Day Care" Child Care Center;
- 8. "Warbler Woods Bird Sanctuary Park" Outdoor Public Recreation Facilities Open to the General Public.

While we understand items 1, 2, 3, and 4 to be valid community assets, we believe that the remaining items 5, 6, 7, and 8 do not qualify as valid community assets, as detailed in §10.101(a)(2) of Subchapter B, based on the following reasoning:

Ms. Marni Holloway May 3, 2016 Page 2

<u>Item 5, "Bussey's Flea Market Retail"</u> – "Only one community asset of each type listed will count towards the number of assets required." Because the Application has already received credit for a "Department or Retail Merchandise Store", this item cannot count towards the required six (6) community assets.

<u>Item 6, "Bussey's Flea Market...Snack Bar Fast Food"</u> - Because the Application has already received credit for a "Restaurant/Fast Food", this item cannot count towards the required six (6) community assets.

Item 7, "YMCA Licensed Day Care" – Although the YMCA operates a licensed afterschool program at Sippel Elementary School, as evidenced by the information provided from the Department of Family and Protective Services website attached as Exhibit B, services are only provided afterschool from 2:45 pm to 6:00 pm for school age children. Additionally, this afterschool program operates only during the school year and the YMCA provides "summer camps" during the months when school is not in session; however, "summer camps" are not licensed by the State of Texas. Therefore, we believe that the "YMCA Licensed Day Care" identified does not qualify as "Child Care Center" because it doesn't serve children ages infant to 5 years, is not available for working parents to drop off their children before school begins, and the services provided during the months when school is not in session is not licensed.

Item 8, "Warbler Woods Bird Sanctuary Park" – The outdoor site is actually named the Warbler Woods Bird Sanctuary and is not actually a park in the traditional sense. As evidenced by the information from the Warbler Woods website (http://www.warblerwoods.org/) included in Exhibit C, the sanctuary is primarily open during bird migrations. Additionally, it is located on private property and while visitors are permitted, they must request permission via email each time they desire to visit so clearly this site is not open to the general public as required to qualify as a community asset. Further, the email response received when additional information regarding under what circumstances permission to visit would be denied and included as Exhibit D, indicates that those not able to evidence they are "birders" may not be allowed to visit. Therefore, we believe that the Warbler Woods Bird Sanctuary does not qualify as an "Outdoor Public Recreation Facilities Open to the General Public" because it is not open to the general public.

Because the Application does not include evidence that six (6) community assets are located within one mile of the proposed development, we request that the Application be terminated for not meeting the required threshold requirement.

Sincerely,

Gilbert M. Piette Executive Director

Attachments:

1. \$500 Third Party Deficiency Request Fee

Mouth

- 2. Exhibit A Avanti Canyon Community Assets Map
- 3. Exhibit B Department of Family Services website information
- 4. Exhibit C Warbler Woods Bird Sanctuary website information
- 5. Exhibit D Email response regarding Warbler Woods Visitation Requirements

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: Not applicable	Owner: Not applicable	
Contact: Bradford McMurray	Email: bradmc@prosperahcs.org Tel: 210-821-4300)
TDHCA Application Number	TDHCA Date/Time Stamp	
	,	
	,	
Select Program of Documents/P	Payments Submitted (note: HTC = Housing Tax Credits)	=
X 9% HTC (Competitive) 4% HTC - Tax Exe		$\overline{}$
	rate All Documents Submitted	_
Pre-Application Market Study	1	_
Application Appraisal	PCA/CNA Primary Market Area Map	
Waiver Request Community Revitalization	Plan Community Input X Other: Admin. Deficiency request	
	Describe Payment	
Check Amount: \$ 500.00 H	HTC Application Fee: X = \$ -	
Check Number:	(full app only) # of Units Per unit fee App. Fee	ı
Charle Amazona		
Check Amount: Check Number:	Non-Profit or CHDO 10%	
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5-3-16 Dall	DNKLX	
 1	licant Signature Staff Initials	
X Check this box to request a copy of the state	ff-initialed receipt.	
Attach Check Here		
using and Community Services, Inc. IO N. New Braunfels, Suite 500	Wells Fargo Bank Texas, N.A. 40 NE Loop 410 13508	
n Antonio, TX 78217-6397	San Antonio, TX 78216	
l - 821-4300	이 사람이 그리를 가장 살다. 그 이 모든 함께 가장하다. [4]	
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ER P.O. BOX 13941	To M. A.	
AUSTIN, TX 78711-3941	Authorized Circolus	
	Authorized Signature	

Exhibit A

Avanti Canyon Community Assets Map 482 Northcliff Schertz Fire Station **10/0**3 1337 Gill's Ranch House Bar and Gril Avanti Canyon Sippel YMCA Licensed Day Care ey's Flea Market retail and snackbar fast food arbler Woods Bird Sanctuary Park SAS Shoes Retail 3009 Ruler Line Path Pro Measure the distance between two points on the ground 2016 Google 2016 Europa Technolog Map Length: 1.00 Miles Ground Length: 1.00 90.03 degrees Heading: Imagery Date: 1/19/2015

Source: Google Earth

Exhibit B



Child Care Search Result Details

Operation Details

You may click on the question mark image (?) to view the Frequently Asked Questions (FAQ) page.

Operation Number: 905230-668

Licensed Center Operation Type:

Program Provided: Before/After School Program Operation/Caregiver Name: Y School Age Sippel Elementary

Location Address: **420 FAIRLAWN AVE**

SCHERTZ, TX 78108

10500 NACOGDOCHES RD Mailing Address:

SAN ANTONIO, TX 78217

Phone Number: 210-445-3967

GUADALUPE County:

Website Address:

Email Address:

Administrator/Director Name:

Full Permit Type of Issuance: ? Issuance Date: 2/19/2009

Conditions on Permit:? No

Accepts Child-Care Subsidies: ?

02:45 PM-06:00 PM Hours of Operation:

Days of Operation: Monday - Friday

Total Capacity: 120

Licensed to Serve Ages: School

Total Capacity: 120

Number Of Admin Penalties: 0

Corrective Action: ? No

Adverse Action: ? No

Temporaril ¹	v Closed:	
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Two Year Inspection Summary

• Inspectors routinely monitor compliance with Licensing standards, rules and law. At a minimum, licensed and certified operations are inspected at least once a year; Registered Child Care Homes 2 are inspected at least once every two years, Listed Family Homes 2 are inspected only if there is a report of abuse/neglect or if we receive a report that the home is caring for too many children.

No

- When operations have serious deficiencies or a significant number of deficiencies, repeat deficiencies, or fail to make corrections timely, they are inspected more frequently by licensing staff, to ensure the health and safety of children in care.
- · In the last two years, Licensing conducted the following:

```
5 - Inspections ?
0 - Assessments ?
4 - Self Reported Incidents ?
0 - Reports ?
```

Click on the inspection type to see additional details related to each inspection.

• There are many standards that an operation must comply with; the total number varies for each type of operation. An operation or home is generally given an opportunity to correct deficiencies and has the right to request a review of a deficiency. Deficiencies pending review are not included in the two year history.

Two Year Compliance Summary

- During the last two years, 612 standards were evaluated for compliance at this operation.
- Of the standards evaluated 1 deficiency was cited.

Click on the number of deficiencies to see additional details.

- Each standard is assigned a weight. The weight ensures all inspectors consider standard violations in the same way, and
 represents the potential impact a deficiency might have on children. Review the inspection reports to learn more about each
 citation. It's important to remember; weights are not assigned to an individual operation, inspection, or circumstance and are
 not intended to result in a ranking of operations or score.
- · The weights of the standard deficiencies cited in the past two years are as follows:

```
0 were weighted as High
1 was weighted as Medium - High
0 were weighted as Medium
0 were weighted as Medium - Low
0 were weighted as Low
```

Click on the weight to see additional details about each deficiency.

Disclaimer: The online compliance history includes only information after January 1, 2002. In addition, the online compliance history does not include minimum standard violations or corrective or adverse actions until after the child-care operation has had due process or waived its

rights. For compliance history prior to January 1, 2002 or history with pending due process, please contact your local licensing office. Child-Care Licensing disclaims liability for any errors or omissions from the compliance history information.

Website and Email addresses are based on information given to DFPS by the Operation/Caregiver. If you experience problems with these addresses please contact the Operation/Caregiver.

Exhibit C





VISITOR INSTRUCTIONS





ARRANGING A VISIT

We are usually here during migration. Email communication is required even for lastminute requests. Please follow the steps below EACH time you visit.

- · Submit our contact form (introduce yourself and indicate arrival date and time).
- . Follow the instructions you receive in our response which will include a gate code (code changes frequently).



YOUR ARRIVAL

Use gate code to access the property.

Drive slowly to the parking area. (You must stop here.)

Park in an open space without blocking others. (Overflow parking is on Old Wiederstein Rd; on the other side of the solid white line.). Park head-in on opposite sides, larger vehicles in the pull through on the driveway and two pull-in

oppoints sides, angest values and receive a checklist/map (also available here.). If you Sign in at Visitor Kiosk and receive a checklist/map (also available here.). If you are Effort, note that on your checklist so that I know not to enter that data. If you are uncomfortable providing data, just let me know. You need to leave this checklist in the Visitor Kiosk, before you leave.



YOUR VISIT

- Try to complete the checklist and give numbers of each species. (Include any notable sightings, please write that down along with the area.)
- If you have a notable sighting, please contact me and write notes about the hird. Please make sure I can contact you quickly as the EBird reviewer likes immediate information, so please leave a cell number or if not, an email address. Upon departure, please rerurn checklist to the Visitor Kiosk and take your trash with you as we are limited to one rolling can per week and animals will get into any trash left out.

- any train set our.

 A port potty is provided and costs 575/month, please help fund it.

 To enter the backyard, go to the left of the house and enter through the gate.

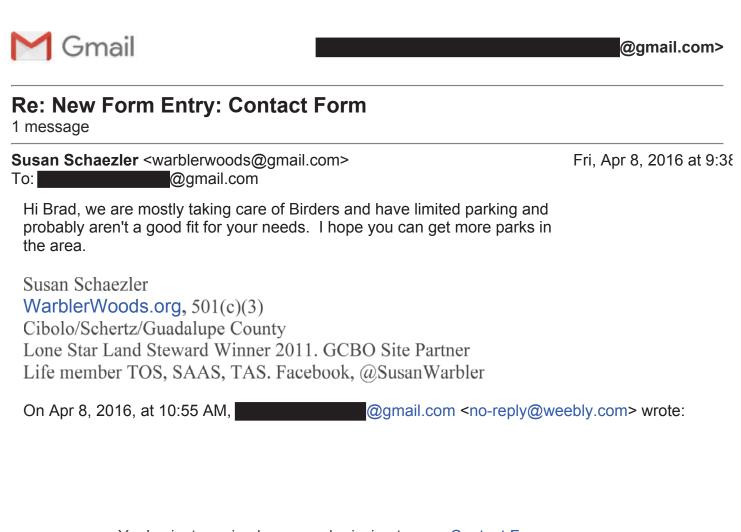
 Please make sure you close it. Do not enter the gatage, but parties available. You can eat our there, but the three does will keep you company. There are also gicnic tables on the far side of the yard. Don't leave trash our and please take it with
- Beware of Ramlesnakes and other venomous snakes.

Owners: Susan & Don Schaester, Margie Bonnes NO1(c)(3) Gibolo, TX, a Gulf Coast Bird Observatory Site Who Layout by Time 10 blankering and Events





Exhibit D



You've just received a new submission to your Contact Form.



I am researching potential housing developments that are applying for funding through a Federal program. One of the requirements for funding is that a minimum number of amenities be within one mile and available to the residents of the multifamily community. The Warbler Woods Bird Sanctuary might qualify as an "outdoor recreation activity" if the bird sanctuary is open to the public. I have reviewed your website and while private property, you allow visitors if they send an email request for the gate code. Can you tell me under what circumstances you would not be able to grant a request for a visit and if there is a limit to the number of times a person or group can visit each year and if there are any other limitations on these visits? I would appreciate any information you can give me and thank you for your time in responding to my request.

Thank you



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott Governor BOARD MEMBERS

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T. Tolbert Chisum
Tom H. Gann
J.B. Goodwin

May 17, 2016

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

Mr. Gil Piette Executive Director Prospera Housing Community Services 8610 N. New Braunfels Ave., Ste 500 San Antonio, Texas 78217-6397

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY:

16292 AVANTI CANYON

Dear Mr. Piette:

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 minimum six(6) community assets within one mile of the proposed development site as required by §10.101(a)(2) of the 2016 Uniform Multifamily Rules. We have reviewed the Application and determined the following regarding your request:

- Items 1-4 are valid community assets.
- Items 5 and 6 are repetitive of previous items. Per the requirement that only one community asset of each type listed will count towards the number of assets required, these items will not be counted.
- Item 7 is a valid community asset. This section of the rules only requires that the child care center be licensed and that the application population not be Elderly Limitation. The specificity you mention in your request is related to points that may be obtained for meeting a higher standard for scoring under §11.9(c)(4) Opportunity Index.
- Item 8 is a valid community asset. The rule requires that the asset be accessible to the general public. Our investigation shows that Warbler Woods is accessible to the general public. In our determination, this asset is no different from a golf course it caters to a particular interest, it requires prior registration, and the resident may choose not use it, but they can if they wish.

Based on the review, 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



Avondale Farms Seniors Third Party Request for Administrative Deficiency



600 Congress, Suite 2200 Austin, TX 78701 Telephone: 512-305-4700 Fax: 512-305-4800 www.lockelord.com

Cynthia L. Bast Direct Telephone: 512-305-4707 Direct Fax: 512-391-4707 cbast@lockelord.com

June 1, 2016 as supplemented June 3, 2016

Via Electronic Mail

Ms. Marni Holloway Ms. Sharon Gamble Texas Department of Housing and Community Affairs 221 East 11th Street Austin, Texas 78701

Re: Third Party Request for Administrative Deficiency

TDHCA No. 16373

Ladies:

We represent the application for Harmon Senior Villas, TDHCA No. 16275, in Region 3 Urban. Pursuant to Section 11.10 of the QAP, please consider this Third Party Request for Administrative Deficiency treatment with regard to Avondale Farms Seniors, TDHCA No. 16373 (the "Application"). Specifically, the issue in question is the change in Target Population from Elderly Limitation to Elderly Preference. On May 31, 2016, our client discovered through conversation with TDHCA staff, that the Application had changed its Target Population from Elderly Limitation to Elderly Preference, pursuant to an Administrative Deficiency request, because the use of RAD Vouchers, which was contemplated in the Application, is inconsistent with an Elderly Limitation designation. Our client believes there are a variety of Rules-based issues associated with this change that have not been adequately contemplated and require additional attention.

In September 2015, TDHCA staff presented to its Board recent guidance from HUD as to the distinction between an Elderly Limitation property and an Elderly Preference property. We do not need to recite those distinctions here but will suffice to say that the tenant population can be significantly different, even though both have an elderly component.

The distinction between an Elderly Limitation and an Elderly Preference property became important when several tax credit developers tried to layer RAD Vouchers, provided by the Fort Worth Housing Authority, with an Elderly Limitation development and TDHCA took the position the two were mutually exclusive. To date, these developers are continuing to try to work with HUD and TDHCA to resolve the problem. In its workshops and guidance, TDHCA

Ms. Marni Holloway Ms. Sharon Gamble June 3, 2016 Page 2

has tried to be clear with the applicants as to the distinction between the two categories and what kinds of HUD funding can cause an Elderly Limitation development to shift to the Elderly Preference category.

A pre-application for Avondale Farms Seniors was submitted, identifying the Target Population as "Elderly Limitation." See <u>Exhibit A</u>. Identification of the Target Population is a threshold item for the pre-application. See Rule excerpt at <u>Exhibit B</u>. The Application was also submitted with a Target Population of "Elderly Limitation." See <u>Exhibit C</u>. It should be noted that the application form promulgated by TDHCA treats Elderly Limitation and Elderly Preference as two separate Target Populations. See the drop down box on Tab 17 for the Development Narrative. The application log also distinguishes between Elderly Limitation and Elderly Preference in the Target Population column. Finally, it should also be noted that an applicant is not eligible for pre-application points if the Target Population changes between pre-application and application. See Rule excerpt at <u>Exhibit D</u>.

After filing its pre-application but before filing its Application, Avondale Farms Seniors sought support from the City of Fort Worth. In a February 2016 City Council meeting, it was clear that the applicant would be required to accept RAD vouchers from the Fort Worth Housing Authority, as a condition to receiving the City's support. See Exhibit E. The applicant should have known then that the addition of RAD vouchers would change the Target Population from Elderly Limitation to Elderly Preference. However, it filed the Application as an Elderly Limitation transaction, even while evidencing the RAD vouchers in its rent schedule. See Exhibit F.

When TDHCA notified the applicant of this discrepancy by way of an Administrative Deficiency, the Applicant requested to change the Target Population from Elderly Limitation to Elderly Preference and submitted revised Application pages to do so. The implications of this change are as follows:

- At a minimum, this change in Target Population, as identified in TDHCA's application form, should cause the applicant to lose its 6 pre-application points. While the published FAQ states that, generally, an applicant might not lose pre-application points for changing between Elderly Limitation and Elderly Preference between pre-application and application, our client views this situation to be entirely different. The applicant knew, or should have known, that it was required to be in the Elderly Preference Target Population prior to filing the application but filed under the Elderly Limitation Target Population instead. Changing the Target Population after filing the application minimizes transparency. All of the conversations with elected officials and community groups occurred before March 1. There is no meaningful way for these parties to be notified there has been a change.
- On a broader level, our client believes TDHCA should look into whether the applicant renotified the elected officials and community prior to the final application, as a threshold

Ms. Marni Holloway Ms. Sharon Gamble June 3, 2016 Page 3

matter. Because TDHCA does not receive a copy of the actual notifications or presentations to the elected officials/community, it has no way of knowing whether the applicant made any representations associated with a senior development that would be inconsistent with an Elderly Preference development. For instance, if the applicant had not stated in the notification or presentation that the apartment complex could house seniors with children, the change in Target Population from Elderly Limitation to Elderly Preference makes any statement to the contrary misleading. We recommend TDHCA request to see copies of the public notifications so that it can analyze whether the change in Target Population, after submission of the Application, creates a situation whereby the threshold notification requirements were not met. Failure to meet threshold notification requirements is grounds for termination.

• Finally, we question whether a Target Population can be changed as a matter of an Administrative Deficiency. As defined, an Administrative Deficiency is intended to provide "non-material" missing information. An Elderly Limitation development can be very different than an Elderly Preference development. The owner of an Elderly Preference development must be prepared to serve a broader tenant population, including families with children and disabilities. Our client would argue that this change in population is absolutely material. Moreover, the applicant knew about the inclusion of the RAD vouchers in February and should be prohibited from making this change at this late date.

In conclusion, our client believes appropriate action for the Avondale Farms Seniors Application includes: (1) loss of pre-application points for a change in Target Population; (2) termination if public notifications were not properly issued; or (3) termination for a material deficiency.

A \$500 fee has been delivered to TDHCA separately to support this request. Thank you for your time and consideration.

Very truly yours,

Cynthia L Bast

Cynthia L. Bast

Exhibit A Page from Pre-application
Exhibit B QAP Section 11.8(b)(1)
Exhibit C Pages from Application
Exhibit D QAP Section 11.9(e)(3)

Exhibit E Resolutions from City of Fort Worth

Exhibit F Rent Schedule

Exhibit A

Page from Pre-application

Submission Date	2016-01-08 15:26:24
Full Name	
Address	Matt Higgins Street Address 8117 Preston Road West Tower Suits 200
Address	Street Address: 8117 Preston Road, West Tower Suite 300 City: Dallas
	State: Texas Zip Code: 75225
Phone Number	(817) 683-1571
Email	mhiggins@groundfloordev.com
Full Name	Brandon Bolin
Phone Number	(214) 9918331
Email	bbolin@groundfloordev.com
Full Name	Clyde Mackey
Phone Number	(214) 7626165
Email	clyde@groundfloordev.com
Name of Proposed Entity	Avondale Farms Seniors, LP
Development Name	Avondale Farms Seniors
Development Type	New Construction
Development Type Target Population	New Construction Elderly Limitation
Target Population	Elderly Limitation
Target Population Address	Elderly Limitation SEC of US-287 and Avondale Haslet Road
Target Population Address City	Elderly Limitation SEC of US-287 and Avondale Haslet Road Fort Worth
Target Population Address City Zip Code	Elderly Limitation SEC of US-287 and Avondale Haslet Road Fort Worth 76052
Target Population Address City Zip Code ETJ?	SEC of US-287 and Avondale Haslet Road Fort Worth 76052 No
Target Population Address City Zip Code ETJ? County	Elderly Limitation SEC of US-287 and Avondale Haslet Road Fort Worth 76052 No Tarrant
Target Population Address City Zip Code ETJ? County Region	Elderly Limitation SEC of US-287 and Avondale Haslet Road Fort Worth 76052 No Tarrant
Target Population Address City Zip Code ETJ? County Region Rural/Urban	Elderly Limitation SEC of US-287 and Avondale Haslet Road Fort Worth 76052 No Tarrant 3 Urban
Target Population Address City Zip Code ETJ? County Region Rural/Urban Census Tract	Elderly Limitation SEC of US-287 and Avondale Haslet Road Fort Worth 76052 No Tarrant 3 Urban 48439114103
Target Population Address City Zip Code ETJ? County Region Rural/Urban Census Tract Total LI Units	Elderly Limitation SEC of US-287 and Avondale Haslet Road Fort Worth 76052 No Tarrant 3 Urban 48439114103 110
Target Population Address City Zip Code ETJ? County Region Rural/Urban Census Tract Total LI Units Total MR Units	Elderly Limitation SEC of US-287 and Avondale Haslet Road Fort Worth 76052 No Tarrant 3 Urban 48439114103 110

Exhibit B

QAP Section 11.8(b)(1)

- (1) Submission of the competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:
 - (A) Site Control meeting the requirements of §10.204(10) of this title (relating to Required Documentation for Application Submission). For purposes of meeting this specific requirement related to pre-application threshold criteria, proof of consideration and any documentation required for identity of interest transactions is not required at the time of pre-application submission but will be required at the time of full application submission;
 - (B) Funding request;
 - (C) Target Population;
 - (D) Requested set-asides (At-Risk, USDA, Nonprofit, and/or Rural);
 - (E) Total Number of Units proposed;
 - (F) Census tract number in which the Development Site is located;
 - (G) Expected score for each of the scoring items identified in the pre-application materials; and
 - (H) Proposed name of ownership entity.
- (2) Evidence in the form of a certification provided in the pre-application, that all of the notifications required under this paragraph have been made. (§2306.6704)
 - (A) The Applicant must list in the pre-application all Neighborhood Organizations on record with the county or state whose boundaries include the proposed Development Site as of the beginning of the Application Acceptance Period.
 - (B) Notification Recipients. No later than the date the pre-application is submitted, notification must be sent to all of the persons or entities prescribed in clauses (i) (viii) of this subparagraph. Developments located in an ETJ of a city are required to notify both city and county officials. The notifications may be sent by e-mail, fax or mail with registered return receipt or similar tracking mechanism in the format required in the Pre-application Notification Template provided in the pre-application. The Applicant is encouraged to retain proof of delivery in the event the Department requires proof of notification. Acceptable evidence of such delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of delivery for fax and e-mail. Officials to be notified are those officials in office at the time the pre-application is submitted. Note that between the time of pre-application (if made) and full Application, such officials may change and the boundaries of their jurisdictions may change. By way of example and not by way of limitation, events such as redistricting may cause changes which will necessitate additional notifications at full Application. Meetings and discussions do not constitute notification. Only a timely and compliant written notification to the correct person constitutes notification.
 - (i) Neighborhood Organizations on record with the state or county as of the beginning of the Application Acceptance Period whose boundaries include the proposed Development Site;
 - (ii) Superintendent of the school district in which the Development Site is located;
 - (iii) Presiding officer of the board of trustees of the school district in which the Development Site is located;
 - (iv) Mayor of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);

Exhibit C

Pages from Application

Development Narrative

New Construction Previous TDHCA # If Reconstruction, If Adaptive Reuse, Addit			
Previous TDHCA # If Reconstruction,			
If Reconstruction,	N/A		
-		If Acquisition/Rehab or Rehab, original construction year:	N/A
If Adaptive Reuse Addit	N/A Unit	s Demolished N/A Units Reconstructed	
ii Adaptive Redse, Addit	tional Phase, or So	cattered Site, include detailed information in the Narrative (4.) below	w.
2. The Target Population \	will he		
	y Limitation		
		te the statement below and submit supporting documentation beh	ind this tab
My property receives fu		te the statement below and submit supporting documentation ben	ma this tab.
program that requires a	_	nce.	
		ns of development activity obtained?	
_		of the Uniform Multifamily Rules was made prior to Application subr	nission provide
a copy of such det		, , , , , , , , , , , , , , , , , , , ,	mssion, provide
4. Narrative			
	nasad Davalanma	ent, including any relevant information not already identified above.	
	<u> </u>	ent will target seniors and is proposed to include 121 total units. Of	
		units and 54 two bedroom/two bath units. The Avondale Farms site	
		residential buildings, a clubhouse/leasing center and a mechanical	
club is a separate building	ng with no units.	Parking will include 201 total spaces with 14 of the garages being a	vailable for rent.

Site Information Form Part II

Self Score: 124

1	§11.9(c)(5) - Educational Excellence	(Competitive HTC Applications Only)	i
4. 1	311.5(c)(5) Laucational Execution	(competitive fire Applications offig)	

Residents of the proposed development will attend:

School Name	Grades X through X			Accountability Rating	Index 1 Score (e.g. 78)	Overall Rating		
Haslet ES	kg through 5		Met Standard	92	77+ (Met Standard)			
	through					Elementary		
Truett Wilson MS	6	6 through 8		Met Standard	90	77+ (Met Standard)		
		through				Middle School		
V.R. Eaton HS	9	through	12					
						High School		

District School Rating (if never rated by TEA): 77+ (Met Standard)

School district has district-wide enrollment and closest school is identified in notes below.

Elementary has earned at least one TEA Distinction Designation. Disti

Distinction Earned:

Application is seeking points for Educational Excellence.



Total Points Claimed:

5

Application is seeking points for Educational Executive

Notes:

V.R. Eaton High School opened in August of 2015 and serves 9th thru 12th grade levels, therefore no 2015 TEA Accountability Ratings exist for this school. As indicated above, the Northwest ISD has a Met Standard Accountbility Rating on a whole and an Index I score of 87.

2. §11.9(c)(4) - Opportunity Index (Competitive HTC Applications Only)

X Development is Urban and:

x Development is located in a census tract that has a poverty rate below 15% for individuals.

OR

Development is located in either Region 11 or 13 and has a poverty rate below 35% for individuals.

- Development is Rural and:

n/a Development is located in a census tract that has a poverty rate below 15% for individuals or in regions 11 or 13 and has a poverty rate below 35% for individuals.

OR

n/a Development is located within a census tract with income in the top or 2nd quartile of median household income for the county or MSA as applicable.

OR

n/a Development is located within the attendance zone of an elementary school that has a Met Standard rating and has achieved a 77 or greater on index 1 of the performance index.

