

SUPPLEMENT FOR THE JUNE 16, 2015 BOARD MEETING

J. Paul Ozer, Chair



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

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Report 2c
Supplemental Posting

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 16, 2015

Presentation, Discussion, and Possible Action related to Application Challenges made in Accordance with 10 TAC §11.10 Concerning 2015 Housing Tax Credit Applications

RECOMMENDED ACTION

WHEREAS, the Department allows unrelated parties to an application to submit challenges against any application pursuant to §11.10 of the 2015 Qualified Allocation Plan (“QAP”);

WHEREAS, the Department received forty-five (45) challenges against thirty-eight (38) separate applications that are competing in the current competitive 9% low income housing tax credit application cycle;

WHEREAS, staff has reviewed all of the challenges received and has made determinations with regard to the validity of each challenge, and appeals resulting from those determinations are being considered under separate action; and

WHEREAS, §11.10(13) of the QAP requires that staff determinations regarding all challenges will be reported to the Board.

NOW, therefore, it is hereby,

RESOLVED, that the Board accepts this report in satisfaction of the requirements of §11.10(13) of the QAP.

BACKGROUND

Pursuant to §11.10 of the QAP, unrelated parties may challenge specific applications, and those challenges may pertain to any part of the application including but not limited to eligibility, selection (scoring), and threshold criteria. Staff reviews the challenge, submits a request to the Applicant for a response, and researches both sides of the challenge in order to make a determination of appropriate resolution to the challenge. A summary of the challenge and the resolution is provided in a challenge log and is published on the Department’s website. Staff has finalized its determinations with regard to challenges, some of which resulted in point reductions and/or terminations of applications. In these cases, the affected applicant was given an opportunity to appeal, as is the case with point reductions and terminations generally. Some of those appeals appear as separate items on today’s agenda. To the extent that a challenge did not result in any such action, a record of the challenge has been saved in the Department’s files. Section 11.10(13) of the QAP requires that staff determinations regarding all challenges will be reported to the Board. The attached log reflects all challenges that were received by

the Application Challenges Deadline, May 1, 2015, and includes a summary of the staff analysis and determination with respect to each challenge.

2015 Competitive Housing Tax Credit (HTC) Challenges

The following tables constitute the staff determinations for 2015 Competitive Housing Tax Credit (“HTC”) challenges received the deadline of May 1, 2015, and all determinations made as of **June 16, 2015**. All challenges referenced herein were received and reviewed in accordance with §11.10 of the 2015 Qualified Allocation Plan (“QAP”). Representatives for each of the challenged applications were provided the opportunity to respond to the submitted challenge, and staff has reviewed both the challenge and response in making a determination in each instance.

Each entry identifies the HTC development/application identification number (TDHCA ID#), the name of the development, city, region, fee status, and the name and organization of the challenger. A brief summary of each challenge has been included, followed by Department staff’s analysis and resolution to the challenge. The Department has posted each challenge and supporting documentation received to its website, which can be found at the following link: <http://www.tdhca.state.tx.us/multifamily/htc/index.htm>.

Where a scoring adjustment or other staff action was required based on staff’s determinations, the applicants have already been notified of such actions and have been given an opportunity to appeal staff determinations. 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 challenger may not formally appeal any staff determination.

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TDHCA ID#	15010	Development Name:		Mariposa Apartment Homes at South Broadway	
City:	Joshua	Region:	3	Fee Received:	Yes
Challenger:	James S. Grauley, Columbia Residential				

Nature and Basis of the Challenge: The challenger asserts that the Application should be denied points under §11.9(d)(7), related to Community Revitalization Plan (“CRP”), because “a valid and adequate process for public input was not provided as part of the adoption of the CRP plan.”

Analysis and Resolution: Staff has reviewed the challenge and the response provided by the Applicant. Staff disagrees with the challenger. The City of Joshua Community Revitalization Plan includes a Plan Adoption Schedule going back to the creation of the Tax Increment Reinvestment Zone Number One in April of 2004. The Application also includes a letter from the Mayor of Joshua indicating that “the CRP was duly adopted with the required public comment processes followed.” Scoring notice awarding CRP points issued June 8, 2015.

TDHCA ID#	15012	Development Name:	Mariposa Apartment Homes at Greenville Road		
City:	Royse City	Region:	3	Fee Received:	Yes
Challenger:	James S. Grauley, Columbia Residential				

Nature and Basis of the Challenge: The challenger asserts that the Application should be denied points under §11.9(d)(7), related to Community Revitalization Plan (“CRP”), because “a valid and adequate process for public input was not provided as part of the adoption of the CRP plan.”