AND

Exhibit D

QAP Section 11.9(e)(3)

Area, and that qualify for 5 or 7 points under subsection (c)(4) of this section, related to Opportunity Index; or

- (iii) Eleven (11) points for Applications which include Hard Costs plus acquisition costs included in Eligible Basis that are less than \$130 per square foot.
- (3) Pre-application Participation. (§2306.6704) An Application may qualify to receive up to six (6) points provided a pre-application was submitted during the Pre-Application Acceptance Period. Applications that meet the requirements described in subparagraphs (A) (G) of this paragraph will qualify for six (6) points:
 - (A) The total number of Units does not increase by more than ten (10) percent from preapplication to Application;
 - (B) The designation of the proposed Development as Rural or Urban remains the same;
 - (C) The proposed Development serves the same Target Population;
 - (D) The pre-application and Application are participating in the same set-asides (At-Risk, USDA, Non-Profit, and/or Rural);
 - (E) The Application final score (inclusive of only scoring items reflected on the self score form) does not vary by more than six (6) points from what was reflected in the preapplication self score;
 - (F) The Development Site at Application is at least in part the Development Site at preapplication, and the census tract number listed at pre-application is the same at Application; and
 - (G) The pre-application met all applicable requirements.
- (4) Leveraging of Private, State, and Federal Resources. (§2306.6725(a)(3))
 - (A) An Application may qualify to receive up to three (3) points if at least five (5) percent of the total Units are restricted to serve households at or below 30 percent of AMGI (restrictions elected under other point items may count) and the Housing Tax Credit funding request for the proposed Development meet one of the levels described in clauses (i) (iv) of this subparagraph:
 - (i) the Development leverages CDBG Disaster Recovery, HOPE VI, RAD, or Choice Neighborhoods funding and the Housing Tax Credit Funding Request is less than 9 percent of the Total Housing Development Cost (3 points). The Application must include a commitment of such funding; or
 - (ii) If the Housing Tax Credit funding request is less than 8 percent of the Total Housing Development Cost (3 points); or
 - (iii) If the Housing Tax Credit funding request is less than 9 percent of the Total Housing Development Cost (2 points); or

Exhibit E

Resolutions from City of Fort Worth

A Resolution

NO. 4592-02-2016

SUPPORTING A HOUSING TAX CREDIT APPLICATION FOR THE AVONDALE FARMS SENIORS

WHEREAS, the City's 2015 Comprehensive Plan is supportive of the preservation, improvement, and development of quality affordable accessible rental and ownership housing;

WHEREAS, the City's 2013-2018 Consolidated Plan makes the development of quality affordable accessible rental housing units for low income residents of the City a high priority;

WHEREAS, Avondale Farms Seniors, LP, an affiliate of GFD Holdings, LLC has proposed a development for affordable mixed income multifamily rental housing named the Avondale Farms Seniors to be located at the southeast corner of US 287 and Avondale-Haslet Road in the City of Fort Worth;

WHEREAS, Avondale Farms Seniors, LP has advised the City that it intends to submit an application to the Texas Department of Housing and Community Affairs ("TDHCA") for 2016 Competitive (9%) Housing Tax Credits for the Avondale Farms Seniors, a new complex consisting of approximately 121 units, of which at least ten percent (10%) will be dedicated for Rental Assistance Demonstration and at least five percent (5%) will be market rate units;

WHEREAS, TDHCA's 2016 Qualified Allocation Plan provides that an application for Housing Tax Credits may qualify for up to seventeen (17) points for a resolution of support from the governing body of the jurisdiction in which the proposed development site is located.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

The City of Fort Worth, acting through its City Council, hereby confirms that it supports the application of Avondale Farms Seniors, LP to the Texas Department of Housing and Community Affairs for 2016 Competitive (9%) Housing Tax Credits for the development of the Avondale Farms Seniors to be located at the southeast corner of US 287 and Avondale-Haslet Road (TDHCA Application No. 16373), and that this formal action has been taken to put on record the opinion expressed by the City Council of the City of Fort Worth.

Adopted this 16th day of February, 2016.

ATTEST:

By:

Mary J. Kayser, City Secretary

FORT WORTH

Exhibit F

Rent Schedule

Rent Schedule

Self Score Total:

124

ate Activity Bond Priority (For Tax-Exempt Bond Developments ONLY):

Unit types must be entered from smallest to largest based on "# of Bedrooms" and "Unit Size", then within the same "# of Bedrooms" and "Unit Size" from lowest to highest "Rent Collected/Unit".

	ent Collected				1								
Rent	Designations	(select fror	n Drop dov	vn menu)				L llw't C'					
	MF Direct						١., .	Unit Size	Total Net	_	Tenant	Rent	Total
HTC Units	Loan Units	HTF Units	MRB	Other/	# of Units	# of Bed-	# of	(Net	Rentable	Program	Paid Utility	Collected	Monthly
	(HOME		Units	Subsidy		rooms	Baths	Rentable Sq.	Sq. Ft.	Rent Limit	Allow.	/Unit	Rent
	Rent/Inc)				(A)		-	Ft.) (B)	(A) v (P)			(E)	(A) x (E)
TC 30%				DAD DDV	(A)	1	1.0	706	(A) x (B) 706	392	43	504	504
				RAD PBV									
TC 50%					2	1	1.0	706	1,412	653	43	610	1,220
TC 60%					5	1	1.0	706	3,530	784	43	741	3,705
TC 50%				RAD PBV	3	1	1.0	706	2,118	653	43	504	1,512
TC 30%				RAD PBV	3	1	1.0	737	2,211	392	43	504	1,512
TC 50%					10	1	1.0	737	7,370	653	43	610	6,100
TC 60%					12	1	1.0	737	8,844	784	43	741	8,892
MR					3	1	1.0	737	2,211			784	2,352
TC 30%				RAD PBV	2	1	1.0	762	1,524	392	43	504	1,008
TC 50%					6	1	1.0	762	4,572	653	43	610	3,660
TC 60%					10	1	1.0	762	7,620	784	43	741	7,410
MR					2	1	1.0	762	1,524			784	1,568
TC 30%				RAD PBV	- 1	1	1.0	796	796	392	43	504	504
TC 50%					3	1	1.0	796	2,388	653	43	610	1,830
TC 60%					3	1	1.0	796	2,388	784	43	741	2,223
MR					1	1	1.0	796	796			784	784
TC 30%				RAD PBV	1	2	2.0	970	970	471	50	653	653
TC 50%				KADIBV	6	2	2.0	970	5,820	785	50	735	4,410
TC 60%					7	2	2.0	970	6,790	942	50	892	6,244
							_			942	30		
MR				D + D DDYY	2	2	2.0	970	1,940	451	70	942	1,884
TC 30%				RAD PBV	1	2	2.0	1001	1,001	471	50	653	653
TC 50%					6	2	2.0	1001	6,006	785	50	735	4,410
TC 60%					7	2	2.0	1001	7,007	942	50	892	6,244
MR					2	2	2.0	1001	2,002			942	1,884
TC 30%				RAD PBV	- 1	2	2.0	1026	1,026	471	50	653	653
TC 50%					5	2	2.0	1026	5,130	785	50	735	3,675
TC 60%					7	2	2.0	1026	7,182	942	50	892	6,244
MR					1	2	2.0	1026	1,026			942	942
TC 30%					1	2	2.0	1057	1,057	471	50	421	421
TC 50%					3	2	2.0	1057	3,171	785	50	735	2,205
TC 60%					3	2	2.0	1057	3,171	942	50	892	2,676
MR					1	2	2.0	1057	1,057			942	942
									0				_
							DENIT	LIBALTO	-				-
							KENI	LIMITS					-
						-	AMFI						_
							96	0	1	2			
							30	\$366	\$392	\$471			
							40	\$488	\$523	\$628			
							50	\$610	\$653	D\$785			-
							60	\$732	\$784	\$942			-
													-
									0				-
									0				-
									0				-
									0				-
									0				-
									0				-
			TOTAL		121				104,366				88,924
			Non Ren	tal Income				t/month for:	Damage	s, Late/NSF	Fees, Applicat	tion Fees	710
Non Rental Income 4.63 per unit/month for: Garage Income (14 @ \$40/Mo)										560			
Non Rental Income 3.84 per unit/month for: Storage Income (31 @ \$15/Mo)										465			
+ TOTAL NONRENTAL INCOM \$14.34 per unit/month = POTENTIAL GROSS MONTHLY INCOME										1,735			
							1E			·		# F00	90,659
				for Vacancy &			``		% of		ross Income:	7.50%	(6,799)
				oncessions (ent							enter as a ne	egative value	02.000
													83,860 1,006,315
	2/20/		A 14 = EF	EECTIVE GK	MINIA COU	OAL INCC	71V1E						1,000,313
265506.075	x 12 = EFFECTIVE GROSS ANNUAL INCOME 1,006,31 265506.075 2/29/16 3:51 PM												



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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June 22, 2016

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

Ms. Cynthia L. Bast Locke Lord, LLP 600 Congress, Suite 2200 Austin, TX 78701

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16373 AVONDALE FARMS SENIORS

Dear Ms. Bast:

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 meets the requirements of §11.9(e)(3) of the 2016 Qualified Allocation Plan ("QAP") regarding Pre-Application Participation; particularly whether the application's change from Elderly Limitation to Elderly Preference renders it ineligible for points under this section of the rule, and if the Applicant properly notified recipients under §11.8(b).

The QAP section cited states that Applications will be eligible to receive six points Pre-application points if, "The proposed Development serves the same Target Population" in the Full Application. Target Population is defined at §10.3(127) as:

The designation of types of housing populations shall include Elderly Developments, and those that are entirely Supportive Housing. All others will be considered to serve general populations without regard to any subpopulations. An existing Development that has been designated as a Development serving the general population may not change to become an Elderly Development without Board approval.

The definition describes Elderly Development, which encompasses both Elderly Limitation and Elderly Preference for purposes of scoring under §11.9(e)(3) and Notification requirements under §11.8(b)(2)(C)(ii). Accordingly, 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,

Multifamily Division Director

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 11th 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 1st 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 1st 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 Exhibit "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 1st of a Competitive Round will establish the location of the site for the purposes of the application.¹ 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 1st, 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 Exhibit "B". 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			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	o	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 11th 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

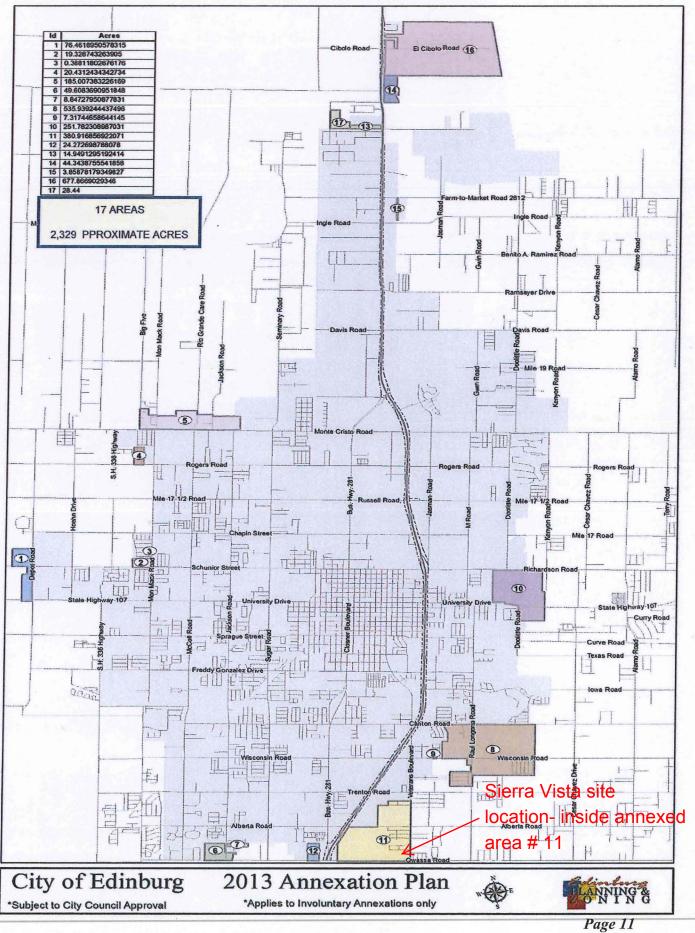
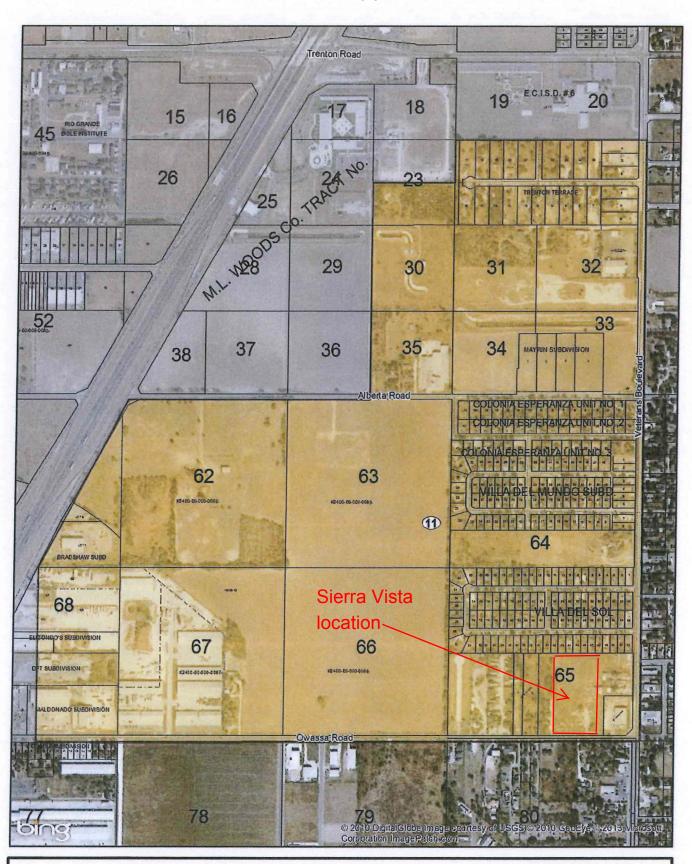


Exhibit 1



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

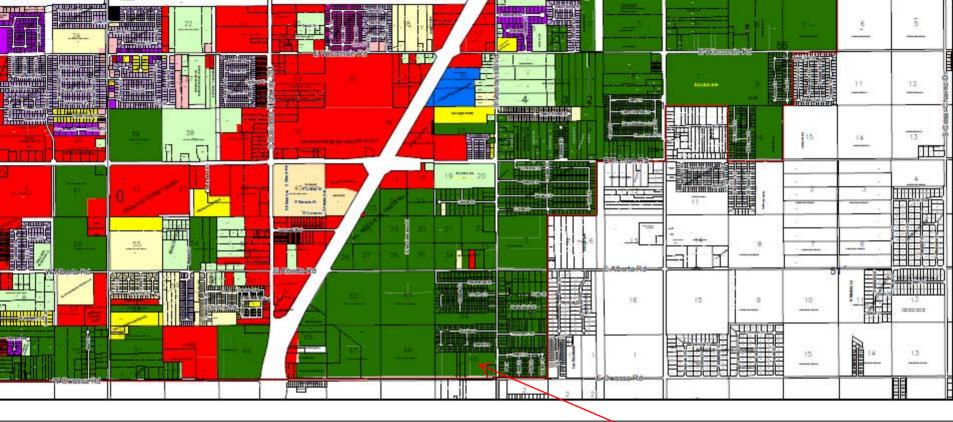
Owner:

AYALA RAUL

% Ownership: 100.000000000%

Total Value: \$124,653

Entity	Description	Tax Rate Appra	aised Value	Taxable Value	Estimated Tax
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

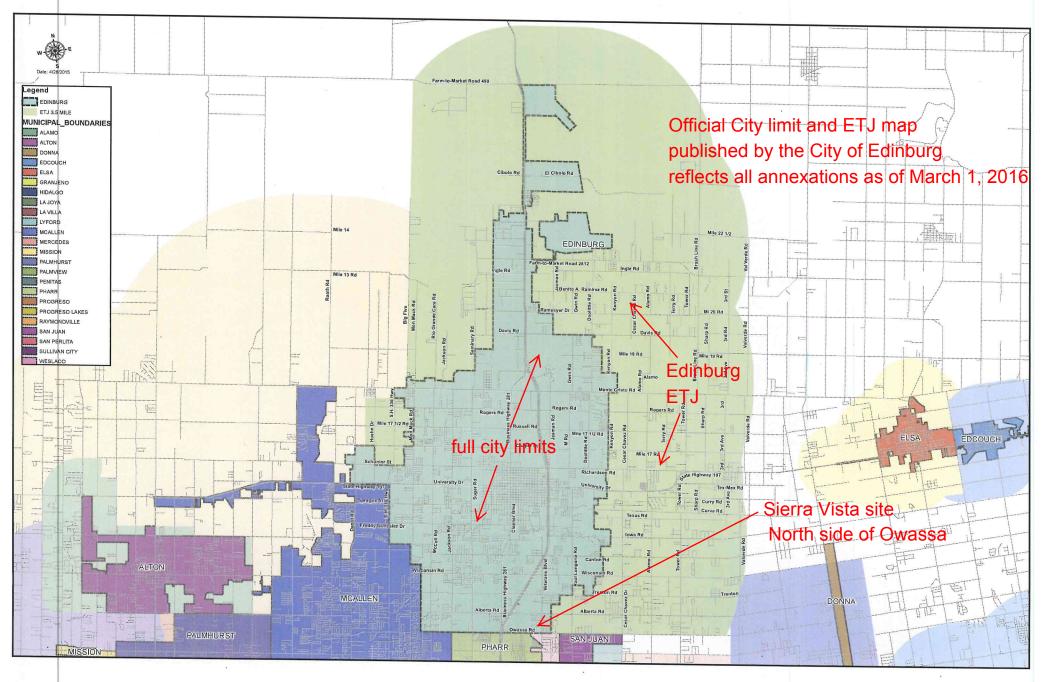


Exhibit 3

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

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 $\S11.9(c)(6)(C)$ 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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 www.tdhca.state.tx.us



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

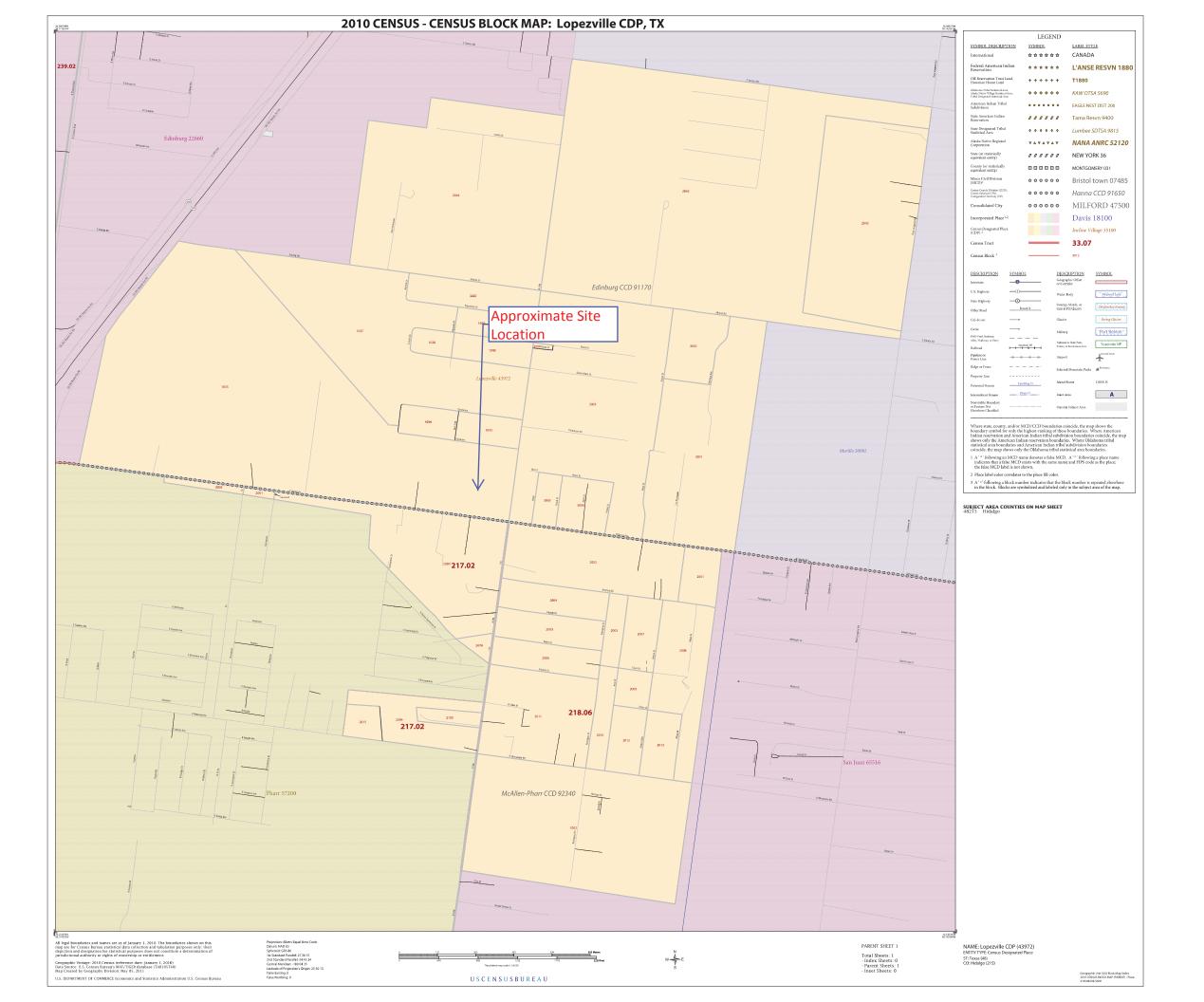
To whom it may concern,

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

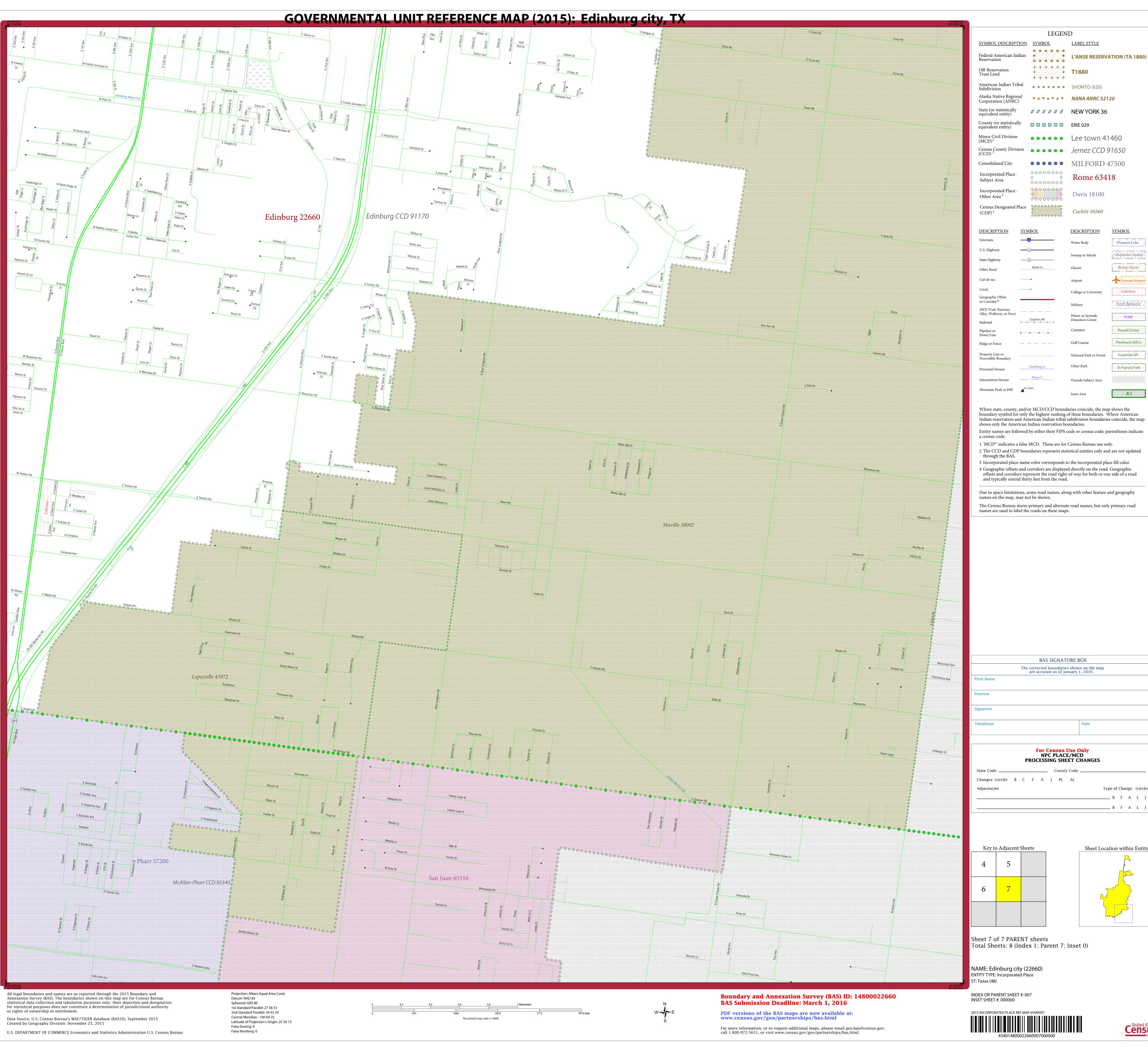
Evidence Of Undeserved Area Map





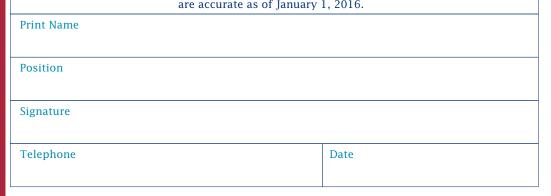
Attachment B

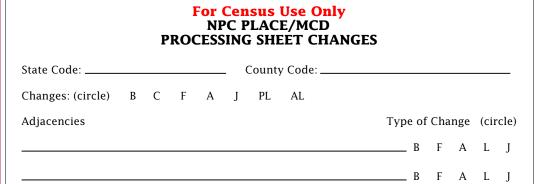
2013 and 2015 BAS from US Census Bureau

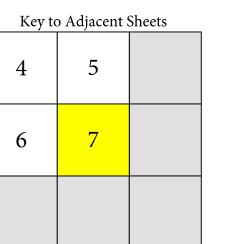


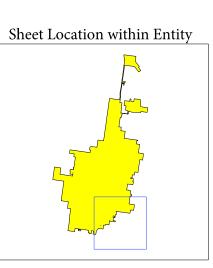
Alaska Native Regional Corporation (ANRC) ▼ ▲ ▼ ▲ ▼ ▲ ▼ NANA ANRC 52120 County (or statistically • • • • • Lee town 41460 • • • • • • Jemez CCD 91650 • • • • • MILFORD 47500 Incorporated Place -Rome 63418 ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · Incorporated Place -Davis 18100 Cochiti 16560 <u>SYMBOL</u> ~Pleasant-Lake *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

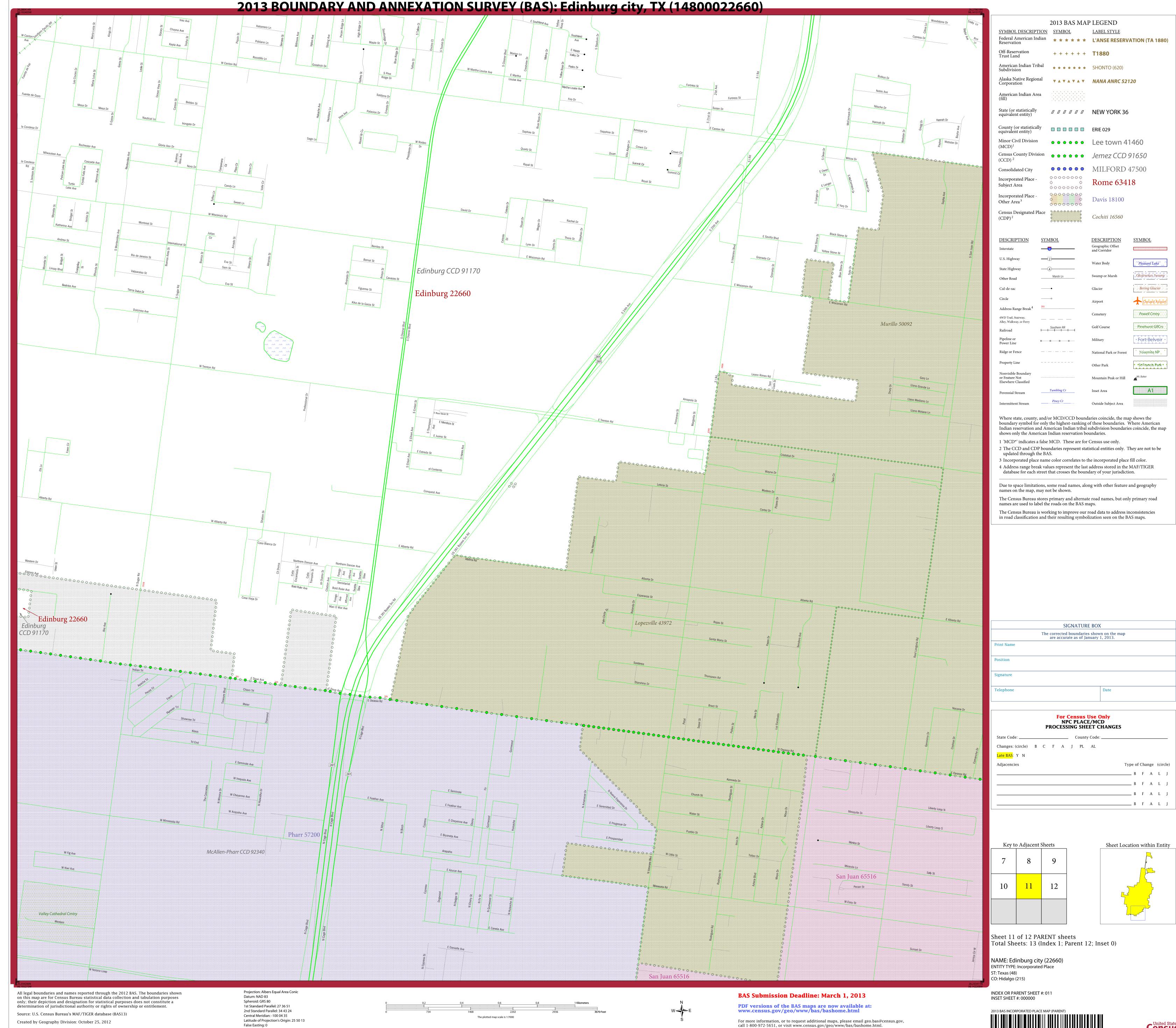
Sheet 7 of 7 PARENT sheets Total Sheets: 8 (Index 1; Parent 7; Inset 0)

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

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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

16380

Sierra Vista (2)

Third Party Request for Administrative 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 16, 2016

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

Re: Application No. 16380-Sierra Vista

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. 16380-Sierra Vista (the "Application") filed in Region 11 on a site located in the northwest corner of Owassa Rd. and N. Veterans Blvd. (the "Development Site").

The undersigned does not believe that MDS Housing Owassa, Ltd. (the "Applicant") is eligible for points claimed under \$11.9(c)(6)-Underserved Area of the QAP Rules and should not be awarded such points by the Department.

The Applicant claimed 2-points under $\S11.9(c)(6)(C)$ of the QAP Rules for having a site located in a Place and specifically an unincorporated area known as a CDP (Census Designated Place) that has never received a tax credit allocation servicing the same Target Population, and included in its Application evidence of the Development Site's location in Lopezville CDP to support its claim for the points. The supporting Underserved Area documentation from the Application is attached to this letter as Attachment I.

The Multifamily Rules define a Place as an area defined as such by the United States Census Bureau and includes "unincorporated" areas know as census designated places. The Census Bureau further defines a CDP as the statistical "counterpart" of an incorporated place and that a CDP "may not extend into an incorporated place". Attached please find as <u>Attachment II</u>, the definition of a Place in the Multifamily Rules and in the geographic terms and concepts from the Census Bureau's website.

While it is true that Lopezville is a CDP and is properly shown as such in the 2016 TDHCA Site Demographics Database and that there are no existing tax credit units located in this unincorporated area, the Development Site is not located in Lopezville. It is located in the City of Edinburg. Attached please find as Attachment III, Ordinance No. 2013-3694 dated December 10, 2013 annexing approximately 2281.65 acres into the boundary limits of the City of Edinburg including the western portion of Lopezville CDP containing the Development Site as shown under the Area 11 Data on Page 22 of the Ordinance.

TDHCA – Appl. No. 16380 Administrative Deficiency May 16, 2016 Page -2-

The fact that the Census Bureau boundary maps still shows the Development Site in the unincorporated area of Lopezville should not qualify the Application for Underserved Area points. It is our understanding that the Census Bureau publishes updated boundaries annually and the updates are dependent on the annexations being reported by the municipalities. Otherwise the city's boundaries are redrawn with the 2020 census. Attached please find as <u>Attachment IV</u>, our communication with the Office of the State Demographer.

The Board has consistently determined on several occasions that applications and the location of described sites are to be evaluated as of March 1, the application delivery deadline and what an applicant knew or should have known by such date. Attached please find as <u>Attachment V</u>, board materials for example appeals. <u>Attachment V(a)</u> describes the importance of evaluating applications with the facts as they exist on March 1, <u>Attachment V(b)</u> describes what the applicant knew or should have known at the time of application, and <u>Attachment V(c)</u> describes consistency in evaluating applications using the current development location.

The Applicant was aware that the Development Site was located in the City of Edinburg as of March 1, 2016. They included in Tab 11-Site Information Form Part III of the Application the Hidalgo CAD profile of the Development Site which shows the City of Edinburg as a taxing jurisdiction. Attached please find as <u>Attachment VI</u>, the HCAD profile made a part of the Application. The Applicant also did not include a resolution of support from Hidalgo County which they would have been required to do if the Development Site was located in the unincorporated area of Lopezville in order to qualify for the maximum points claimed under \$11.9(d)(1)-Local Government Support.

The Applicant should be denied points claimed under $\S11.9(c)(6)$ -Underserved Area, or if the Department determines that the Applicant should be granted these points, then the Applicant should be denied 8.5 points claimed under $\S11.9(d)(1)(B)$ -Local Government Support for not providing a resolution of support from Hidalgo County as such would have been required for having a site located in an unincorporated area and in this instance the ETJ of the City of Edinburg since the boundary of the Lopezville CDP area is located in the ETJ of Edinburg, Texas.

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 Rickinbercher

Donna Rickenbacker

cc: Steve Lollis (Texas Grey Oaks)

Attachment I – Underserved Area documentation

Attachment II - Definition of a Place

Attachment III - Ordinance No. 2013-3694

Attachment IV - Communication with Office of the State Demographer

Attachment V(a), (b) & (c) – Board Appeals

Attachment VI - HCAD Profile

ATTACHMENT I – Underserved Area Documentation

MDS Housing Owassa, Ltd.

February 10, 2016

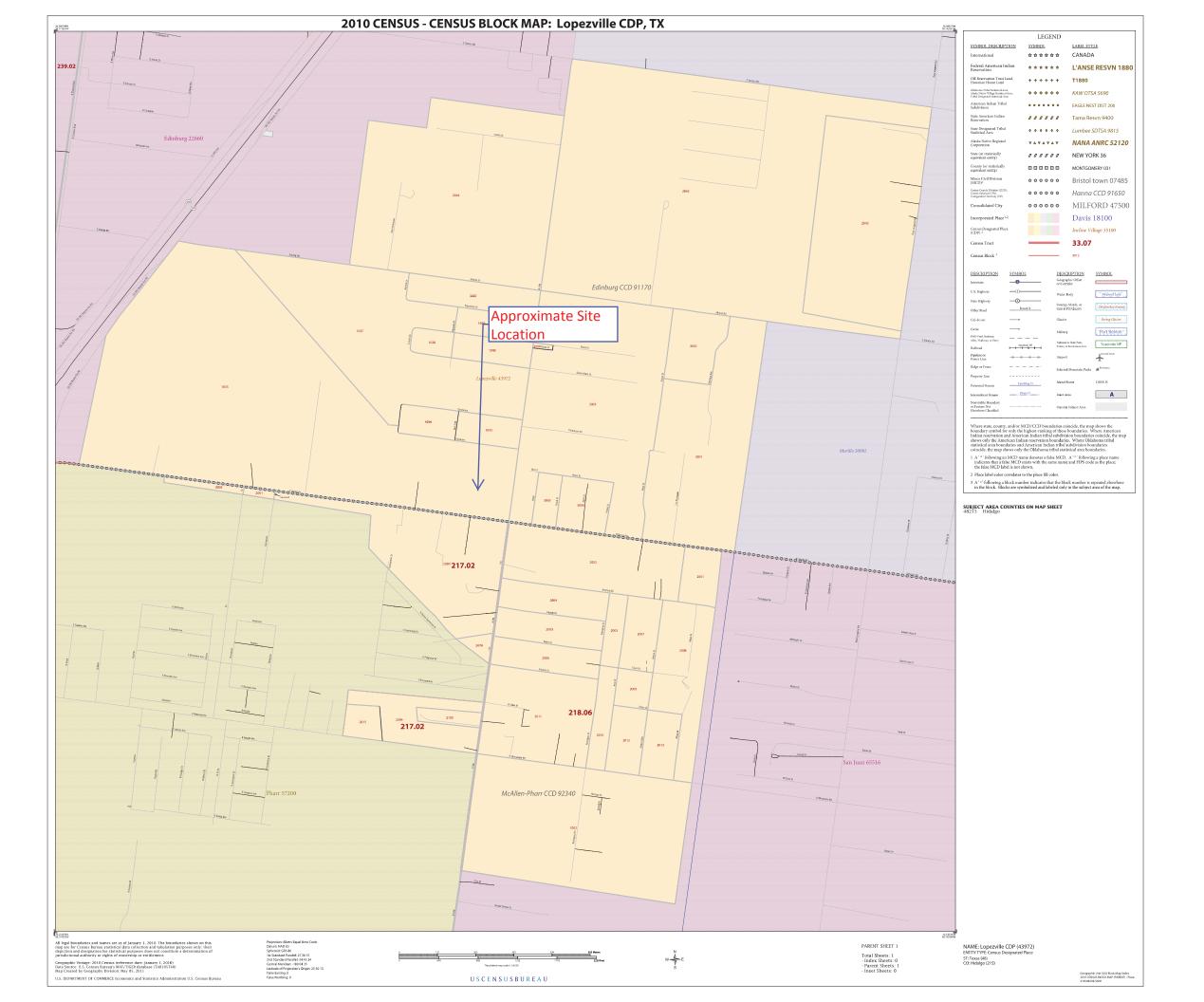
To whom it may concern,

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

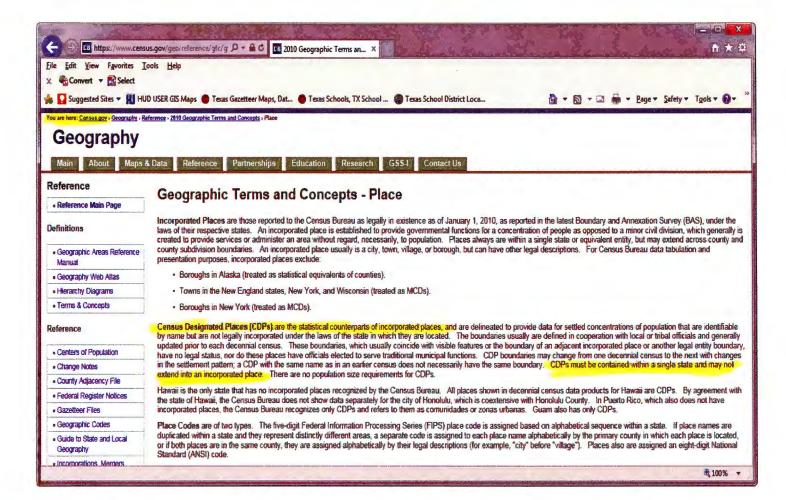




ATTACHMENT II – Definition of a Place

of any nature whatsoever, and shall include any group of Persons acting in concert toward a common goal, including the individual members of the group.

- (91) Persons with Disabilities--With respect to an individual, means that such person has:
 - (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
 - (B) a record of such an impairment; or
 - (C) is regarded as having such an impairment, to include persons with severe mental illness and persons with substance abuse disorders.
- (92) Physical Needs Assessment--See Property Condition Assessment.
- (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.
- (94) Post Carryover Activities Manual--The manual produced and amended from time to time by the Department which explains the requirements and provides guidance for the filing of post-carryover activities, or for Tax Exempt Bond Developments, the requirements and guidance for post Determination Notice activities.
- (95) Potential Demand--The number of income-eligible, age-, size-, and tenure-appropriate target households in the designated market area at the proposed placement in service date.
- (96) Primary Market--Sometimes referred to as "Primary Market Area." The area defined by the Market Analyst as described in §10.303 of this chapter from which a proposed or existing Development is most likely to draw the majority of its prospective tenants or homebuyers.
- (97) Primary Market Area ("PMA")--See Primary Market.
- (98) Principal--Persons that will exercise Control (which includes voting board members pursuant to §10.3(a)(29) of this chapter) over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:
 - (A) partnerships, Principals include all General Partners, special limited partners, and Principals with ownership interest;
 - (B) corporations, Principals include any officer authorized by the board of directors, regardless of title, to act on behalf of the corporation, including but not limited to the president, vice president, secretary, treasurer, and all other executive officers, and each stock holder having a 10 percent or more interest in the corporation, and any individual who has Control with respect to such stock holder; and



ATTACHMENT III – Ordinance No. 2013-3694

ORDINANCE NO. 2013-3694

AN ORDINANCE PROVIDING FOR THE CITY-INITIATED ANNEXATION OF APPROXIMATELY 2,281.65 ACRES, SAID ACREAGE LYING ADJACENT TO AND ADJOINING THE PRESENT BOUNDARY LIMITS OF THE CITY OF EDINBURG, TEXAS; AND PROVIDING FOR THE EXTENSION OF THE CITY'S BOUNDARIES AND EXTRATERRITORIAL JURISDICTION, THEREBY; PROVIDING WAIVER OF THREE SEPARATE READINGS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, on August 20, 2013, the City Council directed the staff of the City of Edinburg to prepare Service Plans for the provision of City services to certain tracts of land, described herein as Exhibits "A" through "Q" said tracts being Areas 1, thru 17, proposed to be annexed by the City of Edinburg; and

WHEREAS, two public hearings on the proposed service plans of the hereinafter described territory were held on October 1, 2013 and October 15, 2013, before the City Council in accordance with the Charter and Ordinances of the City of Edinburg and the laws of the state, and notice of such hearings was published in accordance with Section 43.052, Tex. Local Gov't. Code, in The Edinburg Daily Review on Wednesday, September 18, 2013 and Wednesday, October 2, 2013, said newspaper being the official newspaper of the City; and

WHEREAS, the hereinafter described property lies within the extraterritorial jurisdiction of the City of Edinburg; and

WHEREAS, the property hereinafter described lies adjacent to, adjoins, and is

contiguous to the City of Edinburg; and

WHEREAS, upon final passage of this Ordinance, the annexation procedures concerning the hereinafter described property will have been completed within ninety (90) days of the date the City Council instituted said proceedings.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDINBURG TEXAS, THAT:

SECTION I. The City finds that all requirements of law have been met in the passing of this ordinance.

SECTION II. The land described in Exhibits "A" through "Q", being Areas 1 through 17, attached hereto and made a part hereof for all purposes, being territory adjacent to and adjoining the City of Edinburg, Texas, is hereby added and annexed to the City of Edinburg, Texas, and said property therein described shall be included within the boundary limits of such City, and the present boundary limits of such City, at the various points contiguous to the areas hereinafter described, are altered and amended so as to include said areas within the corporate limits of the City of Edinburg.

SECTION III. Pursuant to the provisions of Section 43.056, Tex. Local Gov't. Code (Vernon 1988 and Vernon Supp. 1994) and all other applicable statutes & case law, the City staff has prepared Service Plans for the properties to be annexed. Such Service Plans are attached hereto for Areas 1 through 17, and by reference are made a part hereof; and are adopted hereby as the Service Plans for the Areas indicated therein upon the passage of this Ordinance.

SECTION IV. The herein described property and the tracts so annexed shall be a part of the City of Edinburg, Texas, and the property so added hereby shall bear its <u>pro rata</u> share of the taxes levied by the City of Edinburg, Texas. The inhabitants thereof shall be entitled to all of the rights and privileges of citizens of the City of Edinburg, Texas, in areas having similar characteristics of topography, land utilization, and population density, and shall be bound by the acts, ordinances, resolutions, and regulations of the City of Edinburg, Texas.

SECTION V. Upon annexation, the herein described property shall be temporarily zoned Agricultural District, until permanently zoned by the City Council of the City of Edinburg or upon request by property owner within the tracts being annexed.

SECTION VI. The extraterritorial jurisdiction of the City of Edinburg shall expand in conformity with this annexation and shall comprise an area around the new corporate limits of the City, consistent with state law.

SECTION VII. In computing the total amount of territory that the City of Edinburg may annex in the year 2013, approximately 2,281.65, acres more or less, are being annexed on the initiative of the City of Edinburg.

SECTION VIII. Upon annexation of the herein described property, the acreage within the City limits of Edinburg will be increased by approximately 2,281.65, more or less, which does not exceed the statutory limitations as set out in Section 43.055, Tex. Local Gov't. Code (Vernon 1988 and Vernon Supp. 1994).

SECTION IX. The final reading of this ordinance is waived; the second reading is final; and the requirements of three separate readings is waived.

SECTION X. The City Secretary is hereby authorized and directed to cause a true and correct copy of this Ordinance, as well as a description of the property annexed, to be published in a newspaper having general circulation in the City of Edinburg, Texas, and in the territory to be annexed hereby.

SECTION XI. Upon final passage, this Ordinance shall be published in the official newspaper of the City of Edinburg, Texas, as provided by law, and shall be and remain in full force and effect ten (10) days from date of final passage.

SECTION XII. If any section, part, phrase, provision, or sentence of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, or if any tract of land or portion of any tract of land hereby annexed shall be held to be ineligible for annexation or wrongfully annexed, then in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION XIII. In accomplishing the annexation of the property herein described, the City of Edinburg has strictly followed the provisions of the Charter of the City of Edinburg, and the state statutes as they apply to annexations and any possible deviation from these provisions was unintentional and not material to the accomplishment of this annexation.

READ, CONSIDERED, PASSED AND APPROVED on first reading at a Regular Meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 4th day of November, 2013.

READ, CONSIDERED, PASSED AND APPROVED on second and final reading at a Special Meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 10th day of December, 2013.

CITY OF EDINBURG

ATTEST:

By

Richard H. Garcia Mayor

By:

Myra L. Ayala Garza, City Secretai

APPROVED AS TO FORM:

PALACIOS & ASSOCIATES, P.C.

By: City Attorney

RMH/dmg-annexations/ordinances/2013 annexation

THE CITY OF DINBURG

2013

PROPOSED ANNEXATIONS



AREA 1 DATA

- 76.46 Acres
- 16 Tracts
 - 14 Residential
 - 1 Commercial
- Estimated Population 46



2013 Annexation Plan

W PI



AREA 2 DATA



- 19.33 Acres
- 12 Tracts
 - 10 Residential
- Estimated Population 32

AREA 3 DATA

- 0.39 Acres
- 1 Tract
 - 1 Residential
- Estimated Population 3



2013 Annexation Plan

W DE



AREA 4 DATA

- 20.0 Acres
- 91 Tracts
 - 88 Residential
- Estimated Population 284



2013 Annexation Plan

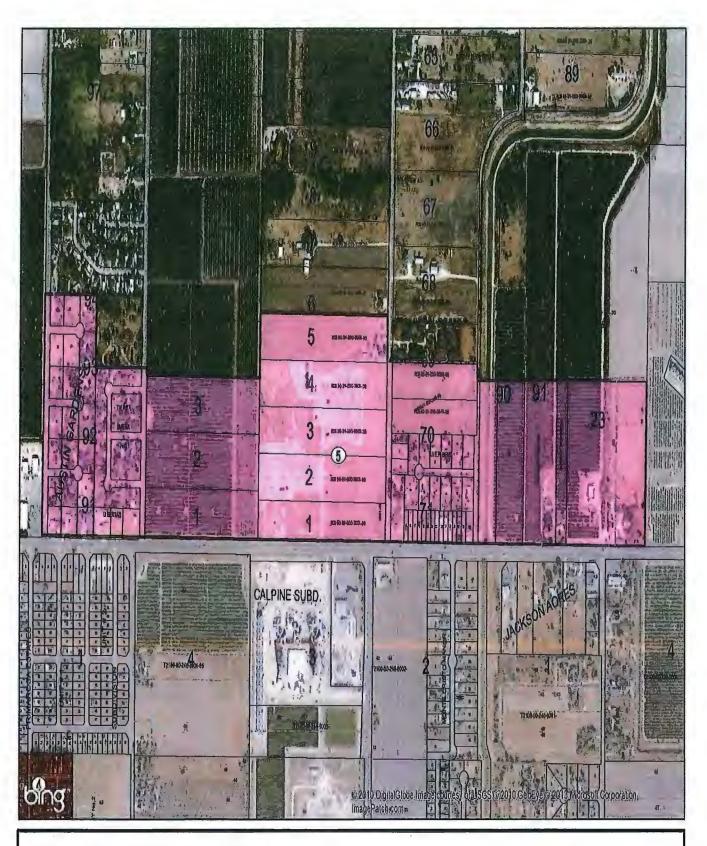
v Pr







- 185.0 Acres
- 124 Tracts
 - 96 Residential
 - 13 Commercial
- Estimated Population 327



2013 Annexation Plan

*Subject to City Council Approval

*Applies to Involuntary Annexations only









- 49.6 Acres
- 7 Tracts
 - 2 Residential
 - 3 Commercial
- Estimated Population 16

AREA 7 DATA

- 8.85 Acres
- 2 Tracts
- Estimated Population 0



2013 Annexation Plan





AREA 8 DATA



- 535.94 Acres
- 520 Tracts
 - 455 Residential
 - 1 Commercial
- Estimated Population 1476

AREA 9 DATA

- 7.31 Acres
- 7 Tracts
 - 4 Residential
- Estimated Population 13



2013 Annexation Plan

*Applies to Involuntary Annexations only





AREA 10 DATA

- 251.79 Acres
- 36 Tracts
 - 21 Residential
 - 7 Commercial
- Estimated Population 167



2013 Annexation Plan

*Applies to Involuntary Annexations only

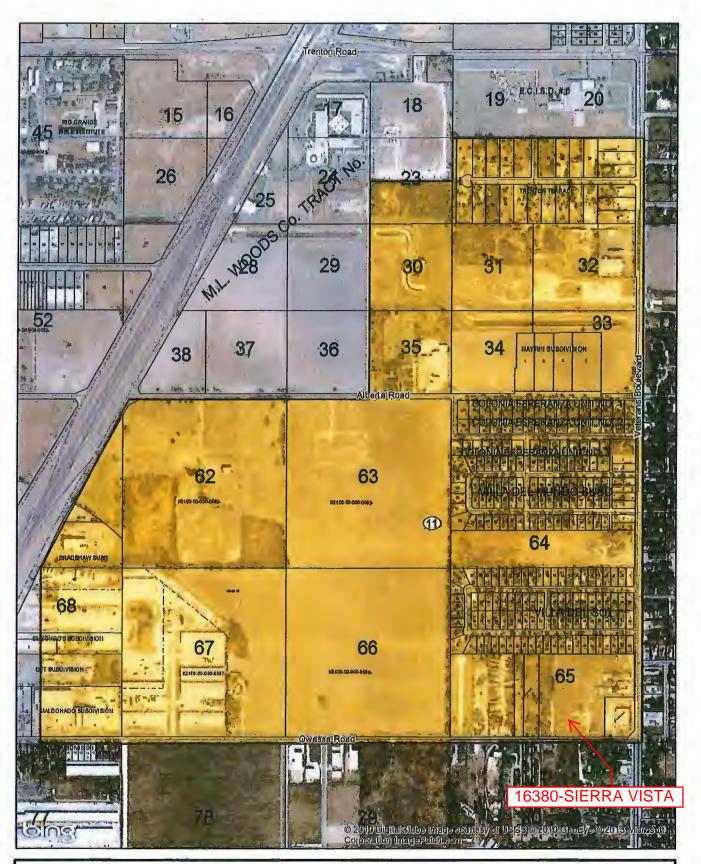








- 380.92 Acres
- 249 Tracts
 - 212 Residential
 - 21 Commercial
 - 2 Industrial
- Estimated Population 728



2013 Annexation Plan

W E







- 24.27 Acres
- 4 Tracts
 - 3 Residential
 - 1 Commercial
- Estimated Population 10



2013 Annexation Plan

W (1)



AREA 13 DATA

- 14.95 Acres
- 1 Tract
 - 1 Residential
- Estimated Population 3



2013 Annexation Plan

*Applies to Involuntary Annexations only









- 44.34 Acres
- 133 Tracts
 - 120 Residential
 - 2 Commercial
- Estimated Population 388



2013 Annexation Plan

W B



AREA 15 DATA

- 3.86 Acres
- 1 TractEstimated Population



2013 Annexation Plan

*Subject to City Council Approval

*Applies to Involuntary Annexations only

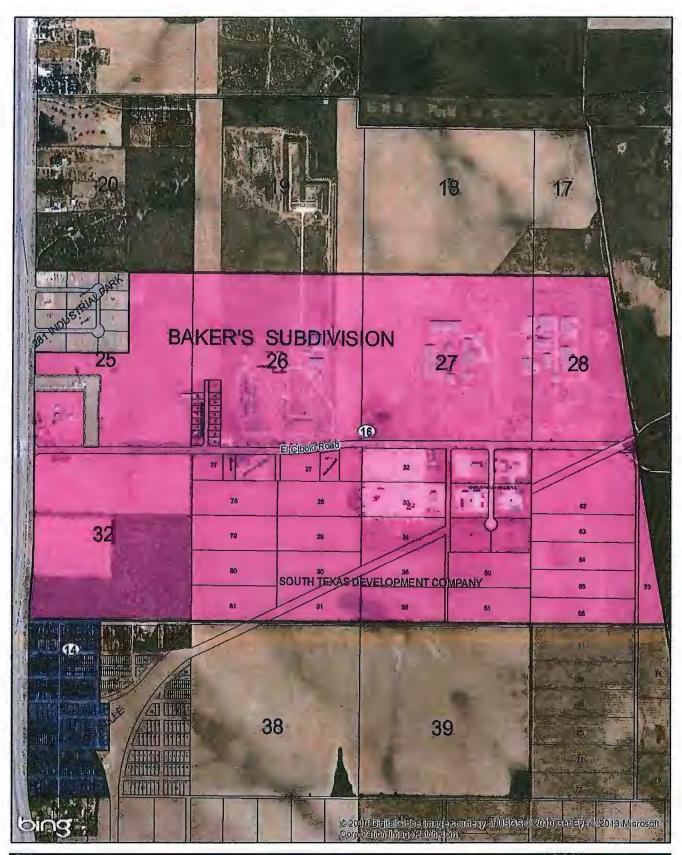








- 677.87 Acres
- 52 Tracts
 - 0 Residential
 - 2 Commercial
 - 10 Industrial
 - Public Correctional Institutions
- Estimated Population 0



2013 Annexation Plan

*Subject to City Council Approval

*Applies to Involuntary Annexations only









- 28.44 Acres
- 4 Tracts
 - 3 Residential
 - 1 Public School
- Estimated Population 10



2013 Annexation Plan

*Subject to City Council Approval

*Applies to Involuntary Annexations only





City of Edinburg 2013 Annexation Program Service Plans

Introduction

The City of Edinburg Planning and Zoning Department in consultation with various City departments has prepared this report which contains the Service Plans for each of the Areas identified in the City's 2013 Annexation Program. The areas consist of seventeen (17) Areas. The estimated acreage is 2,329 with an estimated population of 3,594 residents. Areas being considered for annexation are either in agricultural use, undeveloped or include residential, commercial and industrial uses. A few of the areas are being annexed to provide for uniform city limit boundaries.

A number of areas are currently receiving city services such fire department services, water, wastewater services, brush and solid waste services. The Service Plans provide a description of services being proposed for each area.

The Service Plans are divided in two Sections, basic services and capital improvements. In accordance with the Texas Local Government Code, Chapter 43, the City will be required to provide basic services immediately after annexation and capital improvements within 2 ½ years (June 30, 2016) to 4 ½ (June 30, 2018) years after annexation. Additional improvements can be accomplished as development occurs and or as the need is identified and when funding is available.

I. Basic Services. All areas will be provided the following basic municipal services immediately after annexation. All residents living in areas currently receiving City services will receive a reduction of the fees being charged. Typically this involves facility rental, solid waste collection, water and wastewater fees.

Police Protection

Fire Protection

Solid Waste Collection Services

Maintenance of Water and Wasterwater Facilities owned and operated by the City. Maintenance of Roads and Streets (including lighting) of all public roads not on the State Highway System.

)

Ambulance Services,

Brush collection Services

Code enforcement, Permitting and Inspection Services

Economic Development Services

Emergency Management and Civil defense Services

Housing Assistance Services for low and moderate Income families

Library Services

Mosquito control Services

Recreational Services,

Public information services

Residents would be eligible to vote in the May 2015 City Elections.

II. Capital Improvements. A program identifying certain capital improvements which have been made with City funds or will be undertaken in the future has been prepared for each of the Areas being considered for annexation. Capital Improvements generally consist of roadway and drainage improvements as well as water and waste water improvements. The purchase of major equipment and vehicles with a useful life of more than five (5) years is also considered a capital improvement necessary to provide residents and businesses with essential city services.

Annexation Area 1.

Water services are available from the Sharyland Water Supply Corporation. A new traffic signal was recently installed by the City in partnership with the Texas Department of Transportation to address traffic safety concerns at the intersection of Depot Road and Schunior Street. The City of Edinburg will maintain Depot Road and Schunior Road. These roadways are included in the City's capital improvement program. State and federal transportation funding will be sought for improvements to these roadways. An evaluation has been made by the City to determine appropriate locations for additional roadway lighting and drainage improvements in this annexation area.

Annexation Area 2.

Water services are available from the Sharyland Water Supply Corporation. Waste water services are readily available to serve this annexation area. In terms of improvement to existing roads, the City proposes to maintain Chapin and Mon Mack Roads, the existing roads in this annexation area. In addition, an evaluation has been made to determine appropriate locations for roadway lighting in this annexation area.

Annexation Area 3.

Water services are available from the Sharyland Water Supply Corporation. Waste water services are readily available to serve this annexation area. The City of Edinburg will maintain MonMack Road and make improvements as needed to serve this property and other nearby properties along MonMack Road. In addition, an evaluation has been made to determine appropriate locations for roadway lighting along Mon Mack.

Annexation Area 4.

Water services are available from the Sharyland Water Supply Corporation. Wastewater services are currently available from the City of Edinburg for this annexation area. The City proposes to maintain the existing public streets in this annexation area. Funding for reconstruction of the streets with curb and gutter improvements will be sought through City's CDBG Program. Drainage improvements for this area will be considered as part of a regional drainage system for the Northwest area of the City. In addition, an evaluation has been be made to determine appropriate locations for roadway lighting in this annexation.

Annexation Area 5.

Water services are available from the Sharyland Water Supply Corporation. Waste water improvements will be considered for existing residential neighborhoods in this annexation area. The remainder areas consist of agricultural, commercial and residential properties on large tracts of land with frontage on Monte Cristo Road. In addition, an evaluation has been made to determine appropriate locations for roadway lighting and drainage for the existing residential neighborhoods and along Monte Cristo Road in this annexation area.

Annexation Area 6.

Water services are available from the City of Edinburg. In terms of improvements, Owassa Road is scheduled to be improved to a four lane roadway in Fiscal Year 2017-2018 in partnership with the City of Pharr and the County of Hidalgo. There is a wastewater line readily available within this annexation area to serve these properties. An evaluation has been made to determine appropriate locations for roadway lighting in this annexation area at the time Owassa Road is improved.

Annexation Area 7.

Water and wastewater services are readily available to serve this annexation area. No capital improvements are required for this annexation area being that this area consists of a vacant tract of land. The proposed annexation area will have or benefit from the City's basic services immediately upon annexation.

Annexation Area 8.

Briar Grove and Oakland Village Subdivision currently receive water and waste water services from the North Alamo Water Supply Corporation using the City's waste water distribution system. The remainder of the area consists of agricultural and commercial and residential uses on large tracts of land. The extension of waste water services will be considered for the Canton Terrace Subdivision in this service plan.

In terms of improvement to existing roads, the City proposes to maintain the existing public roads not on the State Highway System in this annexation area. Canton Road is on the City's capital improvement program for FY-2014- 2015 for resurfacing improvements. In addition, an evaluation has been made to determine appropriate locations for roadway lighting for existing residential neighborhoods and along the major thoroughfares in this annexation area.

Annexation Area 9.

Existing properties in this area receive water service from the North Alamo Water Supply Corporation and are on septic tanks for wastewater purposes. In terms of improvement to existing roads, the City proposes to maintain Wisconsin Road, an existing public road not on the State Highway System in this annexation area. The properties in this annexation tract front on a private road. The City does not maintain or improve private roads. An

evaluation will be made to determine appropriate locations for roadway lighting along Wisconsin for this and adjoining areas.

Annexation Area 10.

Existing properties in this area receive water from the North Alamo Water Supply Corporation and are on septic tanks for wastewater purposes. The remainder of the area consists of agricultural and single family residential uses on large tracts of land and multiple residential uses subdivided among family members. The extension of a new waste water service line and stub outs are proposed to serve existing residents and businesses along the south side of Richardson Road. In terms of improvement to existing roads, the City proposes to maintain the existing public roads not on the State Highway System in this annexation area. In addition, an evaluation has been made to determine appropriate locations for roadway lighting in this annexation area.

Annexation Area 11.

Some residential neighborhoods in this area receive water from the City of Edinburg and the North Alamo Water Supply Corporation. The City of Edinburg provides waste water services in existing residential neighborhoods. The remainder of the area consists of commercial, industrial and residential uses on large tracts of land, the extension of new waste water services is not proposed to these areas in this service plan.

In terms of improvements to existing roads, the City proposes to maintain the existing public roads not on the State Highway System in this annexation area. In addition, an evaluation has been made to determine appropriate locations for roadway lighting and drainage improvements in this annexation area. The City and the County of Hidalgo are proposing funding for paving and drainage improvements for Trenton Terrace subdivision in Fiscal Year 2013-2014.

Annexation Area 12.

The existing uses in this area receive water from the City of Edinburg and are on septic tanks for disposal of wastewater. A waste water line is located along the north side of the properties being annexed and is readily available for use by the property owners. In terms of improvements to existing roads, according to the Hidalgo County MPO Metropolitan Transportation Plan, Owassa Road is scheduled to be improved to a four lane roadway no later than Fiscal Year 2017-2018 in partnership with the City of Pharr the County of Hidalgo and the Texas Department of Transportation.

Annexation Area 13.

Water and wastewater services are readily available along the frontage road of Interstate 69 in this annexation area. In terms of improvement to existing roads, this property fronts on Interstate 69, a roadway on the State Highway System. Improvements to this roadway are underway in partnership with the Texas Department of Transportation.

Annexation Area 14.

The area is currently being served with water and waste water services by the City. Streets and drainage will be maintained by the City and an evaluation has been made to determine appropriate locations for street lighting and street signs within annexation area. Additionally, street and drainage improvements will be considered in future years subject to local, state and federal funding for these improvements. The City has access to CDBG funds for these improvements.

Annexation Area 15.

The existing use of this property is for a public use, being a drain ditch under the control of the Santa Cruz Irrigation District. Being that this property does not have a current functional land use city utility services are not proposed for this area in this service plan. In terms of improvements to existing roads, this property fronts on F.M. 2812, a roadway on the State Highway System. Improvements to this roadway would be undertaken in the future in partnership with the Texas Department of Transportation.

Annexation Area 16.

The existing uses in this area receive water from the City of Edinburg and are connected to the City's wastewater system. Being that the remainder of this area consists of agricultural uses on large tracts of land, the extension of new waste water services is not proposed in this service plan. In terms of improvement to existing roads, the City proposes to maintain the existing public roads not on the State Highway System in this annexation area. In addition, an evaluation will be made to determine appropriate locations for roadway lighting.

Annexation Area 17.

The existing uses, a public elementary school and three residential properties in this area receive water from the City of Edinburg and are connected to the City's wastewater system or are on septic tanks for disposal of wastewater. Waste water services are readily available to serve the residential properties in this area which are currently on septic systems.

In terms of improvement to existing roads, the City proposes to maintain the existing public roads in this annexation area. In addition, an evaluation has been made to determine appropriate locations for roadway lighting.

III. Fiscal Impact.

The annexation of these areas will result in additional revenues from property taxes, new residential and commercial development, sales taxes, building permit fees, and other services provided by the City. The annexation of the areas will also result at in expenditures for personnel, equipment and capital improvements. A preliminary assessment of property tax revenues and capital infrastructure expenditures required to serve the annexation areas has been made to provide administration and elected officials with some indication of the anticipated fiscal impact of the proposed annexation.

ANNEX. AREA	ASSESSED VALUE	TAX COLLECTION	STREET & DRAINAGE	UTILITIES
1	\$4,601,999	\$29,223	1.00	\$841,649.91
283	\$2,168,814	\$13,772	tria experience of the second	\$87,665.25
4	\$2,731,409	\$17,344	\$791,516.25	
5	\$7,956,592	\$50,524	\$181,843.75	\$1,519,372,64
6	\$1,527,149	\$9,697		25 0 25 0
7	\$1,297,348	\$8,238		
8*	\$52,480,770	\$333,253	2.5	
9	\$496,198	\$3,151		\$263,130.75
10	\$2,258,107	\$14,339	TENERAL PROPERTY	\$8,775.00
11*	\$23,403,472	\$148,612	\$198,375.00	\$198,375.00
12	\$1,790,408	\$11,369	5 p. 1	312
13	\$1,173,024	\$7,449		
14	\$4,194,876	\$26,637	\$2,115,008.13	3
15*	\$0	\$0	-24	
16*	\$4,633,165	\$29,421		
17*	\$159,860	\$1,015	1	2 2 2 2

^{*}CONTAIN NON-TAXABLE PROPERTIES

ATTACHMENT IV – Communication w/Office of the State Demographer

Donna Rickenbacker

From: Donna Rickenbacker

Sent: Friday, May 13, 2016 2:56 PM

To: Donna Rickenbacker **Subject:** FW: Annexation of aCDP

From: TXSDC [mailto:TXSDC@utsa.edu]
Sent: Friday, March 18, 2016 10:58 AM

To: Jamie Rickenbacker <jamie@marqueconsultants.com>

Subject: RE: Annexation of aCDP

Jamie,

I reviewed the Census BAS data and you are correct. There are no annexation reported for the City of Edinburg. I reviewed 2013 & 2014. The Texas State Data center does show the annexation. So, for our purposes of producing the population estimates and projection for the State of Texas those individuals are counted as part of the City of Edinburg. The City of Edinburg can still report the annexation to the Census Bureau through the BAS program. Otherwise the city's boundaries will be redrawn with the 2020 census.

Thanks you,

Cyndí Daley

Office of the State Demographer

Texas State Data Center

501 West Cesar E. Chavez Blvd.

San Antonio, TX 78207-4415

(210) 458-6532 Phone

(210) 458-6541 Fax

txsdc@utsa.edu

http://txsdc.utsa.edu

From: Jamie Rickenbacker [mailto:jamie@marqueconsultants.com]

Sent: Friday, March 18, 2016 9:55 AM

To: TXSDC < TXSDC@utsa.edu > Subject: RE: Annexation of aCDP

Thank you for the response. I see in a December 2013 City Edinburg action there was an annexation of a number of sites around Edinburg. I am trying to see if a portion of the Lopezville CDP is reflected as being annexed into the City of Edinburg around or after that date in the Texas data or the US Census Bureau data. I checked BAS data and so far do not see the change reflected but I admit I am not a pro at this data. The area that I am tracking is at the very bottom of the attached and is site 11.

From: TXSDC [mailto:TXSDC@utsa.edu]
Sent: Friday, March 18, 2016 9:06 AM

To: Jamie Rickenbacker < <u>jamie@marqueconsultants.com</u>>

Subject: Annexation of aCDP

Jamie,

Thank you for contacting us with your question concerning the annexation of CDP's. I have asked several individual's for help. However, no one really has a clear answer. We deal mainly with incorporated places and not CDP's. Incorporated places are updated on an annual basis through the BAS program. For information on CDP's I suggest you contact the Census Geography department. If you have any other question please feel free to contact us.

Have a question about Census geography?

- Call (301) 763-1128
- E-Mail geo.geography@census.gov or geo.tiger@census.gov

Thank you,
Cyndí Daley
Office of the State Demographer
Texas State Data Center
501 West Cesar E. Chavez Blvd.
San Antonio, TX 78207-4415
(210) 458-6532 Phone
(210) 458-6541 Fax
txsdc@utsa.edu
http://txsdc.utsa.edu

ATTACHMENT V(a) – Board Appeal – 07/11/13 Board Meeting

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Capitol Extension Auditorium 1500 North Congress Austin, Texas

July 11, 2013 9:00 a.m.

BOARD PRESENT:

J. PAUL OXER, Chair JUAN MUÑOZ, Vice Chair LESLIE BINGHAM ESCAREÑO, Member LOWELL KEIG, Member J. MARK McWATTERS, Member TOM GANN, Member

didn't have the opportunity to hear alternative arguments 1 2 from other applicants. 3 MR. OXER: How many groups do you have, more or 4 less? 5 MR. DORSEY: Well, it's really just an order 6 that I'm changing. So Liberty Manor which is currently first would remain first, Patriot's Crossing, La Esperanza 7 8 Del Rio, Heritage Plaza, then we're going to look at 9 Riverwood and Rosewood. Heritage Plaza, Riverwood and 10 Rosewood all have very similar issues. Then Mayorca Villas which has very similar issues to the Artspace 11 application which is listed last. Then Arcola Senior 12 13 Living. 14 MR. OXER: Wait a minute. Hold on. We're at 15 Mayorca Villas? 16 MR. DORSEY: Yes, Mayorca Villas. 17 skip those next two because those I moved up. Then the next one after Mayorca is Reserve at Arcola Senior Living, 18 19 and then Stonebridge of Plainview, and then 4800 Berkman. 20 So that's the order we're going to try to hear them so 21 that the issues can be grouped. 22 MR. OXER: Essentially moved one up and one 23 down, but it's essentially the same. 24 MR. DORSEY: Yes. It's not a big 25 reorganization. I just want to make sure like topics are

heard together. And Jean is actually going first.

MS. LATSHA: Good morning.

MR. OXER: Good morning.

MS. LATSHA: Jean Latsha, Housing Tax Credit manager.

The first few appeals here, we're going to hear a lot surrounding the date of March 1. These appeals cover a number of different issues, but at the end of the day, what this is really about is March 1, it is: did you notify the proper elected officials by March 1, did you include what you needed to include in your application on March 1, where was your site located on March 1. And I just want to throw out there really quickly that that date is really important for the QAP to function as a document. We have to evaluate these applications with the facts as they exist on March 1, and that's exactly what we did in a number of instances here, although, like I said, they're related to different scoring items.

That being said, we'll start with Liberty

Manor. So Liberty Manor is an application in Rural Region

7, and they lost points for a couple of different scoring

items. The first, commitment of development funding from

a unit of general local government. The reason they lost

those points is that on March 1 they were not located

within the city limits of Liberty Hill, however, for

purposes of scoring under this item, they submitted documentation that they had a commitment of development funding from the City of Liberty Hill which, per the rules, was not sufficient for points. In order for that commitment of funding to count for points, they needed to be located within the city limits, and this was made very clear through some staff guidance before March 1.

Their argument is that because the development was proposed to be located in Liberty Hill and has since been annexed that that commitment of funding should count for points. But again, you'll hear the date March 1 from me several times while I'm up here. Again, the development site was not located in the City of Liberty Hill on March 1, therefore, they are not eligible for the points.

Secondly, they also lost points for a community revitalization plan in a rural area. This is actually a different issue. They did submit some documentation that there were some infrastructure projects near their development site that would qualify them for these points, however, the application was challenged, and it turns out that these new water wells and a pumping station, which were the infrastructure projects that were qualifying them for these points, were not, in fact, located within a quarter mile of the site which is required by the rule.

1 I think that there was just a misunderstanding 2 of the rule here, and in their appeal they state that they believed a way to achieve these points is that the 3 4 infrastructure project serves the development site, 5 however, there's no language in the rule that says 6 anything about the project serving the development site. 7 If that were the case, you could have, let's say, a paved 8 roadway three miles away, yes, you have to take that road 9 to get to the road to get to the development site, 10 everything would serve the development site. The rule clearly states that the infrastructure projects have to be 11 within a quarter mile, this one was not, and I don't 12 believe the applicant is contesting that fact. 13 14 Unless you have any other questions for me 15 about this application, I'll let the applicant speak. 16 MR. OXER: Hold on a second. We have to have a 17 motion to consider. MS. BINGHAM ESCAREÑO: Mr. Chairman, I move 18 19 staff's recommendation to deny the appeal. 20 MR. OXER: Okay. Motion by Ms. Bingham to move 21 staff recommendation to deny the appeal. Is there a 22 second? 23 MR. GANN: I'll second. 24 MR. OXER: Second by Mr. Gann. 25 Okay. We have public comment on this.

1 DR. MUÑOZ: I've got a guestion for Jean. MR. OXER: Okay. Let's do that. 3 MS. LATSHA: Yes, sir. DR. MUÑOZ: Jean, one of the points that the 4 5 applicant contends is the interpretation of the word 6 "proposed." They cite from the QAP the statement: "An 7 application can receive up to 13 points for a commitment 8 of development funding from the city or county in which 9 the development is proposed to be located." 10 MS. LATSHA: Yes. DR. MUÑOZ: That's not ambiguous to me. 11 12 MS. LATSHA: And I understand their reading of that rule. However, we use the word "proposed" all over 13 14 the QAP and it really is more of a general meaning of 15 these are all proposed developments, and that's really as 16 far as that meaning goes. We made it very clear in some 17 other guidance, some other applicants that were in very similar situations. 18 DR. MUÑOZ: 19 Yes. You say other applicants were 20 afforded the same opportunity to seek guidance. Yes, I get that point, but afforded doesn't necessarily compel 21 22 them to take advantage of it. 23 MS. LATSHA: Except that there was -- if you 24 would like to go ahead. 25 It goes back to March 1. MR. IRVINE: On March

1 1 it was proposed to be here. Where is that? It's either 2 in the city or it's not in the city. 3 MS. LATSHA: And there are statements in the 4 QAP that really do encourage that type of guidance, and 5 had the applicant ask us about this very particular 6 situation that they were in, they would have received 7 exactly the same guidance that everyone did. DR. MUÑOZ: Does it say proposed to be here, or 8 is that how we interpret it? I mean, that to me is very 9 10 It's proposed to be here, where is it on this date. Is that how it's stated? 11 12 MR. OXER: That's essentially how it's stated. 13 MS. LATSHA: That is how it's stated, yes, sir. 14 DR. MUÑOZ: I mean, unless they misrepresented 15 in their appeal letter, it says proposed to be located, 16 doesn't say proposed to be located on this date. MR. OXER: But it has to be for the point of 17 the application, the application goes in on March 1. 18 19 Cameron. 20 MR. DORSEY: I think the problem with this is -- and let me work you up here -- we got several 21 22 questions prior to March 1 about this and what we needed 23 to do, so we sat down as a group and we said, All right, 24 how do we need to look at this? Because I understand the

reading that they're putting forth, I'm even sympathetic

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to the reading that they're putting forth. The problem is this, if we're asked the question before March 1, here's what I've got to base our decision on: I am an applicant seeking to be annexed, I cannot tell you necessarily when I will be annexed, there is no date to prove up that annexation.

on March 1 and based on the fact pattern on March 1 unless an explicit future date is provided for where the applicant can prove up that information, and to have these kind of contingent, unknown determinations without any QAP direction as to when those things need to be resolved would create some pretty sweeping problems.

If in this particular instance, based on that sympathy for this particular reading, the Board wants to grant that appeal, that's one thing, however, I think it's highly problematic to extrapolate that type of reading to the QAP as a whole document.

DR. MUÑOZ: Cameron, speaking for myself, I supposed I'm prepared to accept your explanation on the date, but this argument that, well, we provided instruction to others so they should have had the foresight to contact us and receive the same instruction, I find that a fairly unconvincing position.

MR. DORSEY: Okay. I think that really

revolves around there were a lot of questions, we put out some guidance that said, Hey, if you're not in the city, you can't request funds from the city. We didn't say on March 1, we definitely did not, but to me it at least raises a question: Why would I spend \$40,000 on an application and elect points that would be determinative of whether or not I got an award without asking the question?

MR. OXER: Anything else, Jean?

MS. LATSHA: No, not really. I mean, I think the only thing I might add to that is that some of those other applications that were similarly situated that thought annexation, for instance, was going to happen relatively soon, in some of those cases that annexation actually did not happen, and so had we relied on that information in the other instance, then we would have been in a different problematic situation. So I think this was definitely the most consistent way to look at all of these applications.

MR. OXER: But at some point when the application comes in, whatever that date is set -- we've set it at March 1 -- you've got to evaluate the application as of March 1, so the question is was this one in the city or not.

MS. LATSHA: It was not.

1 MR. OXER: Okay. And that's determinative to 2 the question in my mind. And the ambiguity of the 3 expectation of being annexed, could happen next week, 4 could happen next year, could happen next month, might not 5 happen at all, so that would be problematic had it not 6 happened, so you have to look at circumstances on some 7 fixed date. 8 MS. LATSHA: Precisely. 9 MR. OXER: March 1 is that date. Good. 10 MR. IRVINE: Yes. We seek certainty. On March 11 1 if you're in an ETJ, it's certain that you're in the 12 county and you will be in the county even if the 13 municipality proceeds with the annexation. If you're 14 within the municipality, it's certain that you're within 15 the municipality. ETJs are very problematic things and 16 that's why we draw the lines around municipalities and 17 counties. MR. OXER: Good. I'd like to have a motion to 18 19 consider, please. 20 MR. IRVINE: We've got one. 21 MS. LATSHA: We already have one. 22 MR. OXER: From? 23 MR. IRVINE: Leslie and Tom. 24 MR. OXER: Okay. Bingham and Gann. Is there 25 public comment on this item?

MS. BAST: Good morning. I am Cynthia Bast of Locke Lord, and I am representing the applicant in this appeal.

MR. OXER: Good morning.

MS. BAST: I certainly understand the staff's desire to have a date certain of March 1, the need for the process to have a date certain on March 1. I understand that with all of that focus on March 1 that the staff believes that their rule is clear. But I do look at these rules differently and I do think that it is our job to take a rule and look at it and apply common rules of interpretation that say you must give effect to every word that is written on the page.

With regard to the local funding, the key word here is "proposed." Dr. Muñoz, you certainly keyed in on that. The funding is supposed to come from the local government of the jurisdiction in which the development is proposed to be located, not the jurisdiction where the proposed development is located. It could have been written differently; those are two different things. And Ms. Latsha's comment that oh, we just kind of throw the word "proposed" around because these are all proposed developments, no, we don't throw words around, we put words in rules to give us very specific guidance.

And if this development was going through an

annexation on March 1 and could prove up on March 1 that they were in good faith going through an annexation, that the city was working with them on that, then that development on March 1 is proposed to be located in the city. And if you accept the staff's recommendation and their interpretation that we're looking at where the development is located on March 1, then I assert that you're really just reading the word "proposed" out of the rule.

I also think that accepting that a property that is going through annexation is proposed to be located in the city is consistent with other sections of the QAP. If you look at section 11.9(d)(6)(A)(II) with respect to community revitalization plans, it says the plan must be adopted by the municipality or county in which the development is proposed to be located.

But I think even more instructive is section 11.8(b)(2)(A)(I) which talks about neighborhood organization requests, and it requires that the applicant send a letter based on where the development is proposed to be located. And in that section it goes on to say that if the development is located in a city or an ETJ, then the letter should be delivered to the appropriate city official.

The QAP allows for this financing to be proven

up at the time of your commitment notice. The QAP also allows for zoning to be proven up at the time of your commitment notice. Annexation and zoning often go hand in hand. So if we're talking about timing here, it is logical that an application with a development currently in the ETJ as of March 1 but proposed to be in the city of as of March 1 could prove up the financing at the time of the commitment notice and could show the department:

Look, on March 1 we were going through annexation, we did go through annexation, we went through zoning, we got our zoning, we're proving that up now, as we're supposed to in the QAP, we're proving up our financing now, as we're supposed to in the QAP.

And TDHCA could look at this and say: Was there an annexation in process on March 1 so that this applicant reasonably and in good faith got a commitment from the city for financing? And if so, the QAP already allows for that subsequent recognition.

So I truly believe that this part of the QAP is clear and that you have to give effect to the world "proposed" in the context of an annexation that is in process on March 1.

With regard to community revitalization plans, this is another matter of really just looking at one word in a sentence, and in this sentence the word is "or." The

1 rule provides points if the government has approved: (1)2 expansion of basic infrastructure that serves the development site, or, and the second phrase 3 4 is improvements to areas within a quarter mile of the 5 development site. 6 So our client has interpreted the use of that 7 conjunction "or" to indicate that that last phrase within 8 a quarter mile of the development site really only relates 9 to the improvements to the area, not the piece before the 10 "or" and so I ask you to look at that and see if you can derive a similar interpretation. 11 There is more testimony here and I will cede my 12 time and allow you to hear from the rest of the public 13 14 comment, unless there are any questions. Thank you, Cynthia. 15 MR. OXER: 16 Are there any questions from the Board? 17 (No response.) MR. OXER: Good. Thanks. 18 19 MS. BAST: Thanks. 20 MR. OXER: Any other comment? 21 MR. BOATRIGHT: Good morning. My name is Greg 22 Boatright. I'm the city administrator for the City of 23 Liberty Hill, and I very much appreciate your time and

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I, too, serve in a role that is similar to the

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your service.

one that you are serving this morning in that I serve as the president for the Capital Area Housing Finance Association and have been a member of that board for the past 22 years. So when the term "affordable housing" is mentioned, I understand the challenges that your Board faces because we face that each time that we meet as a board and undertake the challenge to provide workforce housing, which is basically what we're doing, and it's a very, very important role to our community -- as is this project that we're here about this morning.

I want to speak on behalf of Prestwick

Development and the project that is currently taking place in our community. It will serve a vital role as a senior project for many families that have aging parents that live either with them or that they are responsible for, but it also fills a much more important role for us as a community in that the type of project that they are proposing, it gives us the ability to supplement our workforce because many of these people that are 55 years young -- since I hit that mark this past June provide a vital role in the workforce from a temporary standpoint, from a full-time standpoint. Many of the people that will be housed here are looking for ways to supplement their income.

The school district is very excited about this.

It's right across the road from where our school district has its bus facility, has its administrative offices, has the middle school and the intermediate school. And so they're looking for, as you know, always looking for ways to fill positions that are very difficult because many of them are on a part-time basis. So it's very vital to our community to have this project located where it's proposed to be.

I won't address the technicality of the March 1

I won't address the technicality of the March 1 date. I understand the argument and the stand that the staff is taking on this, but I will say that "proposed" in the QAP does leave a lot for interpretation, and when rules change I think there needs to be some flexibility as to the way that it's interpreted, and we would certainly appreciate your consideration on that. Thank you.

MR. OXER: Thank you, Mr. Boatright.

Any questions from the Board?

(No response.)

MR. OXER: Thank you.

MR. BOATRIGHT: You're welcome.

MR. OXER: Further comment?

MR. TUCKER: Good morning, members of the Board, Mr. Irvine. My name is Jody Tucker and I'm the CEO and founding partner of Prestwick Development.

We started our company back in 2008. We've

done over 20 deals in four different states, along with my other two partners combined, in previous lives we've done over 50. We're a very successful development organization and we spend a lot of time reviewing and discussing the QAPs in all of the states we work in each year. We attend all the workshops, we're actually engaged in the QAP drafting process. My point with all this is we're not here pleading ignorance.

Our attorney, Cynthia, has clearly pointed out that the literal wording of the 2013 Texas QAP, we followed that literal interpretation. The fact that other developers sought guidance on these issues clearly shows this is an area of the QAP where the literal reading does not match staff's intent. You cannot penalize a developer and take away points because staff said their intent is different than what was written. The QAP is the law on how credits are allocated and subjective interpretation should not be allowed. If the intent is different than the literal reading of the QAP, the staff should address this in the following year's QAP and not penalize an applicant in the current year's round.

We have dealt with this in other states that we have done business in, and in every instance the staff realized their intent was different than the literal reading and the literal interpretation has always

prevailed. In each instance staff addressed their mistake in the following year's QAP by rewording the section to match their intent. We can't question the intent on each item in the QAP which is why we always read the literal interpretation and put together applications to meet those requirements.

At this time I'd like to respectfully ask the Board to reverse the previous motion and to make a new motion to reinstate the points for Liberty Manor. We thank you for your consideration and time and thank you for all that you do for the State of Texas and affordable housing.

MR. OXER: Thanks, Jody.

Any questions of Mr. Tucker? Cameron, do you have a follow-up?

MR. DORSEY: I wanted to just address a couple of things that I see as kind of maybe reading into staff's interpretation a little bit. We're not reading the word "proposed" out of the sentence, I want to be clear. The word "proposed" if you read it out of the sentence is even more nonsensical than if you read it the way they're reading it. The development is located, where the development is located. Does anyone know where the development is located? Nowhere. It's an application so you can't take the word proposed out of the sentence and

make it make any sense. We are reading the word

"proposed" to modify the status of the development, it is

proposed, the activities in the application are proposed,

the location that it is proposed to be is proposed, but

it's definitive, it is that site. It doesn't modify the

uncertainty of the city's future boundaries and boundary

changes. To read it that way is just -- I'm not

suggesting that it can't be read that way, I'm saying that

it's inconsistent with how the QAP operates as a document.

I also think that it's clear that if we were to read it this way and interpret it this way, then I've got problems with other applications where we awarded points even though they anticipate annexation because not only under this point item, but as Cynthia mentioned, in the community revitalization point item, this carries out and has a pretty big ripple effect. And so before March and since before March 1, staff has remained incredibly consistent in its view of this point item and provided consistent guidance, and the staff recommendation today maintains that and retains that consistent treatment of this issue across all applications and applicants.

The second thing is with regard to the whole issue of "or." I encourage you to read the sentence because what it says is it's project infrastructure or project, infrastructure or project to the development

site. If I put "and" there, it doesn't make any sense; I need to be able to use the word "or" in this manner. The construction of the sentence is pretty apparent, and if you don't take into account that "or" to string that sentence together that way where it has to be to the site or within a quarter mile, then what you end up with is a rule that says you have to prove up that there's infrastructure. Where? Can it be anywhere in the county? There's no distance requirement then.

It's incredibly difficult to read it that way because if you read the quarter of a mile and then you go up and you read the other to not provide for a distance requirement, then why would I have a distance requirement in any case if the project just needs to be somewhere. So it's an illogical construction of that sentence and way to read that sentence is what we looked at. I think when I approached Barbara with the subject and said can you read it this way, it was no, not really. So I think certainly if you're sympathetic to that reading, definitely look at the explicit language there.

MR. OXER: Okay. Thanks, Cameron.

Any comments from members of the Board?

(No response.)

MR. OXER: Okay. Mr. Tucker. And please restate your name when you come back up.

MR. TUCKER: Jody Tucker with Prestwick Development.

First, staff did provide guidance but that guidance was provided privately to the developers that asked the question. There was no public guidance given on this topic to us or to anybody in this year's round.

The second thing regarding infrastructure, if you read the sentence there's two options: expansion and improvement. Expansion would be adding to, adding water wells, adding sewer pump stations; improvements would be improving what's already there within a quarter mile of the site. And so we selected under expansion as our choice of claiming those points. Thank you.

MR. OXER: Okay. Thanks for your comments.

Any questions from the Board?

(No response.)

MR. OXER: Anything else, Mr. E.D.?

MR. IRVINE: Not from here.

MR. OXER: Okay. Professor McWatters.

MR. McWATTERS: Cameron, I just want to make sure I understand the timing here. On March 1, let's say a property is located in a county and there is the intent for it to be located in the city through annexation at some time in the future. To get the additional 13 points, you're in the county on March 1, do you have to have a

commitment then from the county?

MR. DORSEY: If you're in the county on March

1, then you can either pursue funding and get a commitment
in the form of a resolution from the county or a

qualifying instrumentality of that county.

MR. McWATTERS: What's a qualifying instrumentality?

MR. DORSEY: It's an instrumentality with a certain board makeup. It can be, for example, a housing finance corporation that has a board makeup with primarily county commissioners on that board.

MR. McWATTERS: Okay. Well, here's my issue,
I'm in the county, I don't want to be in the county, I'm
doing everything I can do to be annexed, I think I will be
annexed. Why should I have to waste my time getting a
commitment from the county when I know I'm going to be in
the city and so I just really want to get a commitment
from the city?

MR. DORSEY: That's a great question. The problem is that the QAP doesn't provide any instruction surrounding what to do in instances where an annexation or the boundaries of a city will change at some point in the future. I think that there are a couple of key pieces.

One is that you can go to the county even when you're in the city, so that's key. The other thing is you can go to

the city and secure funding. This is a point item, you know, you elect points voluntarily to meet the explicit requirements of that point item. We're not requiring you to do anything.

MR. McWATTERS: Okay. So if I'm in the county, I expect to be in the city, I can go ahead and get a commitment from the county and if I am subsequently in the city, that's still okay for the 13 points?

MR. DORSEY: Yes.

MR. McWATTERS: Okay.

MR. OXER: So you can be in the county but not in the city, but if you're in the city you're automatically in the county.

MR. DORSEY: That's right. Yes. If you're in the city, then you can go to the county, but the strict plain reading of the requirement is that you could not go to a county instrumentality. I'm not sure that that was necessarily intentional but it's pretty explicit.

MR. OXER: Do you have a follow-up, Cynthia?

MS. BAST: Yes, sir. Cynthia Bast. That's exactly what I was going to point out. I'm looking at the FAQ that was published after the pre-application deadline but before the application deadline, and what it's telling is that if your development site is located within the city, then your possible local subdivisions include the

county, the city or a city instrumentality, but it doesn't include a county instrumentality. However, if you're in the ETJ, which means you're in the county, then your possible government entities are the county or the county instrumentality.

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So theoretically, in this situation, Mr. McWatters, if we're in the ETJ on March 1 but we're being annexed, if we went to the county instrumentality, that would be an appropriate governing body on March 1 because we're in the ETJ. But then when we're annexed on June 23, it's no longer an appropriate body because we're now in the city and a county instrumentality doesn't count. county counts so you can get county money for either one, but the way I read this FAQ, county instrumentality doesn't count, so that creates sort of a strange situation here where you could get funding and then change your jurisdiction and then what do you do when it's time for the commitment notice? Do you go to the department and say, oh, well, I changed my jurisdiction so I'm going to change my funding now? Well, what does that do to the integrity of the process?

MR. DORSEY: I would say that there are a lot of instances where things change after March 1. One thing that almost always happens is new census data is released, and this occurs after the rules are finalized, and you

1 know, while you might be in a high opportunity area on 2 March 1, you might not when you place the deal in service. 3 I mean, there are things changing all the time after 4 So you might be in a QCT when you submit the March 1. 5 app, you might not be in a QCT later. That's the reality 6 of just this process. 7 MR. OXER: But at some point you've got to take 8 a snapshot and evaluate that. 9 Snapshot, bingo. MR. DORSEY: 10 MR. OXER: Okay. Anything else? Any followup, Professor McWatters? 11 12 MR. McWATTERS: No. I think, Cameron, the way 13 you're reading this, you're reading it as if the word 14 "proposed" modifies the word "development" so the 15 provision would read: in which the proposed development 16 is to be located, and I mean, I think it's implicit that 17 all developments, since they're not built yet, are proposed so you don't really need that in there, and so by 18 19 adding the word "proposed" or even deleting the word "proposed" when you say to be, that's future tense, and so 20 21 where's it going to be in the future, not necessarily on 22 March 1. But I admit, it's ambiguous. 23 MR. OXER: Mr. Boatright, you had a followup? 24 MR. BOATRIGHT: Greq Boatright. Just briefly

just to clarify the timelines that we're talking about.

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Voluntary annexation was requested January 28 of 2013, and as you all know, the timelines that are associated with annexation and zoning, so we, as quickly as possible, went through the process and this property was annexed into the city on March 28. So that's the timeline, and with the public notices and the time limits that you have to face there, I know we did it as quickly as possible. So thank you.

MR. OXER: Any further questions?
(No response.)

MR. OXER: Okay. A passing comment on my part is while there are -- and I expect we'll hear some more efforts to parse out individual words within the QAP, one of the things that we have to recall is the QAP has to be looked at as an overall document and it has to be consistent with the tone and intent and detail of the QAP. As everybody in this room probably knows, there are quirks within there and we try to improve and buff it and polish it, but at this point the QAP has to be considered as a whole document. Am I not correct, Counselor?

MS. DEANE: That's correct.

MR. OXER: Okay. She can't quite reach me with the cattle prod over there, she's a little too far away, but if I say something wrong, I get a little jolt over here.

1	(General laughter.)
2	MS. DEANE: And plus, in conjunction with the
3	reading of the statute and the statutory deadlines that
4	are in the statute and the minimum requirements of
5	applications and so forth, so staff's reading of the QAP
6	is in accordance with the remainder of the QAP and with
7	the statutory requirements and deadlines that are in
8	there. It is a snapshot.
9	MR. OXER: Okay. There's a motion by Ms.
10	Bingham, second by Mr. Gann to approve staff
11	recommendation to deny the appeal. All in favor?
12	(A chorus of ayes.)
13	MR. OXER: Opposed?
14	(No response.)
15	MR. OXER: There are none. It's unanimous.
16	The appeal is denied.
17	All right. Here's what we're going to do,
18	we've been in our chairs for an hour and 40 minutes here,
19	take a 15-minute break and let's be in back in our chairs
20	at five minutes to the hour. We're in recess.
21	(Whereupon, at 10:40 a.m., a brief recess was
22	taken.)
23	MR. OXER: Thank you, everyone. Let's get back
24	to work here. Okay, Jean.
25	MS. LATSHA: All right. Jean Latsha, Housing

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ATTACHMENT V(b) – Board Appeal – 07/26/12 Board Meeting

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Capitol Extension Auditorium 1500 N. Congress Austin, Texas

> Thursday, July 26, 2012 8:05 a.m.

MEMBERS:

J. PAUL OXER, Chair TOM H. GANN, Vice Chair LESLIE BINGHAM ESCAREÑO LOWELL KEIG (Absent) JUAN MUÑOZ J. MARK McWATTERS

STAFF:

TIM IRVINE, Executive Director

that's reported in public that can say here's the resolution. And that's more of a clarification for the rest of the community.

So appreciate your comments, appreciate your efforts on behalf of housing.

MR. McGILL: I've been a pretty strong effort.

MR. OXER: We recognize that.

MR. McGILL: Thank you very much.

MR. OXER: Okay. We're down to the motion here, motion by Dr. Muñoz and second by Ms. Bingham, as I recall, for staff recommendation.

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, it's unanimous. The appeal is denied.

Next one, Jean.

MS. LATSHA: All right. The next one is Merritt Hill Country, number 12346. This is a proposed development in Dripping Springs, right around the corner.

Applications can receive either four or six points for a scoring item that incentivizes developers to build in census tracts in which there are no other existing housing tax credit developments. Applications can receive up to four points if there are no other existing tax credit developments that serve the same population, and six points if there are simply no other housing

tax credit developments.

In this particular instance, Merritt Hill Country, the proposed site, is, in fact, in the same census tract as another housing tax credit development called the Springs. The Springs does serve the elderly population, and the proposed development, Merritt Hill Country, would serve the general population, so that would qualify this application for four points. However, the applicant used our site demographic characteristics report to determine the census tract of The Springs apartments, and the census tract in that report was listed wrong, it was the wrong number. So the applicant contends that because he used the information in that report, he assumed he was eligible for six points instead of four and requested those six.

So really, what is before you today is whether or not we should give him the benefit of the doubt that he simply used our site demographic characteristics report, assumed he was eligible for the six and moved on, or if we should look at the fact that there is another housing tax credit development in the same census tract.

MR. OXER: Are there any questions from the board? Professor McWatters.

MR. McWATTERS: If you're looking to develop one of these sites, is it unreasonable for you to drive the community and look around at other sites?

MS. LATSHA: No, not at all. And I would add, from recent personal experience, that that is exactly what I did as a developer.

MR. McWATTERS: And so when you're driving it, you

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probably have a map and you say: Well, this is where I propose to locate mine, and here's this other one, and wait a minute, I checked the TDHCA website and it says it wasn't within the boundaries, but here I am, boots on the ground, it's within the boundaries. I'm trying to figure out if a reasonable person doing ordinary due diligence would be put on notice that what was in the TDHCA website was incorrect.

MS. LATSHA: I would think so. I would think that a reasonable amount of due diligence would bring a developer to that conclusion that the site demographic characteristics report was simply wrong. Yes.

MR. McWATTERS: It would seem like there was probably other reasons you might want to drive the site and look at what may very well be competition, you may want to talk to people running the other sites and the like, so it would not strike me -- although I've not done this, I admit, and could be mistaken in this assumption -- it strikes me that there are other reasons to actually get in your car and drive around and scope it out and take pictures and the like.

MS. LATSHA: I would have to agree with you. The site in question is just two miles down the road. Dripping Springs, I think, has a population of around 20,000, if that -- 2,000 -- I'm sorry, I had put another zero in there.

MR. OXER: I was going to say you're being very generous there.

MS. LATSHA: It's a very small community. I would think that a reasonable amount of due diligence would make you aware of where the

other site is. It is true that you would also -- it's not like census tracts are listed on the side of the highway, you would have to look at a map or go to a website, but I would say it's more than reasonable to expect a developer to know precisely where another multifamily development exists within the community, especially within two miles. I think this is one of the very few multifamily developments in Dripping Springs at all.

MR. OXER: Probably the multifamily development.

MS. LATSHA: I think it is. When I drove around there myself, that's the only one that I saw.

MR. McWATTERS: Okay. Thank you.

MR. OXER: Jean, who is the ultimate arbiter of the boundary of a census tract?

MS. LATSHA: I believe HUD -- sorry -- Census Bureau.

MR. OXER: So regardless of what we say, HUD says where they are.

MS. LATSHA: Census Bureau. Yes.

MR. OXER: Census Bureau. I'm sorry. Census Bureau says where they are. Regardless of what we think, the Census Bureau says where the census tract boundaries are.

So being a diligent individual for looking on an application for something like this, for which there is a lot of money at stake, you'd want to make sure you knew where that line was, and not something in a magic marker across the State of Texas map this size, you want something fairly sharp to define the edges of those boundaries.

MS. LATSHA: Yes, sir. And quite frankly, a lot of the times boundaries of census tracts are actually pretty fuzzy when you look at these maps, and it's pretty difficult to tell where the boundary is. In this particular case, the boundary of the census tract is 290, a major highway. If you're on one side of it, you're in one census tract, and if you're on the other side of it, you're in the other census tract. So this is actually one of those rare but a nice case where you could take a quick glance at a map and see which census tract you're in.

MR. OXER: What it comes down to is it one side or the other of 290.

MS. LATSHA: That's correct.

MR. OXER: Okay. Is there any public comment on this? We do need a motion.

DR. MUÑOZ: Mr. Chair, I've got a question.

So Jean, I appreciate the comment about the due diligence and driving around the neighborhood, but how would somebody know? Isn't the point that the properties are so pleasant and elegant and modern that they're indistinguishable from market rate properties? Isn't that the point that you don't drive by and say: Oh, look, that's what affordable housing resembles?

MS. LATSHA: True.

DR. MUÑOZ: So how would you know that and why would you know that? And my difficulty is a minute ago we're debating the use of the word support with that kind of precision, and so here you have someone who

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went to the website and you posted it wrong and they adhered to precisely

what was there, and now somehow they're penalized.

MR. OXER: Let me toss a comment on that. Just from a

technical standpoint, the difference between precision and accuracy is subtle

but valuable. Whether or not it's precise means can it be replicated again, if

you draw that line on that map, it won't be wrong. But knowing on the ground

that it goes down the centerline of 290 is something that's accurate.

DR. MUÑOZ: Inaccurate on the website.

MR. OXER: It was inaccurate in terms of what TDHCA offered

on the website, I'm sure that's true, but not being the ultimate arbiter of where

the census tract boundaries are, a diligent individual would go to the Census

Bureau to define the census tract.

DR. MUÑOZ: But isn't it the agency's responsibility to

accurately represent the precise line on the website?

MR. OXER: That's the Census Bureau's job.

MR. IRVINE: I would just like to comment that we are human

and we, like everyone else, make errors, and I think that it's undisputed that

both the existing development and the proposed development are within this

census tract. I think that the application contained a map of the census tract.

I believe that the application, didn't it also require a two times resolution from

the city?

MS. LATSHA: It did.

MR. IRVINE: Which would implicitly mean that you had to be

aware that there was already affordable housing in the area. Perhaps you

didn't know it was in the census tract, but you at least had to know it was there. And we think it comes down to a question of whether it's appropriate to say that, notwithstanding the fact that staff had some erroneous information out there, these people should get points that are inconsistent with the facts that are on the ground and fairly easily knowable.

MS. LATSHA: I would like to just add to that just a little bit.

The applicant, in their appeal, one of the points that they made was that a few years ago a similar mistake was made by the department when they listed the affordable housing needs score, or the AHNS -- if you remember them fondly. But in that case, the department's information was the sole source of the AHNS score. You couldn't go to another website or drive around or look at a map and determine what an AHNS score was.

However, in this case, if you drove the site, you saw that this particular development was on the one side of the street, and then you go to one particular website -- which I know that the applicant actually visited because the map, the census tract map that he submitted with his application was from this FFIEC website, it's really user-friendly so a lot of developers use it -- and if you were to go to that website and plug in these addresses, you would see that these two developments were in the same census tract. So there's another source of information out there that could have shown you that the report was wrong.

MR. OXER: Your point is noted, Dr. Muñoz, that there is evidence on TDHCA's website that was perhaps -- that, admittedly, was in error, but that notwithstanding, we don't define the boundaries of the census

tracts.

We'll need a board motion to proceed.

MR. McWATTERS: I think the distinction you made is critical. I mean, if the TDHCA website has unique proprietary information that cannot be sourced in any other way, then I think a higher standard would apply to whether that data is inputted correctly or incorrectly. But maybe I'm coming from my perspective of being an M&A deal lawyer for 25-plus years, and doing and overseeing lots of due diligence in transactions all over the place, and it would strike me as surprising that people don't go off and get a map, drive property, find out which is the low income, which is not the low income housing, even though they look very similar -- hopefully, they look identical -- and start piecing it together and then pick up the phone and calling and say: Hey, this looks like it's someplace other than what's on the website.

MR. OXER: We'll need a motion to proceed. Staff recommendation is to deny the appeal. Is that correct, Jean?

MS. LATSHA: There was not one listed in the board book.

MR. DORSEY: We felt like laying out a series of facts and letting the board make a determination in this case was the most appropriate way to go about this particular item.

MR. OXER: But you're not offering up either direction. Is that right, Cameron?

MR. DORSEY: That's correct.

MR. OXER: Okay.

DR. MUÑOZ: I move we grant the appeal.

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(General laughter.)

MR. OXER: What a surprise. And I was going to ask before we get to the point, and hold your motion and I hold that at the gavel, in a situation like this where there's no recommendation, do we need a motion to proceed or do we have further discussion?

MR. IRVINE: It's an appropriate motion.

MR. OXER: Okay. So there's a motion by Dr. Muñoz to grant the appeal. Is there a second?

(No response.)

MR. OXER: There appears to be no second, so your motion dies by lack of a second, Dr. Muñoz.

Is there any other action by the board?

MR. GANN: I'll move that we deny the appeal.

MR. OXER: Motion by Vice Chairman Gann to deny the appeal.

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters.

Is there any other comment from staff? Anything else to add,

Jean?

MS. LATSHA: I don't think so, sir.

MR. OXER: Okay. Is there public comment? Ms. Bast, good morning.

MS. BAST: Good morning. I am Cynthia Bast of Locke Lord, and I am representing the applicant in this appeal. I do have some handouts

that have been properly posted to your website.

MR. OXER: Just hand it to Michele and she'll take care of it.

MS. BAST: They're posted on the website, which I believe satisfies the rule.

MR. IRVINE: It suffices.

MR. OXER: Yes.

MS. BAST: And there is one for each board member.

I believe these are helpful because I do believe that pictures can be very helpful, and I'd ask, if you would, to turn to the next to the lat page which is a MapQuest product.

This is the existing tax credit development that we're talking about called The Springs. If you look at the dot on Highway 290, the address for that dot is 2400 West Highway 290. That is the address that TDHCA has posted on its published materials and it continues to be the address of the property on TDHCA's published materials on this very day. If you do a Google search for The Springs Apartments in Dripping Springs, Texas, you will find a Yellow Pages directory listing showing that the address of this property is 2400 West Highway 290, and that is in my appeal.

This is the address that was utilized by the developer when the developer first applied for tax credits in 1999, and I have submitted an affidavit of the principal of that developer indicating that that is the address that he considers to be the address of this property today.

When this property was developed, it needed access to Highway 290, so the developer built a private road called Springs Lane, and

that's the blue line that you see. This is a private road, it is not maintained by the county, and when the development was completed, the U.S. Postal Service gave the property an address of 289 Springs Lane, and that is your gray dot on your map.

If you've ever gone to the United States Census Bureau's website to look up census tracts, you do it by address. You go to the website and it says what's the address. It is undisputed by TDHCA staff that if you plug in the address of 2400 West Highway 290, you get from the United States Census Bureau a census tract number that is different than if you go and plug in the address 289 Springs Lane.

As was mentioned, Highway 290 is a dividing line for census tracts. The census tracts in Dripping Springs were changed in 2010. I don't know why the United States Census Bureau gives me a different census tract for 2400 West Highway 290 than 289 Springs Lane; I don't know what software they use. We all know that we have used mapping software personally when we're trying to find directions to go to places, and we've found mapping software to sometimes not be correct. I don't know what the discrepancy is here, but it is undisputed that these two addresses have different census tract numbers and that the address posted on TDHCA's website, that has been posted on TDHCA's website for 13 years is the address that gives us a different census tract than the 289 Springs Lane census tract that is the same census tract number as the proposed development.

So now, if you would, I'd like you to look at the rule which is the

second page of your handout. This is the rule for granting these points, and the rule says that the points are granted according to the department's housing tax credit site demographic characteristics report for the current application round. That's what we look to, that's what our rule says we are supposed to look to.

If you go to your Multifamily Procedures Manual, it says specifically that no supporting documentation is required for this point item. All you have to do is give the department your proposed census tract for your development, and then they go look at the housing tax credit site demographic characteristics report and determine if there are any other developments in that census tract, and if there are, if they are of the same population.

With all due respect, I do understand that a burden is on an applicant to file an application and to file a good application and to support points when the QAP requires it, but in this particular case, your rule, your manual does not impose any due diligence obligation on the developer, on the applicant to prove up this census tract or to figure out why the United States Census Bureau's website gives us two different numbers. We're not required to be census experts.

The reality of the situation is that absolutely this applicant knew that The Springs Apartments was in Dripping Springs. Of course he did, it was in the market study. Of course he had a two time state average resolution. I would note that in the market study it didn't list the address for the property. So again, you're talking about outside influences, what would have you know.

The fact is this property, The Springs, is a family property, about twelve years old. It's a totally different property than is proposed to be developed by this applicant. This applicant is building an elderly property. And so from a real estate perspective, you don't spend a lot of time over at The Springs Apartments because it's not really even a comparable. You know it's there but it's not something you spend a lot of time with. What you're spending your time on is getting all of your permitting and working with the city and doing the kinds of things to make your development, which is intended to serve a totally different population, successful.

And finally, I want to note that this issue of the address and whether TDHCA was wrong in their publication came up only because of a challenge. These points, these six points were originally awarded, and they were based on the fact, like I said, that this address and this census tract associated with the address, which is new for 2010, but the address has been on TDHCA's website for 13 years. The owner never notified TDHCA to change the address to 289 Springs Lane when that became the mailing address. It's the address that's on there today.

But the competitor tells you that TDHCA made a mistake. I would argue that perhaps they didn't. If 2400 West Highway 290 is a viable address for this property and if the census tract number produced by the U.S. Census Bureau's website is indeed correct -- which it is -- then perhaps they didn't make a mistake. But even if they did, as Ms. Latsha mentioned, in 2008, when there was a mistake in the published materials, the board gave the applicants the benefit of the doubt.

There's a distinction trying to be made here that in that case this was the sole source of the information, and therefore, the applicant was absolutely entitled to rely upon it. I would argue that, first of all, your rule and your manual say that the applicant is entitled to rely upon this because the determination is made according to your report. I would also argue that the definitive information is found on the United States Census Bureau's website, and that's the information that is being utilized here.

Finally, if I were sitting in your chair facing a long day, I would say: You know, it doesn't really matter because when we get to item 3, Rural Region 7 isn't even on the list for an allocation this year, so this appeal really doesn't matter. It does matter, it absolutely does matter. First of all, those allocations are not definitive, anything can happen between now and later this afternoon when that is decided upon. Second of all, it matters for purposes of a waiting list. To the extent there's a waiting list, then as between these two applications, both of which have appeals that you're hearing today, they care.

And so I ask you to decide this appeal upon its merits, upon your rule that says that you look to this report to understand these facts and recognize that this is the kind of situation where the applicant did what it was supposed to do and provided the information required by the QAP and should be given these six points. Thank you.

MR. OXER: Thanks, Cynthia.

Any questions from the board?

(No response.)

MR. OXER: All right. I have a couple of questions generically,

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first, but let's have the public comment.

MR. CROWELL: Board members, my name is John Crowell.

I'm a city councilman in Dripping Springs. I would like to thank the staff for their hard work on both the application and the appeal process.

MR. OXER: And let me interrupt you just for a second. While I appreciate that these appeals are important, and Cynthia, you're absolutely correct that no appeal is unimportant and no challenge is unimportant because we're trying to address a situation that's in answer to a question that is not clear in the QAP, so we'll spend whatever time is necessary to do that. That said, I want everybody to try to be efficient with their time in making their case because we are looking at a fairly long day unless we giddy up and get along here. So with that, please.

MR. CROWELL: Certainly. I've heard that one before.

One, I'd just like to say that this project is very different from anything that we have in the community. It is consistent with the comprehensive plan that the community has developed and there's broad support for it. We've allocated significant resources with our existing water/wastewater capacity, and we're very excited about it.

On our appeal, in preparing the application, we relied on the Census Bureau, the controlling authority, and your rules, and we're just very hopeful that we can continue to rely on the rules that TDHCA has adopted and put forth in this application process. I think if we do that, if the board does rely on its own published materials, rules and guidelines in this case, the application will follow, actually, Dr. Muñoz's recommendation and be awarded.

Thank you.

MR. OXER: Good. Any questions from the board? Dr.

Muñoz.

DR. MUÑOZ: I do. Cynthia contends that they are in separate tracts. Are they?

MS. LATSHA: No, sir, no, they're not. When you go to the Census Bureau website, you can plug in an address and it spits out a census tract number, that's right -- and quite frankly, I didn't go to the Census Bureau website because I don't like it -- but there are approximations, if you're close to the line, it's often wrong. There's another website that I mentioned earlier that I think is a lot more user-friendly, and when I plugged in both addresses to that website, I got the correct census tract number, because, again, it's an approximation on both sites.

DR. MUÑOZ: Which of those two websites is the authoritative?

MS. LATSHA: I wouldn't call either of them the authority, I would call the maps the authority. Both websites would generate a map that you could print out and see where the line is and see which side of the line you're on.

DR. MUÑOZ: How is it possible that they rely on the U.S. Census for their database, how is it possible that they would generate different maps?

MS. LATSHA: Because they are approximations, and if you simply plug in the address, then it, like I said, spits out a number, and I honestly don't know exactly.

DR. MUÑOZ: Well, if you're doing your due diligence and you go to this one website and you put in the tract and it prints out an approximation and it says that you're in two separate tracts and you've carried out your due diligence, how would you know that there might be a more reliable other second or third or fourth website that would give you a different map?

MS. LATSHA: I think in this case -- well, what would happen was you would print out your map, which is required in the application, and see where the line and then think to yourself which side of the line, it looks like that should have been on this side of the line and not the other.

I guess my kind of point in this would be if it were the other way around, had The Springs Apartments been on the other side of the road and TDHCA listed the census tract as the same census tract as Merritt, then I think that there would have been some double checking on the part of the developer, and then they would have found out the opposite, they would have called us up and said, Hey, this is the wrong census tract number in your demographic report, it's really close to the line, you can see how it happened.

DR. MUÑOZ: Does that happen? Do people make that phone call?

MS. LATSHA: Well, we got the phone call, that's exactly why we're here, we got the phone call from a challenger, not from the applicant.

DR. MUÑOZ: From a challenger.

MS. LATSHA: Right.

DR. MUÑOZ: And did you originally award the six points?

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MS. LATSHA: We did.

DR. MUÑOZ: Is that accurate?

MS. LATSHA: Yes, sir. We did exactly the same thing. I understand how the applicant got there, we did the exact same thing he did, except without benefit of having driven around and read our own market study and everything else. What we do is we go to our own report and we just search for the tract number on an Excel spreadsheet, and if it doesn't pop up, they're good to go.

MR. OXER: Okay, Jean. The staff was for it before you were against it, is what you're basically saying. Right?

MS. LATSHA: I'm sorry?

MR. OXER: You were for it before you were against it? Sorry, it's another bad political joke.

All right. This has got some hair on this one.

(General laughter.)

MR. GANN: I had a question.

MR. OXER: All right. Vice Chairman Gann.

MR. GANN: One more time, I want you to tell me what does the department's tax credit site demographic characteristics report really show?

MS. LATSHA: It shows that The Springs Apartments is in Tract A when, in fact, it is in Tract B.

MR. OXER: Okay.

MR. GANN: That it's in separate tracts, not in the same tract.

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MS. LATSHA: And to clarify that, Merritt is in what I'm calling Tract B, clearly. Our site demographic characteristics report shows The Springs Apartments in Tract A.

MR. GANN: So it says separate tracts.

MS. LATSHA: Yes, sir.

MR. OXER: The site demographic report says separate tracts when it turns out that it's actually the same tract, according to what we now think or believe, depending on where we drew this magic marker down 290. Right?

MS. LATSHA: Yes, sir.

MR. McWATTERS: But if you printed out B and started putting Xs where everything is located, it would show them both within B.

MS. LATSHA: Very clearly. Yes, sir.

MR. McWATTERS: Okay. To me, from a diligence
perspective, this is one of those cases of know or should have known. You
should have known because you drove the property, you looked around. It
may not have been the same type of property, but it would seem reasonable
that you would give a passing glance to other low income projects in the same
tract, even though they may not serve the same market.

MR. OXER: Perhaps they don't serve the same sub demographic, but they are in the same market in that they are tax credit projects that would be considered under this program. That's the same market, as far as I'm concerned, with respect to our program here.

We're getting there, Barry. Let's let the stew pot stir here for a

while.

Have a seat, Jean, we've got some more comments.

Okay. You were first. Step up.

MR. THOMPSON: Mr. Chairman, board, my name is John Thompson. I'm the planning director for the City of Dripping Springs and the present chairman of the Chamber of Commerce Economic Development Committee.

The city is in strong support of this project, that's why we took at least half a day of our time, if not more, to come down here this morning, to fight the traffic. We would like to point out that there's been items spoken of in support of this, talking about abiding by the rules that this board has established. I'm a rules guy, that's my job day-in and day-out. When somebody plays by the rules, that's how you get approved or not approved. But I'd like to talk about just very briefly the intangibles maybe that you also should be aware of because this appeal, and I believe the next one in line, are very close, we're neighbors north and south, Wimberley and Dripping Springs.

The City of Dripping Springs has existing wastewater capacity and lines ready to serve this project. We have a wastewater utility agreement between the city council and the applicant ready to get going as soon as this is funded. The property is zoned multifamily already, nothing needs to be changed. The project has variances already approved, we're waiting for the funding to happen, and when they submit their site plans, staff's recommendation is really ready to go for strong support.

I'm not only here speaking on behalf of the city, but as well, the

senior citizen community. I've been an employee of the city for seven years, a resident for 25. The senior citizens community center, their director has asked me for seven years to help achieve more senior housing for Dripping Springs because presently we do not have but one dedicated senior facility in town that is not a tax credit financed unit. This would be but it would focus directly to the senior citizens of Dripping Springs.

We've been a rapidly growing community in the last ten years, we have a severe shortage of senior housing, and what we have, the few units we do have has about a five-year waiting list. So this project would actually help the City of Dripping Springs achieve one of the items that is in our 2010 comprehensive plan and is also an expressed need on the street by the senior citizens that it would serve.

Further, I believe you should have -- at least I was shown one this morning -- a letter of support for this project from State Representative Jason Isaac, District 45, who represents Dripping Springs and Wimberley, and I didn't get a chance to review the whole letter, but just the fact that we have his support, the fact that the city council has expressed its strong support for this issue, because we have Councilman Crowell and Councilman Alba both present today, I should say speaks volumes as to how we feel about this project in our city limits.

The Springs is outside the city limits, but a part of the community, obviously. The Springs has been in place for twelve years, it's a family-related apartment complex, this is for seniors. We believe it's two different markets, though I take, Chairman, your point well taken. If you're a senior living in The Springs, and I know several, it's an environment

that is not entirely conducive for senior living; this would be very conducive to senior living, it would cater programming to seniors, The Springs is not.

As far as I know, there's no organized programming at The Springs, it's a low income housing, Section 8 type housing complex. There has been issues in the past. When you read the police blotter, there have been issues of crime in that particular neighborhood, and I believe that the developer, Mr. MacDonald, has done a very good job of correcting that with the residents of his facility by moving them out and increasing security, but again, if you're a senior, you probably want something a little bit more conducive to your living environment concerning safety and programming.

And in regard to that, the city would want to support this project as strongly as we can, and we would like for you to hear that very clearly today. Thank you for your time.

MR. OXER: And thank you for your comments.

Any questions from the board?

(No response.)

MR. OXER: Okay. Barry, did you have something else? Mr.

Shaw.

MR. SHAW: Chairman, board. My name is Stuart Shaw. I am the president of Bonner Carrington, and we are the applicant in Wimberley, and I wanted to just briefly address you with some points here.

I have the utmost respect for my colleagues and friends from Dripping Springs for that wonderful community. I have the same respect for Wimberley, and we're just competing for allocation. They also need senior

housing in Wimberley, but I have complete respect for the wonderful community of Dripping Springs.

This is about process and respect, respect for the rules, and it's about developer process as well. The rules are clear and simple and we make it a point, because we live in fear of the rules, to really follow them, and we wouldn't think about going to a community and not doing a lot of due diligence, including driving everything. In the City of Dripping Springs there is one community, it's a small town, and it's very, very noticeable, I would say it's a distinct community, and although it may not be in their city limits, it's right off of Highway 290.

This map shows you -- and Casey, can you point -- if you Google this address that TDHCA lists, TDHCA only lists the address, they don't list where it is on a map, if you Google it, it shows it's over in front of Flores Restaurant, about five miles from Dripping Springs. And can you point at that, Casey, the Google location of that. Well, it's way off the map then.

MR. OXER: Back over there where Tom is sitting? (General laughter.)

MR. SHAW: Yes, sir. If you go to MapQuest, it shows the correct location. So yes, we all know that GPS mapping doesn't work, that's why we don't trust it, that's why we don't use it. It's hard, but you know what, we're challenged by this process to do hard work and we do it, and we absolutely go and we can look at these census tracts and you can determine them, and in this case, it is -- may I approach this and just speak loudly?

MR. OXER: Actually, we have to keep you next to the

microphone.

MR. SHAW: This red line right here is Highway 290 and it's a clear as a bell, census tract is up here. This is Merritt Hill Country's application, and that's The Springs up there, this is Merritt Hill Country. It's very, very close and any developer who would go out there would know this, especially since you went to the council to get a two times per capita resolution. We have to do that because it doesn't matter if it's a senior or a family community, we have to go do that, and so we all do it, and they did a good job of doing that, it's right in front of them, and then they did a good job of having a good market report where it's mentioned several times, and it's even mapped, it's on the map.

And so all due respect for my colleagues -- and I have a lot of respect for them -- and certainly for this board, we follow your rules, and I spoke about that at the last board meeting, we follow your rules. This map shows the census tract, the address, I've told you, is unreliable, so that's why we in our business don't rely on that. We look at the map and anybody can look at the map. It's sometimes difficult but you can look at it and resolve that. The affidavit that Mr. MacDonald signed is great, it says it's at the address that MapQuest will show you is right there, right in this census tract.

So at any case, at the end of the day, the FAQ clearly says and in the workshops we're clearly told to check that information. So while we can rely on some information from TDHCA, of course they're human. We're not in the business of relying on other people to do our business, we're supposed to follow your rules and we do, and we just expect other people to as well. The

signs of Dripping Springs, this wonderful community, it's small enough that you would easily know this, and The Springs is so readily identifiable just from a drive through town, you couldn't miss it.

MR. OXER: I think you've made your point, Mr. Shaw.

MR. SHAW: I thank you very much for the time. And I would just say the market study maps The Springs, and in answer to an assertion made earlier, we spend time on these things and we spend time on finding out where our competition is because we don't want to be before you and have the disappointment that one would have today to find out that you'd made a mistake like that, and we live in fear of that.

So I just want to repeat this is about respect of a vibrant and wonderful community of Dripping Springs, which I have, and it's about respect for this process and for these rules, which I have. We live in respectful fear of these rules and we do not mess around and we don't -- I've made my point. Thank you very much.

MR. OXER: Thanks for your comments.

MR. PALMER: My name is Barry Palmer with the Coates Rose Law Firm, and I'm speaking on behalf of Bonner Carrington on this appeal.

I think that staff reviewed this very carefully, the various arguments on either side of the issue when the challenge was made, and when they made the decision to take away those two points, they published their analysis in the challenge log, and I think it was very well written. I wanted to read that to you to just remind you of the staff's analysis:

The staff reviewed the documentation, included it in the

challenge, as well as the applicant's response. The applicant states that they relied on the information provided by TDHCA and should not be penalized for the department's error. Staff found that there were errors in the site demographic characteristics report and that The Springs Apartments was actually in the same census tract as the subject property, however, as staff stated in the frequently asked questions posted to the department's website, and during the application workshops before submission, the staff instructed applicants that it was their responsibility to determine whether or not the application qualified for the points.

In addition, staff determined that it was reasonable for the applicant to have known that another development existed in the same census tract despite the error. The proposed site is only two miles from the existing development and it's located in a relatively small town. The existing property is a short drive down the same highway, visible from that highway.

In addition, the applicant submitted a market study with the application. The study was completed on February 17, and on the third page of the introduction, before the table of contents, the market study analysis identifies the existing tax credit property and it's mentioned again on the first page of the executive summary and called out as being within two miles of the subject property. The applicant did not need to read the entire study but only glance at a few pages in order to know that it existed.

Also, unlike some other census tracts where the boundaries are difficult to decipher, the tract boundary is a major highway, the same highway that runs through the middle of town and it's readily apparent that if

the developments are on the same side of the highway, which these two are, that they're in the same tract. Finally, the applicant was required to obtain a resolution in order to satisfy the eligibility requirements under 50.820(a) related to developments with more than twice the state average of units of tax credits, and the existence of this property was the reason for that resolution.

So there you have it. The frequently asked questions said that developers were responsible for checking these statistics, the applicant's market study pointed out this development, the applicant knew or should have known that it was in the same census tract.

And the applicant has talked about being penalized for this error but he's not being penalized, he was never entitled to those two points to begin with, so the department has merely taken back two points that were awarded in error, so that's not a penalty to the developer. It would be like if your bank deposited a thousand dollars in your account by mistake and called you the next week and you said to them: Well, I don't want to give that back, that would penalize me and I relied on your error. So it's the same thing here, we're not penalizing the developer, he wasn't entitled to those two points, and so we're just making the score be what it should have been in the first place.

Thank you.

MR. OXER: Good. Thanks, Barry.

Any questions from the board?

(No response.)

MR. OXER: Another comment?

MR. BUMP: Good morning. My name is Casey Bump and I

ON THE RECORD REPORTING (512) 450-0342

work for Bonner Carrington.

One thing that Stuart left out was that we are only here for a challenge because staff asked us to. On March 9 we noticed the error in the log and notified Jason Burr, and I believe on March 12 he replied and said that he agreed with our assessment and that it would be corrected. And so when the logs came out later in May and the points were not removed, we were forced to go through the challenge process.

Thank you.

MR. OXER: Okay. Anything else anybody wants to say? (No response.)

MR. OXER: We have a motion on the floor by Vice Chairman Gann, seconded by Professor McWatters. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(A chorus of nays.)

MR. OXER: Okay. Motion passes three-two with opposition registered by Ms. Bingham and Dr. Muñoz.

With that, we're going to take a break. It's ten o'clock straight up, let's be back in our chairs at 10:15.

(Whereupon, at 10:00 a.m., a brief recess was taken, and the meeting was reconvened at 10:17 a.m.)

MR. OXER: All right. Let's continue. Jean, we have item number three on your list.

MS. LATSHA: I do. Jean Latsha, Housing Tax Credit

ON THE RECORD REPORTING (512) 450-0342

ATTACHMENT V(c) – Board Appeal – 06/28/07 Board Meeting

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING 2007 STATE OF TEXAS

Thursday, June 28, 2007
Capitol Extension Auditorium
State Capitol
1500 N. Congress Avenue
Austin, Texas

BOARD MEMBERS:

ELIZABETH ANDERSON, Chair C. KENT CONINE, Vice Chair SHADRICK BOGANY NORBERTO SALINAS (not present) SONNY FLORES GLORIA RAY

MICHAEL GERBER, Executive Director

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

ATTACHMENT VI – HCAD Profile

Hidalgo CAD

Property Search Map Search Map Administration

Login

Property Search Results > 202040 AYALA RAUL for Year 2016



Details

Map

Click on a title bar to expand or collapse the information.

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 NET

Geographic ID: K2400-00-000-0065-06

Type: Real

Property Use Code: Property Use Description:

Location

Address: Neighborhood: **OWASSA RD**

Mapsco: Map ID:

Agent Code:

Neighborhood CD:

Owner

Name:

AYALA RAUL Owner ID:

2616 JAMES AVE Mailing Address:

% Ownership:

100.0000000000%

345124

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 \$1,364 (+) Timber Market Valuation: \$0 \$0

(=) Market Value: \$124,653 (-) Ag or Timber Use Value Reduction: -\$118,151

(=) Appraised Value: \$6,502 (-) HS Cap: \$0

(=) Assessed Value: \$6,502

▼ Taxing Jurisdiction

AYALA RAUL Owner: % Ownership: 100.000000000%

Total Value: \$124,653

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
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

SST	SOUTH TEXAS SCHOOL	0.049200	\$6,502	\$6,502	\$3.20
	Total Tax Rate:	2.794100			
			Taxes w/Cu	rrent Exemptions:	\$181.67
			Taxes w/o E	Exemptions:	\$181.67

▼ Improvement / Building

Improvement #1:	RESIDENTIAL	State Code:	D2	Living Area:	sqft	Value:	\$5,138
Туре	Description	Class	<u>CD</u>	Exterior Wall	,	Year Built	SQFT
CAN	CANOPY	*				2011	1326.0
CAN	CANOPY	*				2011	340.0

▼ Land

#	Туре	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	Р	GRAZING 1PASTWET	5.8300	253954.80	0.00	0.00	\$119,515	\$1,364

▼ Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2016	\$5,138	\$119,515	1,364	6,502	\$0	\$6,502
2015	\$5,138	\$119,515	1,364	6,502	\$0	\$6,502
2014	\$5,138	\$116,600	1,376	6,514	\$0	\$6,514
2013	\$5,138	\$116,600	1,166	6,304	\$0	\$6,304

▼ Deed History - (Last 3 Deed Transactions)

#	Deed Date	Туре	Description	Grantor	Grantee	Volume	Page	Deed Number
1	2/21/1996 12:00:00 AM	CONV	CONVERSION	SALINAS SYLVIA G	AYALA RAUL			505182
2		CONV	CONVERSION	UNKNOWN	SALINAS SYLVIA G			

▼ Tax Due

Property Tax Information as of 12/30/2015

Amount Due if Paid on:

Website version: 1.2.2.2



Voor	Taxing	Taxable	Base	Base Taxes	Base Tax	Discount / Penalty &	Attorney	Amount
i eai	Jurisdiction	Value	Tax	Paid	Due	Interest	Fees	Due

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

Questions Please Call (956) 381-8466

Database last updated on: 12/29/2015 11:58 PM

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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

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 $\S11.9(c)(6)(C)$ 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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 www.tdhca.state.tx.us



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

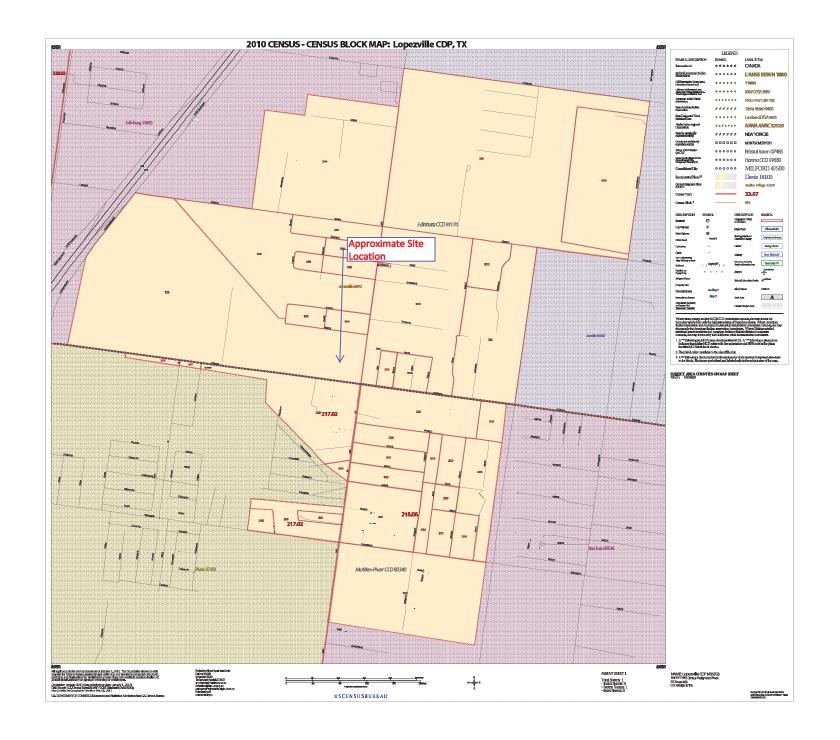
To whom it may concern,

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

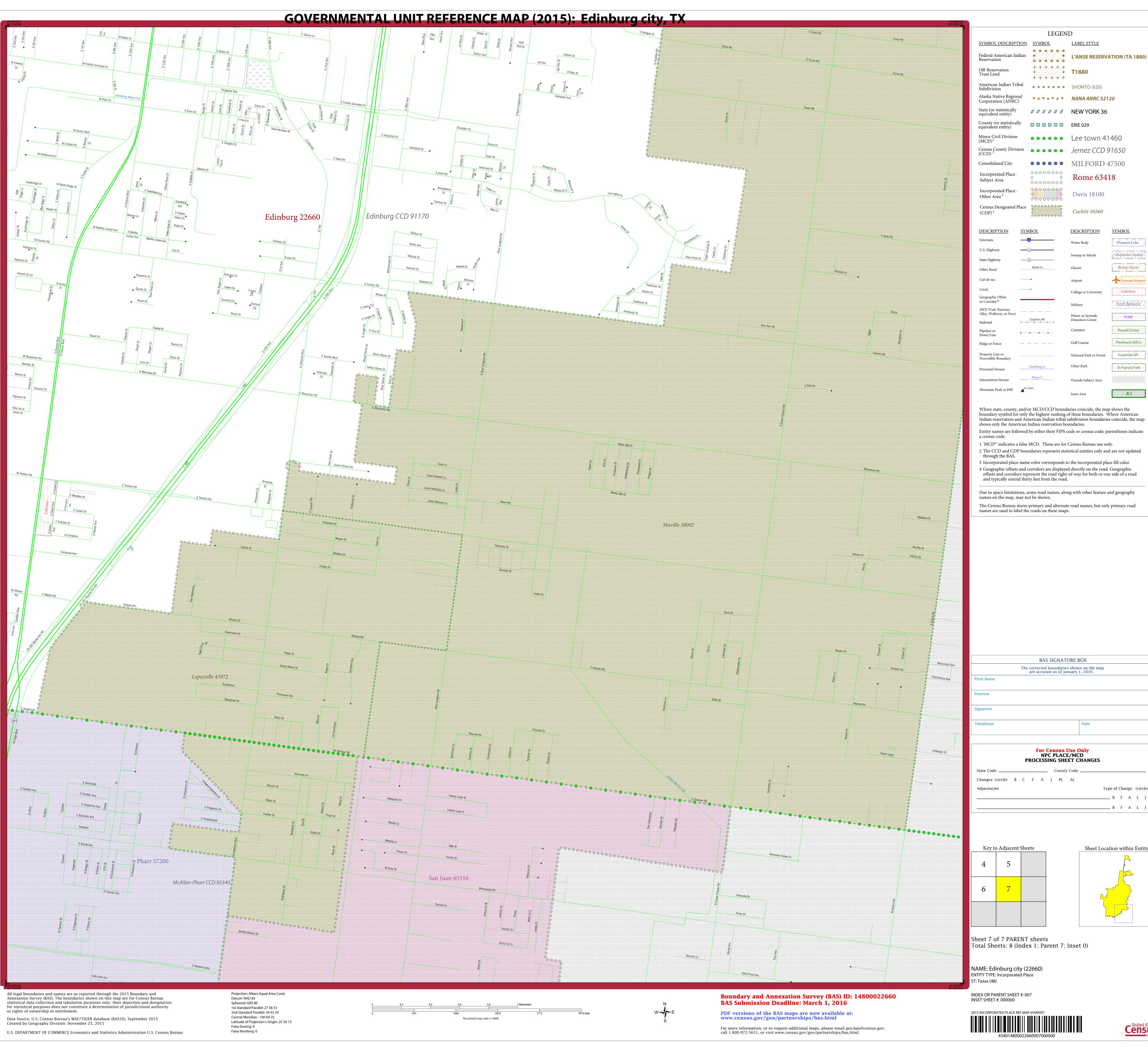
Evidence Of Undeserved Area Map





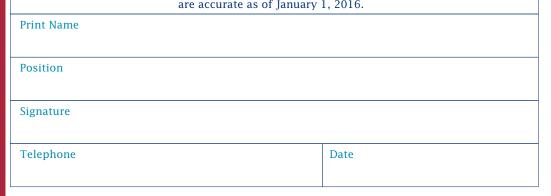
Attachment B

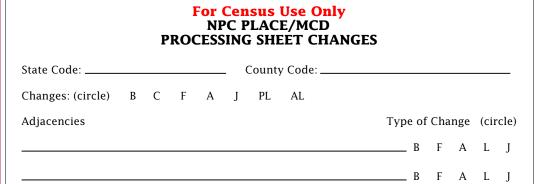
2013 and 2015 BAS from US Census Bureau

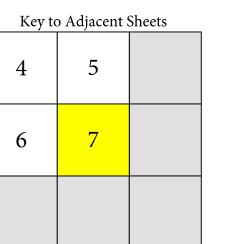


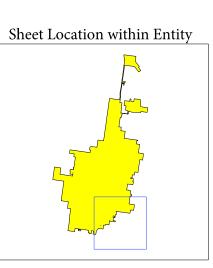
Alaska Native Regional Corporation (ANRC) ▼ ▲ ▼ ▲ ▼ ▲ ▼ NANA ANRC 52120 County (or statistically • • • • • Lee town 41460 • • • • • • Jemez CCD 91650 • • • • • MILFORD 47500 Incorporated Place -Rome 63418 ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · ⊙ · Incorporated Place -Davis 18100 Cochiti 16560 <u>SYMBOL</u> ~Pleasant-Lake *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

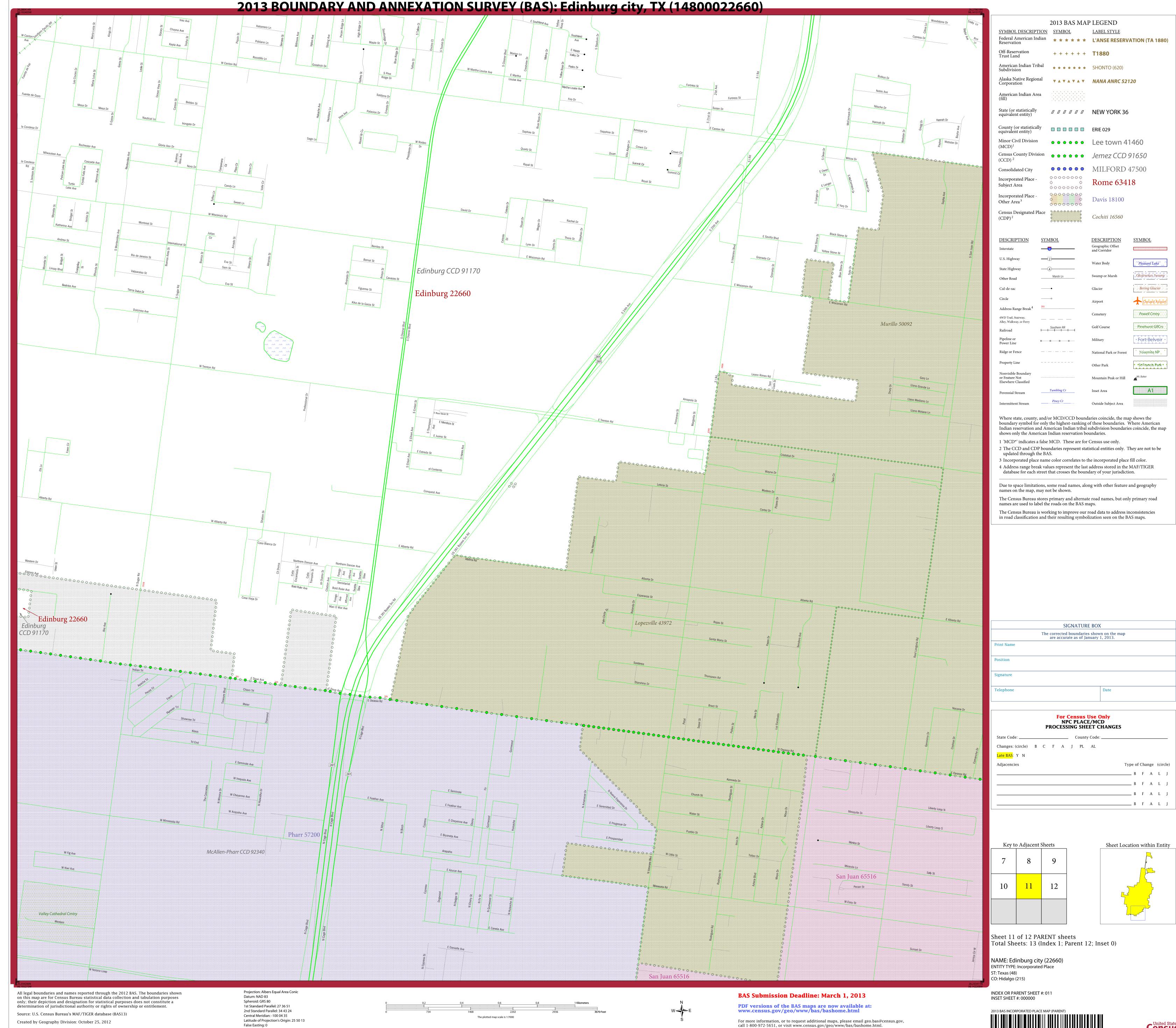
Sheet 7 of 7 PARENT sheets Total Sheets: 8 (Index 1; Parent 7; Inset 0)

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.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 21, 2016

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

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

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16380 SIERRA VISTA

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 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 Bureau 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.

The request included excerpts of testimony given at the July 11, 2013, meeting of the Executive Board, and the July 26, 2012, meeting. The testimony from the July 11, 2013, meeting focused on whether a proposed annexation should be considered in determination the location of a development site, and the testimony from the July 26, 2012, meeting focused on whether an applicant should have known that the census tract information published by the Department was incorrect. These excerpts were included by the requesting party to point out that "[t] he Board has consistently determined on several occasion that applications and the location of described sites are to be evaluated as of March 1, the application delivery deadline and what an applicant knew or should have known by such date."



THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY June 21, 2016
Page 2

The difference in this case is that per §10.2(d), Census Data, "[w]here 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.

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.

Multifamily Division Director

16387 Cantabria Estates Third Party Request for Administrative Deficiency



BARRY PALMER DIRECTOR A PROFESSIONAL CORPORATION

BPALMER@COATSROSE.COM DIRECT: (713) 653-7395 FAX: (713) 890-3944

May 16, 2016

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

Re: TDHCA Application No. 16387 (Cantabria Estates Apartments)

Dear Sir or Madam:

This letter is being submitted per Section 11.10 (Third Party Request for Administrative Deficiency for Competitive HTC Applications), which allows an unrelated person to bring new, material information about an Application to staff's attention.

We believe that TDHCA Application #16387 (Cantabria Estates Apartments) located in Brownsville, TX is not eligible to compete in the At Risk Set Aside because it does not meet the requirements of Section 11,5(3)(C)(ii). Specifically that:

An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in Texas Government Code, §2306.6702(a)(5)...an Applicant may propose relocation of the existing units in an otherwise qualifying At-Risk Development if:

(ii) the Applicant seeking tax credits must propose the same number of restricted units (e.g. the Applicant may add market rate units);

The Application in question is a RAD conversion of a 74 unit property that is being relocated to a new site in two phases. The first phase, the Cantabria Estates Apartments, proposes relocation of 34 of the 74 units. The proposed new development will be a total of 102 units, with 34 of them being RAD financed, 58 tax credit, and 10 Market Rate.

The rules are very clear that to qualify for the At Risk Set Aside the relocated development must have the same number of restricted units as the original At Risk property **and** that any additional units can only be Market Rate units. This development does not meet these requirements.

This interpretation was further made clear in the FAQ published by TDHCA:

9 Greenway Plaza, Ste 1100, Houston, Texas 77046 Phone: (713) 651-0111 Fax: (713) 651-0220 Web: <u>www.coatsrose.com</u> Q: (Added February 12, 2016) Regarding relocating existing units of an At-Risk project to a new development site, Section 11.5(3)(c)(ii) states: "the Applicant seeking tax credits must propose the same number of restricted units (e.g. the Applicant may add market rate units)". When I read this, it seems to be that the following example would comply: the existing units consist of an 70-unit project that is 100% project-based Section 8, then relocation of the existing units to a new Development Site that will consist of 100 units, 70 of which would be restricted via project-based Section 8 (in addition to having some or all units also be LIHTC-restricted). In other words, so long as at least 70 units at the new Development Site are restricted in the same manner they were at the original site, does it matter if there are additional restrictions on the additional 30 units or are the LIHTC units also restricted to 70 units?

A: The rule requires that the number of restricted units is the same. The market rate units cannot have restrictions on them and be considered market rate units because they would no longer be considered market rate units therefore all of the project based Section 8 or its equivalent would be required to transfer and the LIHTC units would be restricted to those 70 units. None of the additional 30 units could be tax credit restricted nor could they be restricted in another way to increase the concentration of affordable housing at the site and still be considered in the At Risk set aside.

An increase in the number of units would result in the application competing in the general regional set aside as a new construction.

Attached are pages from the Application outlining the intended structure that confirms that only 34 of the original units are going to be moved to the new site. Any restructuring or change to the development at this point would require a material change and would result in a termination.

We respectfully request that Application #16387 (Cantabria Estates Apartments) be moved from the At Risk Set Aside to the General Regional pool.

Please see attached \$500 required fee for this request.

Very truly yours,

Barry Palmer

BP:elv

From: Sharon Gamble

To: "dflores@cchatx.org"; Sunny Philip (skphilip@stchd.org)

Subject: 16387 Cantabria Estates Apartments - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Date: Tuesday, June 07, 2016 3:17:00 PM

Attachments: 16387.pdf
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 #16387, Cantabria Estates Apartments. After reviewing the request, staff believes that the administrative deficiency should be issued.

The request asked the Department to review whether the Application is eligible to compete in the At-Risk set-aside as it does not meet the requirements of §11.5(3)(C)(ii), specifically that:

"An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in Texas Government Code, §2306.6702(a)(5) will not qualify as an At-Risk Development unless the redevelopment will include at least a portion of the same site. Alternatively, an Applicant may propose relocation of the existing units in an otherwise qualifying At-Risk Development if:

... (ii) the Applicant seeking tax credits must propose the same number of restricted units..."

The definition of At-Risk included in Texas Government Code, §2306.6702(a)(5) has multiple requirements. For the purposes of this Application, Part B of the definition is checked:

(5) "At-risk development" means:

(B) a development that proposes to

rehabilitate or reconstruct housing units that:

(i) are owned by a public housing authority and receive assistance under Section 9, United States Housing Act of 1937 (42 U.S.C. Section 1437g);

(ii) received assistance under Section

9, United States Housing Act of 1937 (42 U.S.C. Section 1437q) and:

(a) are proposed to be disposed of or demolished by a public housing authority; or

(b) have been disposed of or demolished by a public housing authority in the two-year period preceding the application for housing tax credits; or

(iii) receive assistance or will receive assistance through the Rental Assistance

Demonstration program administered by the United States

Department of Housing and Urban

Development as specified by the Consolidated and Further

Continuing Appropriations Act of 2012 (Pub. L. No. 112-55)

and its subsequent amendments, if the

application for assistance through the Rental Assistance

Demonstration program is included in the applicable public housing authority's annual plan that was

most recently approved by the United States

Department of Housing and Urban Development as specified by

24 C.F.R. Section 903.23.

The rule indicates that the development must be proposing to rehabilitate or reconstruct housing units that are proposed to be demolished or have been demolished. This Application does not propose to demolish units. The Application mentions that units may be demolished in the future, but does not include demolition as an activity.

Please explain how the units developed through this Application will meet the requirement that the development proposes to "reconstruct" (in this instance) units, when no equal number of units is being demolished (i.e., in order to reconstruct, something has to be demolished).

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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 June 14, 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 www.tdhca.state.tx.us

2016 HTC Application #16387 Cantabria Estates Apartments

Brownsville, Cameron County At Risk

Deficiency Response 06.14.2016



South Texas Collaborative for Housing Development, Inc.

A Non-Profit Fostering Safe and Affordable Housing

June 14, 2016

Sharon D. Gamble
Program Administrator
Competitive Housing Tax Credit Program
Texas Department of Housing & Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: #16387 Cantabria Estates Apartments

Response to Third Party Request for Administrative Deficiency

Dear Ms. Gamble,

This letter is written in response to the challenge submitted against Cantabria Estates Apartments dated May 16, 2016. The challenge alleges that Cantabria Estates is not eligible for the At-Risk Set Aside because it does not meet the requirements of Section 11.5(3)(C)(ii). We agree with Mr. Palmer's assessment regarding the RAD units, but do not agree that Cantabria Estates is ineligible for the At-Risk Set-Aside.

The Cameron County Housing Authority (CCHA), who is a member of the General Partner entity, is the owner of the public housing development currently known as Leon Gardens Apartments, located at 65 Castellanos Circle. Leon Gardens includes 74 Public Housing Units (PHUs) receiving assistance under Section 9, United States Housing Act of 1937. It is the intention of CCHA to demolish the existing units and redevelop in two phases at a different location. Cantabria Estates Apartments proposes to relocate 34 of the Leon Garden units to a new high opportunity area, while remaining as PHUs. Subject to HUD approval, CCHA will provide annual operating subsidy to Cantabria Estates for rental assistance for the 34 PHUs and will set aside those units for tenants with family income at or below 50% of the area median income. These 34 PHUs will account for more than 25% of the total units proposed at Cantabria Estates, while the remaining Cantabria Estates units will consist of 58 tax credit units and 10 market rate units. CCHA believes that a mixed income development is in the best interest of the tenants and is therefore transferring the operating subsidy to Cantabria Estates for the 34 units in order to offer more opportunities to the residents and the ability for them to remain at Cantabria Estates

as they grow their incomes. Once the relocation of the 34 PHUs to Cantabria Estates is complete, we will seek our Rental Assistance Demonstration (RAD) designation from HUD.

The second phase of the redevelopment of Leon Gardens is planned for 2017 and once that activity is finalized, permission from HUD will be sought to demolish and dispose of the Leon Gardens site. In order to meet HUD guidelines, public hearings for the residents of Leon Gardens Apartments were held on March 12, 2015, and March 24, 2015. At those meetings, the Executive Director of the Housing Authority proposed plans to demolish and reconstruct the development.

We have attached for your review the CCHA Five Year and Annual Plan, which evidences the Housing Authority's intention to demolish the units. CCHA intends to submit the demolition application upon the release for the final application log. We have also provided you with updated numbers, which you will note have not significantly changed as a result of classifying the units as PHU rather than RAD units.

Regarding the selection elected under *Tab 20 Acquisition and Rehabilitation* of the Cantabria Estates application, this was a misunderstanding made by the individual completing the application. While Cantabria Estates will seek a RAD designation from HUD at a future date, Cantabria Estates elects to retain only a portion of the subsidy. We have corrected that page and included it in our response.

Should you have any questions or require any additional information, please do not hesitate to call my office at (956) 797-2324 or my personal cell at (956) 778-7030.

Sincerely,

Sunny K. Philip Executive Director

Incl'd: Exhibit A – Email Regarding Third Party Request for Administrative Deficiency

Exhibit B – CCHA Five Year and Annual Plan – Demolition Disposition Activity

Exhibit C – CCHA Resident Council Minutes 03.12.2015 and 03.24.2015

Exhibit D – *Tab 20 Acquisition and Rehabilitation*

Exhibit E – *Tab 24 Rent Schedule*

2016 HTC Application #16387 Cantabria Estates Apartments

Brownsville, Cameron County - At Risk

Exhibit A

Email Regarding Third Party Request for Administrative Deficiency

Sara Walker <swalker@stemdf.org>

FW: 16387 Cantabria Estates Apartments - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Daisy Flores <dflores@cchatx.org>

Tue, Jun 7, 2016 at 2:29 PM

To: Jose Gonzalez II <josedos.tx@gmail.com>, "Sunny K. Philip" <skphilip@adminclf.com>, swalker@stchd.org

From: Sharon Gamble [mailto:sharon.gamble@tdhca.state.tx.us]

Sent: Tuesday, June 07, 2016 3:18 PM

To: dflores@cchatx.org; Sunny Philip (skphilip@stchd.org)

Subject: 16387 Cantabria Estates Apartments - 9% HTC Application Deficiency Notice - TIME SENSITIVE

Importance: High

In the course of the Department's Housing Tax Credit <u>Eligibility/Selection/Threshold</u> 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 #16387, Cantabria Estates Apartments. After reviewing the request, staff believes that the administrative deficiency should be issued.

The request asked the Department to review whether the Application is eligible to compete in the At-Risk set-aside as it does not meet the requirements of §11.5(3)(C)(ii), specifically that:

"An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in Texas Government Code, §2306.6702(a)(5) will not qualify as an At-Risk Development unless the redevelopment will include at least a portion of the same site. Alternatively, an Applicant may propose relocation of the existing units in an otherwise qualifying At-Risk Development if:

... (ii) the Applicant seeking tax credits must propose the same number of restricted units..."

The definition of At-Risk included in Texas Government Code, §2306.6702(a)(5) has multiple requirements. For the purposes of this Application, Part B of the definition is checked:

- (5) "At-risk development" means:
 - (B) a development that proposes to rehabilitate or reconstruct housing units that:
 - (i) are owned by a public housing authority and receive assistance under Section

- 9, United States Housing Act of 1937 (42 U.S.C. Section 1437g);
- (ii) received assistance under Section 9, United States Housing Act of 1937 (42 U.S.C. Section 1437g) and:
 - (a) are proposed to be disposed of or demolished by a public

housing authority; or

(b) have been disposed of or demolished by a public housing authority in the two-year period preceding the application for housing tax credits; or

(iii) receive assistance or will receive assistance through the Rental Assistance
Demonstration program administered by the United States Department of Housing and Urban
Development as specified by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55)
and its subsequent amendments, if the application for assistance through the Rental Assistance
Demonstration program is included in the applicable public housing authority's annual plan that was
most recently approved by the United States Department of Housing and Urban Development as specified by 24
C.F.R. Section 903.23.

The rule indicates that the development must be proposing to rehabilitate or reconstruct housing units that are proposed to be demolished or have been demolished. This Application does not propose to demolish units. The Application mentions that units may be demolished in the future, but does not include demolition as an activity.

Please explain how the units developed through this Application will meet the requirement that the development proposes to "reconstruct" (in this instance) units, when no equal number of units is being demolished (i.e., in order to reconstruct, something has to be demolished).

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 liz.cline@tdhca.state.tx.us or by phone at (512)475-3227. You may also contact Jason Burr at jason.burr@tdhca.state.tx.us or by phone at (512)475-3986.

All applicants should review §§11.1(b) and 10.2(b) of the 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 June 14, 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 www.tdhca.state.tx.us



2016 HTC Application #16387 Cantabria Estates Apartments

Brownsville, Cameron County - At Risk

Exhibit B

CCHA Five Year and Annual Plan – Demolition Disposition Activity Excerpt

)	
	Demolition/Disposition Activity Description
	1a. Development name: Neptune
	1b. Development (project) number: Conventional
	2. Activity type: Demolition ⊠
	Disposition _
	3. Application status (select one)
	Approved 🛛
	Submitted, pending approval
	Planned application
	4. Date application approved , submitted, or planned for submission: (04/16/14)
	5. Number of units affected: 16
	6. Coverage of action (select one)
-	Part of the development
	Total development
	7. Timeline for activity:
	a. Actual or projected start date of activity: 12/01/2014 b. Projected end date of activity: 12/01/2015
	0.110jooted ond date of delivity. 121012012
	signated to a particular development.
	Demolition/Disposition Activity Description
	1a. Development name: Leon Gardens
	1b. Development (project) number: 03 & 04
	2. Activity type: Demolition
	Disposition 🗵
	3. Application status (select one)
	Approved Solveited and income of [7]
	Submitted, pending approval Planned application Planned
	4. Date application approved, submitted, or planned for submission: (02/27/16)
	5. Number of units affected: 75
	6. Coverage of action (select one)
	Part of the development
	Total development
	7. Timeline for activity:
	a. Actual or projected start date of activity: 2016
-	b. Projected end date of activity: 2017
1	

Demolition/Disposition Activity Description
1a. Development name: La Feria
1b. Development (project) number:
2. Activity type: Demolition 🛛
Disposition ⊠
3. Application status (select one)
Approved 🛛
Submitted, pending approval
Planned application 🗵
4. Date application approved, submitted, or planned for submission: (02/2016)
5. Number of units affected: 56
6. Coverage of action (select one)
Part of the development
☐ Total development
7. Timeline for activity:
a. Actual or projected start date of activity: 2017
b. Projected end date of activity: 2018

c. Conversion of Public Housing

Assessments of Reasonable Revitalization Pursuant to section 202 of the HUD FY 1996 HUD Appropriations Act.

The PHA does not have any developments or portions of developments identified by HUD or the PHA as covered under section 202 of the HUD FY 1996 HUD Appropriations Act.

d. Homeownership

1. Public Housing

The PHA does not administer any homeownership programs for public housing. The PHA may consider administering a homeownership program in public housing when funding is available.

2. Section 8 Tenant Based Assistance

The PHA does plan to administer a homeownership program for Section 8.

Program Description:

The PHA will limit the number of families participating in the Section 8 Homeownership Option to 24 or fewer participants.

The PHA has not established eligibility criteria for participation in its Section 8 Homeownership Option Program in addition to HUD criteria.

7.0	e. Project-based Vouchers REVISION
	Our agency is not currently operating nor intends to operate a Section 8 Project Based
	Voucher Program but will open in case of funding.
	The DHA will apply for Pentel Aggistance Demonstration (DAD)
8.0	The PHA will apply for Rental Assistance Demonstration (RAD). Capital Improvements. Please complete Parts 8.1 through 8.3, as applicable.
8.1	See HUD Form 50075.2 approved by HUD on <u>05/13/2014</u> Capital Fund Program Annual Statement/Performance and Evaluation Report. As part of
0.1	the PHA 5-Year and Annual Plan, annually complete and submit the Capital Fund Program
	Annual Statement/Performance and Evaluation Report, form HUD-50075.1, for each current and
8.2	open CFP grant and CFFP financing. <i>N/A</i> Capital Fund Program Five-Year Action Plan. As part of the submission of the Annual Plan,
0.2	PHAs must complete and submit the Capital Fund Program Five-Year Action Plan, form HUD-
	50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest
	year for a five year period). Large capital items must be included in the Five-Year Action Plan. N/A
8.3	
	Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement
	Housing Factor (RHF) to repay debt incurred to finance capital improvements.

2016 HTC Application #16387 Cantabria Estates Apartments

Brownsville, Cameron County - At Risk

Exhibit C

CCHA Resident Council Minutes 03.12.2015 and 03.24.2015

March 24, 2015

I. OPENING OF MEETING

A Special meeting of the Leon Gardens/Ebony Estates Resident Council was held in the Community Room of Leon Gardens Apartments, at 65 Castellano Circle, Brownsville, TX 78526 on Tuesday, March 24, 2015.

II. ROLL CALL

As indicated above, a notice of the meeting was duly and timely given, and furthermore, a copy of the said notice was given to each Member. The meeting was called to order by President Nydia Ibarra at 5:30 P.M.

Present:

Nydia Ibarra -- President

Maria Suarez – Secretary Julia Martinez - Treasurer

Teresa Mireles - Property Manager

Yolanda Santa Maria – Social Service Administrator

Absent:

Maricela De La Garza - Vice-President

III. SPEAKER

Visitors

Daisy Flores, CCHA Executive Director, Javier Hernandez, Assistance

Executive Director, Pete Villarreal CCHA CFP Coordinator, and Jose

Gonzalez RAD Representative.

IV. MINUTES

Approval of Minutes for February 12, 2015 and March 12, 2015. Nydia Ibarra entertained a motion to approve minutes for February 12, 2015 and March 12, 2015 meetings. Motion was made by majority show of hand to approve the minutes. Motion Carried.

V. TREASURE REPORT

None

VI. NEW BUSINESS

A. Presentation of the RAD Application for the proposed reconstruction project for Leon Gardens Apartments was presented by Executive Director, Daisy Flores, and RAD speaker Jose Gonzalez.

Nydia Ibarra welcomed CCHA Executive Director, Daisy Flores and RAD speaker Jose Gonzalez.

Mrs. Flores informed the residents that the application for the proposed reconstruction project for the Leon Gardens Apartments had been submitted. She explained that this meeting was to keep the residents informed about the processes. She asked the residents if they had any questions regarding the proposed reconstruction of the Leon Gardens Apartments.

- **Question 1.** Resident asked, Once apartments are complete who would be able to return?
- **Answer 1.** Leon Gardens Residents would be the 1st ones to return to the new homes.
- Question 2. Resident asked, Would apartments be single homes?
- Answer 2 No, they will be single family 2 floors, 4-7 row homes and some single floor homes.
- Question 3. Resident asked, Would we get help with the relocation?

 Yes, they will get funds to help with relocation expenses.
- **Question 4.** Resident asked, When would application be approve? We will be notified approximately by July.
- Question 5. Resident asked, How long would we have to transfer? Only 1 month?

 Answer 5. No, you will have enough time to relocate.
- Question 6. Resident asked, Would we have the option to choose where we want to move to?
- Answer 6. Yes, you will have the option to select where you want to move to.
- Question 7. Resident asked, Would other properties be able to come to this property before us?
- Answer 7. No, Leon Gardens Residents would have priority other tenants would be placed on a waiting list.
- **Question 8.** Resident asked, If we decide to stay behind would we be able to stay there?
- Answer 8. Depends, if we give you a relocation voucher you need to come back. If it is a section 8 voucher you may stay where you are at.
- Question 9. Resident asked, Would we have a patio?
- Answer 9. Yes, front and back.
- Question 10. Resident asked, Would there be washer and dryer accessibility?
- Answer 10. Yes, there will be connections for washer and dryers and there will be a laundry mat.
- **Question 11.** Resident asked, If application is not approved would they install central A/C to current apartments.

Answer 11. No, we would not install central A/C to current apartments.

Mr. Gonzalez explained to the residents that at this time the application has been submitted and there would be other meeting to explain the process of how the application is going. He advised tenants that if they had any questions at a later time they could contact Yolanda SantaMaria at the CCHA main office.

VII. OTHER BUSINESS

None

VIII. STAFF REPORT

None

IX. PUBLIC COMMENTS

None

ADJOURNMENT

There being no further business to come before the members, upon motion by Nydia Ibarra carried unanimously by show of hands the meeting was adjourned.

Approved this _____ day of April 2015.

Ny**d**ia Ibarra

President

Property Manager

Property Manager

Cameron County Housing Authority Leon Gardens Resident Council Meeting

March 24, 2015

Name	Address	Phone #
Mydia Ibang	2278 Autum Seige Pr	-372-11-71
Adam Sols	2018 Allm Suge Dr	372-11-71
Jassica Lapez	6 Castellano Cir	956)590-484
felipa Zapata	CICastellano CIr	
Maricela Galván	2135 Woodstone Dr	6214953
Tydia Hely	79 cartilles	564-1021
Il a fette	65 Castillano Cir	541-4953
The fitte	Los Castella	541-4853
Janu Hernanda	65 Castellano	541-4983
Votes 0	65 LA3+1120	541-7513
Branda Garcia	55 Castellano cir	466-4608
Maira Carandaga	CIXI Castellonas	(1021-221-60
Cella Guerra	82 Castellano	521-2577
Verla Ramire Z	32 Castellano	
Olga Garcia	61 Castellano	640-9936
MAria P. Alvoraso	19 Custellano	521 1100
Maria Coisiana	2408 Autumn Sage Dr	9569832409

Cameron County Housing Authority Leon Gardens Resident Council Meeting

March 24, 2015

Name	Address	Phone #
JM rels	les Castellano Cr. 1	956) 541 4983
Mario Scorez	2115 woodstene Dr	916838-0537
Monica Rivera	80 Castellano Cr	956) 466 9018
Genovera Rena	41 Castellano Cr	956 4593587
Whia Martinez	23 costellano cir	956 5430605
Day Here	65 Carplace	
Minsoldo Ut	34 Cast Mano	956 2504796
Rubi Varclez	24 casklano	9561 3361099
Sora Corcia Pras	36 costalano	956)7553341
Nicver OHagoye		1956) 2937905
Florestela Gutievree	8 Castellano cr	(456) 521_4735
Dulce Mª Violal	86 Castellano Cir	956 589 45 23
Jany Hemanelez	25 Castellano Cr.	986/312-5999
Morio Rosa Marales	73 CASTELLA LOCK	756-521-13-60
		8

Leon Gardens Resident Association Meeting **AGENDA**

Thursday, March 24, 2015 at 5:30 p.m. Leon Gardens Community Center

I.	CALL TO ORDER Welcome	President
II.	Roll Call: President Nidia Ibarra Vice President Maricela De La Garz Treasurer Julia Martinez Secretary Maria Suarez	a
111.	SPEAKER	President
IV. A.	READING OF MINUTES	Secretary
V.	TREASURER REPORT	Treasurer
VI.	NEW DUCINECO	
	NEW BUSINESS Presentation of the RAD Application for the proposed reconstruction proj Leon Gardens Apartments.	President ect for
	Presentation of the RAD Application for the proposed reconstruction proj	President ect for
	Presentation of the RAD Application for the proposed reconstruction proj	ect for
Α.	Presentation of the RAD Application for the proposed reconstruction proj Leon Gardens Apartments.	ect for
A. VII.	Presentation of the RAD Application for the proposed reconstruction proj Leon Gardens Apartments. OTHER BUSINESS.	President

March 12, 2015

I. OPENING OF MEETING

A regular meeting of the Leon Gardens/Ebony Estates Resident Council was held in the Community Room of Leon Gardens Apartments, at 65 Castellano Circle, Brownsville, TX 78526 on Thursday, March 12, 2015.

II. ROLL CALL

As indicated above, a notice of the meeting was duly and timely given, and furthermore, a copy of the said notice was given to each Member. The meeting was called to order by President Nydia Ibarra at 11:00 A.M.

Present:

Nydia Ibarra -- President

Maricela De La Garza – Vice-President

Maria Suarez – Secretary

Teresa Mireles – Property Manager

Yolanda Santa Maria – Social Service Administrator

Absent:

Julia Martinez - Treasurer

III. SPEAKER

Visitors

Daisy Flores, CCHA Executive Director, Pete Villarreal CCHA CFP

Coordinator, and Jose Gonzalez RAD Representative.

IV. MINUTES

Minutes were not approved need corrections.

V. TREASURE REPORT

Nydia Ibarra presented that as March 9, 2015 the association funds are \$633.63.

\$499.32

Initial balance

-\$3.00

Bank paper service fee

-\$15.00

Bank monthly fee

-\$409.69

Bingo items

+\$562.00

Bingo Profit

VI. NEW BUSINESS

A. Presentation of the RAD Application for the proposed reconstruction project for Leon Gardens Apartments was presented by Executive Director, Daisy Flores and RAD speaker Jose Gonzalez.

Nydia Ibarra welcomed CCHA Executive Director, Daisy Flores and RAD speaker Jose Gonzalez.

Mrs. Flores explained to the residents the application that they will be submitting for the proposed reconstruction project for the Leon Gardens Apartments. She explained that a previous meeting had been scheduled to inform the tenants of the interest in the reconstruction of the Leon Gardens Apartments and to get their input or ideas of what they wanted the apartments to look like. She informed them that the idea was to take this project to another level. Once the reconstruction was approved the new apartment would house the private sector and low rent income families. She asked if the residents had any questions or concerns. Mrs. Maria Solis asked where her family will go if the project would be demolish. Mrs. Flores explained that once application for reconstruction was approved residents would be given a voucher to look for another place to live. Mr. Romulo Chavez asked if CCHA would look for a place for them or if the families had to look for a place. Mrs. Flores explained that CCHA would give them information where they could find an apartment or they could look on their own.

Mr. Gonzalez explained to the residents that at this time the application was going to be submitted and there would be other meeting to explain the process of how the application was going. He informed residents that there would be another meeting in the afternoon to explain to the residents that could not come to today's meeting.

B. Consider and take action to accept or reject by show of hands to have a raffle in May to raise funds to plan a Mother's Day Activity. Items to raffle and date will be discussed during this meeting.

Mrs. Nydia Ibarra entertained a motion to accept having a raffle in May during the Resident Association Meeting to raise funds to plan a Mother's Day Activity. Majority showed interest in having a raffle for \$2.00 per ticket. Nydia Ibarra open for discussion on the items they want to offer in the tickets and what date the raffle will be held. Majority show of hand approved having 1st prize being a Lawn Mower and a 2nd prize being a weed eater. Majority show of hand agreed to hold the raffle during May's Resident Association Meeting. Manager stated that she could have tickets available for sale starting on Wednesday, March 18, 2015 at 1:00 p.m.

Nydia Ibarra entertained a motion to accept having a raffle in May during the Resident Association Meeting to raise funds to plan a Mother's Day Luncheon. Raffle will consist of 1st prize being a Lawn mower and 2nd price being a weed eater. Tickets will be sold for \$2.00 each to resident and general public with the no need to be present to win clause. Majority of hands accepted having a raffle as presented. Motion Carried.

VII. OTHER BUSINESS

A. Nydia Ibarra held the 32" TV and microwave raffle. Winners were selected in the following format the third ticket drawn won the 2^{nd} prize and the 6^{th} ticket drawn won the 1^{st} prize.

B. Nydia Ibarra informed the residents that the Easter Luncheon for residents that register will be at Mr. Gattie's on Monday, March 30, 2015 from 3:00 P.M. to 5:00 P.M. Parents will be responsible for the care of their children at all times and during activity.

VIII. STAFF REPORT

- **A.** a. Teresa Mireles notified tenants of REAC preparations and of importance to keeping their units clean and the outside areas. To refrain from and cause household members and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit, building, facilities or common areas, and to pay reasonable charges for repairs if so caused.
- B. a. Yolanda Santa Maria informed tenants of HAVE Sholarship

IX. PUBLIC COMMENTS

None

ADJOURNMENT

There being no further business to come before the members, upon motion by Nidia Ibarra carried unanimously by show of hands the meeting was adjourned.

Approved this 24 day of March 2015.

Nidia Ibarra President

Teresa Mireles
Property Manager

Cameron County Housing Authority Leon Gardens Resident Council Meeting

March 12, 2015

Name	Address	Phone #
Moura Martha Salana	2165 Woodstone or	956-518-7637
Maria Suivez	2115 woodstone Dr	76-838-0537
3/22-00	105 Castellano Cu-	541-4683
Maria Casiano	2408 HUTUMIN Sage Di	9832409
Adam Solis Barrera	2278 Autumn Jige Dr	372 11 71
- Nydia Ibarra	2278 Autumn Sage pr	372 11 71
JUAN G VALDEZ	53 CASTELLAND CIR	6214817
Esmeralda López	53 Constallances civele (4266-13,56
Benia Matus	2398 AUTUMN SR	S90 0350
Romus Chavez	76 costellario Cir	504 13 95
Haria Ine Bocers	38 costellare al	64071/2
Lulu Hernandez	28 castellono eir	621 4202
perla Ramirez	32 castellano oir	
Tedic Jecisso	2165 Woodstone Dr	La Sent /
Maria, Eguin	21062 woodstone Dr	5457£22
Mdie Ibona	2278 Nepemm Juga	372-11-71
Mirsela De la Griza	1 Castellare Cucle	950 4040659

Cameron County Housing Authority Leon Gardens Resident Council Meeting

March 12, 2015

Name	Address	Phone #
Vossica Polanco	14 Castellano C.	UUZ-329=
Manyde Carmon Solis	69 Castellanos Circle	3-12-86-13
Genoiera Renta	41 Castellano Cr.	4593587
Colja Guerra	82 Castellano	521-2577
(A) Milly	Les Castellano ar.	5414983
	,	

Leon Gardens Resident Association Meeting AGENDA

Thursday, March 12, 2015 at 11:00 a.m. Leon Gardens Community Center

1.	CALL TO ORDER Welcome	President
11.	ESTABLISH QUORUM Roll Call: President	
Ш.	SPEAKER Iviaria Suarez	President
IV.	READING OF MINUTES	Secretary
V. A.	TREASURER REPORT Initial balance \$499.32 minus\$3.00 (January's Paper Service Fee) minus \$ Bank Fee) = \$481.32 minus \$409.69 bingo items =\$71.63 plus \$562.00 for Total balance \$633.63.	15 00 (Monthly
	NEW BUSINESS	ct for
VII. A. B.	OTHER BUSINESS	7.0
VIII.	STAFF REPORT A. Property Manager. Teresa REAC Preparations B. Resident Service Administrator Yolanda S HAVE Scholarships	Mireles
IX.	A. Open for discussion from the floor and any ideas to be mentioned for meeting.	resident next upcoming
	ADJOURNMENT President Approval of adjournment	

2016 HTC Application #16387 Cantabria Estates Apartments

Brownsville, Cameron County - At Risk

Exhibit D

Tab 20 Acquisition and Rehabilitation - Corrected 06.14.2016

ACQUISITION AND REHABILITATION INFORMATION

At-Risk Set-Aside (Competitive HTC Applications Only) [§11.5(3)]
X Qualification: Must meet the requirements of an At-Risk Development in §11.5(3) of the Qualified Allocation Plan. Documentation must be submitted behind this tab showing that the Development meets the requirements of Texas Government Code §2306.6702(a)(5) and §11.5(3) of the 2016 Qualified Allocation Plan.
PART A: DOCUMENTATION MUST SHOW THAT THE SUBSIDY OR BENEFIT IS FROM ONE OF THE FOLLOWING APPROVED PROGRAMS (mark all that apply):
Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 1715l)
Section 236, National Housing Act (12 U.S.C. Section 1715z-1)
Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q)
Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s)
The Section 8 Additional Assistance Program for housing developments with HUD-Insured and HUD-Held Mortgages administered by the U.S. Department of Housing and Urban Development as specified in 24 CFR Part 886, Subpart A.
The Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the U.S. Department of Housing and Urban Development as specified by 24 CFR Part 886, Subpart C.
Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. Sections 1484, 1485 and 1486)
Section 42, of the Internal Revenue Code of 1986 (26 U.S.C. Section 42)
IN ADDITION, THE SUBSIDY OR BENEFIT IS SUBJECT TO THE FOLLOWING CONDITIONS (mark all that apply):
The stipulation to maintain affordability in the contract granting the subsidy is nearing expiration (i.e. expiration will occur within two (2) calendar years of July 31, 2016). See §11.5(3)(E) and (F) of the 2016 QAP concerning At-Risk developments qualifying under Section 42 of the Internal Revenue Code;
If the subsidy marked above is a HUD-insured or HUD-held mortgage eligible for prepayment or nearing the end of its mortgage term (the term will end within two (2) calendar years of July 31, 2016), the mortgage must be eligible for prepayment without penalty.
If the application proposes demolition of existing units which have received a benefit described above,
the redevelopment will include a portion of the same site, OR
the applicant may propose relocation of the units in an otherwise qualifying At-Risk Development if:
the affordability restrictions and any At-Risk eligible subsidies are approved to be transferred to the Development Site (i.e. the site proposed in the tax credit Application) prior to the tax credit Commitment deadline;
the Applicant seeking tax credits must propose the same number of restricted units (e.g. the Applicant may add market rate units); and
the new Development Site must qualify for points on the Opportunity Index under §11.9(c)(4) of this chapter (relating to Competitive HTC Selection Criteria).

OR (See next page.)

UNITS THAT:
X are owned by a Public Housing Authority AND
receive assistance under Section 9, United States Housing Act of 1937 (42 U.S.C. Section 1437g) OR
x received assistance under Section 9, United States Housing Act of 1937 (42 U.S.C. Section 1437g) AND
are proposed to be disposed of or demolished by a Public Housing Authority OR
were disposed of or demolished by a Public Housing Authority in the 2 years preceding the application, OR
receive assistance or will receive assistance through the Rental Assistance Demonstration (RAD) program of HUD as specified by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55) and its subsequent amendments, if the application for assistance through RAD is included in the applicable public housing authority's annual plan that was most recently approved by HUD as specified by 24 C.F.R. Section 903.23.
For Developments qualifying under this Part B [i.e. §2306.6702(a)(5)(B)], only a portion of the subsidy must be retained for the proposed Development, but no less than 25 percent of the proposed Units must be public housing units supported by public housing operating subsidy. (§2306.6714(a-1))
PART C: IF THE AT-RISK SET-ASIDE IS CLAIMED FOR BENEFITS UNDER SECTION 42, CERTIFY BY MARKING THE BOX BELOW THAT THE APPLICATION INCLUDES THE DOCUMENTATION DESCRIBED.
Nearing expiration on a requirement to maintain affordability includes Developments eligible to request a Qualified Contract under §42 of the Code. Evidence must be provided in the form of a copy of the recorded LURA, the first years' IRS Forms 8609 for all buildings showing Part II of the form completed and, if applicable, documentation from the original application regarding the right of first refusal.

PART B: DOCUMENTATION MUST SHOW THAT THE APPLICATION PROPOSES TO REHABILITATE OR RECONSTRUCT HOUSING

existing Property is expected to have or continue th	e following benefit:	Operating Subsidy
ide a brief description of the restrictions or subsidie	s the existing Property will	have or continue in the space below:
n Gardens has 74 dedicated public housing units sup Cameron County Housing Authority.	ported by Section 9 Annua	l Contribution Contract (ACC) Operating Subsid
A copy of the contract or agreement securing the f		
The source of funds is:	Section 9 Ann	ual Contibution Contract
The annual amount of funds is:		Varies subject to HUD review
The number of units receiving assistance:		74
The term of the contract or agreement is (date):		40 year from PIH Info Center
The expiration of the contract or agreement is (date	e):	40 year from PIH Info Center
Date of the most recent sale or transfer of the build In the last ten years, did the previous owner perfore basis?		Not Applicable ter than 25% of the building's adjusted
Was the building occupied at any time during the la	st ten years?	
Was the building occupied or suitable for occupanc	y at the time of purchase?	
	d)(2)(B)(ii) relating to the 10	0-year placed in service rule?
Will the acquisition meet the requirements of §42(
Will the acquisition meet the requirements of §42(c) If "Yes", provide a copy of a title commitment that period.	the Development meets th	e requirements of §42(d)(2)(B)(ii) as to the 10
If "Yes", provide a copy of a title commitment that	·	e requirements of §42(d)(2)(B)(ii) as to the 10
If "Yes", provide a copy of a title commitment that period.	er §42(d)(6)?	e requirements of §42(d)(2)(B)(ii) as to the 10
If "Yes", provide a copy of a title commitment that period. If "No", does the property qualify for a waiver under	er §42(d)(6)? mentation.	e requirements of §42(d)(2)(B)(ii) as to the 10
If "Yes", provide a copy of a title commitment that period. If "No", does the property qualify for a waiver under the "Yes", provide the waiver and/or other documents.	er §42(d)(6)? mentation. ppment?	
If "Yes", provide a copy of a title commitment that period. If "No", does the property qualify for a waiver under If "Yes", provide the waiver and/or other document that the period.	er §42(d)(6)? mentation. opment? Development Owner?	O No

¹Per §2306.008, TDHCA shall support the preservation of affordable housing for individuals with special needs and individuals and families of low income at any location considered necessary by TDHCA.

UISITION AND/OR REHABILITATION (Cont	inued)					
Part B. Acquisition Of Existing Buildings (contin	nued)		1		1	
Identification or address(es) of Building(s) under Owner's Control		of Control (Ownership, n, Purchase Contract)	1	ation ite	# of Units	Acquisition Cost of Building
Provide the information listed below concerning	g the acqui			opment		
1. Building(s) acquired or to be acquired from	om:	Related F	Party		Unrelat	ed Party
2. Building(s) acquired or to be acquired wi	ith Buyer's	Basis:				
Determined with reference to Se	eller's Basis	Not Dete	ermined	with re	ference to Se	ller's Basis
_						
elow by building address, the date the building	-	· ·		_		· · · · · · · · · · · · · · · · · · ·
umber of years between the date the building wation if necessary.	was placed	I in service and acquisition	n. Attac	h separ	ate sheet(s) w	vith additional
mation in necessary.		T		T		T
Building Address(es)		PIS date of building by m	nost		roposed sition date by	Years between PIS &
building Address(es)		recent owner		-	Applicant	Acquisition
					• •	
ead Based Paint (HOME Applications Only)						
		4 4070	/16 lb/			1 · · · · · · ·
Development constructed bef	fore Januai	ry 1, 1978	(If "Yes	s", cont	inue to next s	elections)
Check each of the following that applies [24 CFF	R 35.115]:					
Emergency repairs to the property are beir		= =		_		
protect the property from further structurator to repairs necessary to respond to the eme	_	due to natural disaster, fir	re or str	uctural	collapse. The	exemption applies only
The property will not be used for human re		nabitation. This does not a	apply to	commo	on areas such	as hallways and
stairways of residential and mixed-use prop	perties.					
				t childr	en less than s	ix years of age will not
Housing "exclusively" for the elderly or per reside in the dwelling unit.	sons with	disabilities, with the provi	sion tha	it ciliai	en less than s	, ,
						, 5
reside in the dwelling unit.) standards	s found the property conta	ained no	o lead-b	pased paint.	
reside in the dwelling unit. An inspection performed according to HUD According to documented methodologies,) standards lead-based	s found the property conta d paint has been identified	ained no	o lead-b	pased paint.	
reside in the dwelling unit. An inspection performed according to HUD According to documented methodologies, clearance.) standards lead-based	s found the property conta d paint has been identified	ained no	o lead-b	pased paint.	

2016 HTC Application #16387 Cantabria Estates Apartments

Brownsville, Cameron County – At Risk

Exhibit E

Tab 24 Rent Schedule - Corrected 06.14.2016

Rent Schedule

Self Score Total:

24

/ate Activity Bond Priority (For Tax-Exempt Bond Developments ONLY):

Unit types must be entered from smallest to largest based on "# of Bedrooms" and "Unit Size", then within the same "# of Bedrooms" and "Unit Size" from lowest to highest "Rent Collected/Unit".

	ent Collected,				1								
Rent	Designations	(select fro	m Drop dow	n menu)						_			
HTC Units	MF Direct Loan Units (HOME Rent/Inc)	HTF Units	MRB Units	Other/ Subsidy	# of Units	# of Bed- rooms	# of Baths	Unit Size (Net Rentable Sq. Ft.)	Total Net Rentable Sq. Ft.	Program Rent Limit	Tenant Paid Utility Allow.	Rent Collected /Unit	Total Monthly Rent
	renej mej				(A)			(B)	(A) x (B)			(E)	(A) x (E)
TC 30%				PHU	2	1	1.0	728	1,456	364	66	298	596
TC 30%					1	1	1.0	779	779	295	66	229	229
TC 50%				PHU	1	1	1.0	779	779	364	66	298	298
TC 50%					3	1	1.0	728	2,184	491	66	425	1,275
TC 60%					1	1	1.0	728	728	590	66	524	524
TC 60%					2	1	1.0	779	1,558	590	66	524	1,048
MR					2	1	1.0	779	1,558	590	0	590	1,180
									0				-
TC 30%				PHU	4	2	2.0	965	3,860	454	85	369	1,476
TC 50%					10	2	2.0	965	9,650	590	85	505	5,050
TC 50%				PHU	8	2	2.0	965	7,720	454	85	369	2,952
TC 50%				PHU	5	2	2.0	971	4,855	454	85	369	1,845
TC 60%					8	2	2.0	965	7,720	708	85	623	4,984
TC 60%					16	2	2.0	971	15,536	708	85	623	9,968
MR					3	2	2.0	971	2,913	708	0	708	2,124
									0				-
TC 30%				PHU	3	3	2.0	1131	3,393	594	103	491	1,473
TC 50%					9	3	2.0	1131	10,179	681	103	578	5,202
TC 60%					7	3	2.0	1131	7,917	817	103	714	4,998
TC 60%				PHU	7	3	2.0	1131	7,917	594	103	491	3,437
MR					4	3	2.0	1131	4,524	817	0	817	3,268
									0				-
TC 30%				PHU	1	4	2.0	1373	1,373	660	119	541	541
TC 50%				PHU	3	4	2.0	1373	4,119	660	119	541	1,623
TC 60%					1	4	2.0	1373	1,373	912	119	793	793
MR					1	4	2.0	1373	1,373	912	0	912	912
									0				-
									0				-
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			TOTAL		102				103,464				55,796
			Non Rent	tal Income		\$5.88	per unit	month for:		Late/N	SF Fees		600

Non Rental Income	1.47 per unit/month for:	Application Fees		150
Non Rental Income	2.65 per unit/month for:	Vending/Laundry		270
+ TOTAL NONRENTAL INCOM	\$10.00 per unit/month			1,020
= POTENTIAL GROSS MONTHL	Y INCOME			56,816
- Provision for Vacancy & Collection	Loss	% of Potential Gross Income:	7.50%	(4,261)
- Rental Concessions (enter as a nega	tive number)	Enter as a nega	tive value	
= EFFECTIVE GROSS MONTHL	Y INCOME			52,555
x 12 = EFFECTIVE GROSS ANNU	JAL INCOME			630,658

212644.075 6/14/16 4:21 PM

Rent Schedule (Continued)

		% of LI	% of Total	
	TC30%	12%	11%	11
	TC40%			0
	TC50%	42%	38%	39
HOUSING	TC60%	46%	41%	42
TAX	HTC LI Tota	al		92
CREDITS	EO			0
	MR			10
	MR Total			10
	Total Units	3		102
	MRB30%			0
	MRB40%			0
MORTGAGE	MRB50%			0
REVENUE	MRB60%			0
BOND	MRB LI Tot	:al		0
	MRBMR			0
	MRBMR To	otal		0
	MRB Total			0

	0		0
	1		12
BEDROOMS	2		54
DEDKOOIVI3	3		30
	4		6
	5		0

			T T				
		% of LI	% of Total				
	HTF30%			0			
	HTF40%			0			
	HTF50%			0			
HOUSING	HTF60%			0			
TRUST	HTF80%			0			
FUND	HTF LI Total	HTF LI Total					
	MR			0			
	MR Total			0			
	HTF Total			0			
	30%			0			
	LH/50%			0			
	нн/60%			0			
	HH/80%			0			
HOME	HOME LI Total						
	EO			0			
	MR			0			
	MR Total			0			
	HOME Tota	l		0			
OTHER	Total OT Ur	its		34			

ACQUISITION + HARD		
Cost Per Sq Ft	\$116.68	
HARD		
Cost Per Sq Ft	\$116.68	
BUILDING		Total Points clai
Cost Per Sq Ft	\$ 74.34	

Applicants are advised to ensure that figure is not rounding down to the maximum dollar figure to support the elected points.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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June 22, 2016

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

Mr. Barry Palmer Coats Rose, PC 9 Greenway Plaza, Ste. 1100 Houston, Texas 77046

RE: THIRD PARTY REQUEST FOR ADMINISTRATIVE DEFICIENCY: 16387 CANTABRIA ESTATES APARTMENTS

Dear Mr. Palmer:

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 is eligible to compete in the At-Risk set-aside as it does not meet the requirements of §11.5(3)(C)(ii), specifically that:

"An Application for a Development that includes the demolition of the existing Units which have received the financial benefit described in Texas Government Code, §2306.6702(a)(5) will not qualify as an At-Risk Development unless the redevelopment will include at least a portion of the same site. Alternatively, an Applicant may propose relocation of the existing units in an otherwise qualifying At-Risk Development if:

... (ii) the Applicant seeking tax credits must propose the same number of restricted units..."

Staff reviewed the Application and determined that it proposes to meet the requirements of the definition of At-Risk found at §2306.6702(a)(5)(B), which addresses a Development that "proposes to rehabilitate or reconstruct housing units that (ii) received assistance under Section 9..." and (a) are proposed to be disposed of or demolished by a public housing authority...". The Application proposes to "reconstruct" 34 units that are proposed to be demolished not as part of this Application but at some point in the future, to add 58 units that will be restricted by low income housing tax credits, and to add 10 unrestricted units. Staff determined that the proposed Development does not meet the requirements of §11.5(3)(C)(ii) as it does not propose the same number of restricted units (e.g. the Applicant added restricted units as well as market rate units).

The Application was issued a deficiency notice on June 7, 2016, requesting that the Applicant explain how the Development is eligible for the set-aside as the Application proposes to reconstruct units but no demolition of units was proposed. In their response, the Applicant provided evidence of the Cameron County Housing Authority's intention to demolish the units in the future, and proposed removal of the Rental Assistance Demonstration ("RAD") program subsidy.



Staff reviewed the response and has determined the following:

- The applicant intends to split the 74 public housing units to be demolished at Leon Gardens and allocated 34 to the Cantabria Estates and add 68 additional new units making it ineligible as an At-Risk development.
- 2. Pursuant to §10.201(7) Administrative Deficiency Process, even if the Applicant requested a reduction in the number of units in the subject application staff cannot accept such a change since it would be a material change to the Application.
- 3. Because the Application does not meet requirements to participate in the At-risk set-aside, the Application does not meet the requirements of \$11.9(e)(3)(D) Pre-Application Participation, particularly that in order for an Application to qualify to receive up to six points is that the Pre-Application and the Application are participating in the same set-aside.

Based on these determinations, the Applicant has been provided a revised scoring notice indicating the loss of six (6) points under §11.9(e)(3)(D) Pre-Application Participation, which the Applicant will have an opportunity to appeal. If you have questions or require further information, please contact me.

Sincerely,

Marni Holloway

Multifamily Division Director