Analysis and Resolution: Staff has reviewed the challenge and the response provided by the Applicant. Staff disagrees with the challenger on the public input process. The City of Royse City Community Revitalization Plan includes a Plan Adoption Schedule as well as a letter from the Mayor indicating that “the CRP was duly adopted with the required public comment processes followed.” However, staff did not ultimately award CRP points to the Application because the plan only included 4 of 8 factors identified in the QAP. Scoring notice denying the CRP points issued June 8, 2015.

TDHCA ID#	15012	Development Name:		Mariposa Apartment Homes at Greenville Road	
City:	Royce City	Region:	3	Fee Received:	Yes
Challenger:	Lisa M. Stephens, Saigebrook Development, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application should be denied points under §11.9(d)(7), related to Community Revitalization Plan (“CRP”), because the plan lacks an assessment of the required 5 of 8 factors listed in the QAP, the target area of the plan is composed almost entirely of the development site, and some of the funding of activities identified in the budget were not expended within the plan’s target area.

Analysis and Resolution: Staff has reviewed the challenge and the response provided by the Applicant. Staff agrees that the CRP does not qualify for points. The CRP includes 5 Plan Goals; however, Goal 1 and Goal 4 both equate to factor (-g-): the lack of local business providing employment opportunities. For this reason, staff issued a scoring notice denying the CRP points on June 8, 2015. Additionally, based on the map provided in the Application, staff agrees with the challenger that the footprint of the Community Revitalization area is almost exclusively made up of the development site, which is vacant land.

TDHCA ID#	15013	Development Name:	Cypress Creek Homes at Reed Road Phase II		
City:	Houston	Region:	6	Fee Received:	Yes
Challenger:	Nicole M. Durio, CPA				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15020	Development Name:	Evergreen at Rowlett Senior		
City:	Rowlett	Region:	3	Fee Received:	Yes
Challenger:	James S. Grauley, Columbia Residential				

Nature and Basis of the Challenge: The challenger asserts that the Application should be denied points under §11.9(d)(7), related to Community Revitalization Plan (“CRP”), for failure to provide a plan that has been duly adopted with the required public input processes followed as outlined in Subsection (A)(i)(VI)(-a-). The challenger contends that a valid process for public input was not provided as part of the adoption of the plan because the public hearing was held on the same day the plan was adopted. The challenger additionally questions whether the plan’s funding and activities meet the spirit of what was contemplated by the Department as outlined in Subsection (A)(i)(VI)(-b-). The challenger asserts that the plan includes a summary of initiatives of the City of Rowlett that were previously in place and are common components to community development rather than community revitalization.

Analysis and Resolution: Staff has reviewed the challenge and the response provided by the Applicant. Staff disagrees with the challenger. The City of Rowlett Community Revitalization Plan includes a Community Input & Plan Adoption Schedule, with activities going back to 2010, as well as a letter from the Mayor indicating that the CRP was duly adopted with the “required public comment processes” followed. A scoring notice was issued on June 10, 2015.

TDHCA ID#	15020	Development Name:		Evergreen at Rowlett Senior	
City:	Rowlett	Region:	3	Fee Received:	Yes
Challenger:	Megan Lasch, O-SDA Industries, LLC				

Nature and Basis of the Challenge: The challenger asserts that the application should be deemed ineligible because of failure to notify the State Senator as outlined in §10.203 of the 2015 Uniform Multifamily Rules. The challenger states that it is unclear that the applicant notified a newly appointed elected official, The Honorable State Senator Don Huffines, at full application. Additionally, the challenger contends that application exhibits indicate an ineligible building design. The challenger states that one of the buildings, out of the four buildings connected but split by firewalls, does not provide an elevator and should be deemed ineligible under §10.101(b)(1)(A) of the 2015 Uniform Multifamily Rules.

Analysis and Resolution: Staff has reviewed the challenge and the response provided by the Applicant. Staff disagrees with the challenger. The Applicant submitted evidence that Senator Don Huffines was appropriately notified. Staff has no concerns with the building configuration. A scoring notice was issued June 9, 2015.

TDHCA ID#	15049	Development Name:	Kennedale Seniors		
City:	Kennedale	Region:	3	Fee Received:	Yes
Challenger:	Deepak P. Sulakhe, OM Housing, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application should be denied points under §11.9(d)(7), related to Community Revitalization Plan (“CRP”), for failure to provide a letter from the appropriate local official as outlined in clause (i)(VI) of the scoring item. The challenger also states that the Application is ineligible for points under §11.9(c)(6), related to Underserved Area, because the target population of the development is elderly and not general population or Supportive Housing as required under the scoring item. The challenger further asserts that the Applicant should be found ineligible due to a violation of §10.202(1)(N) of the Uniform Multifamily Rule, related to ineligible Applicants. The challenger alleges that a Mr. Wade Bienske of Affordable Caring Housing, an Associate of the Applicant, participated in the dissemination of misinformation about affordable housing of a competing Applicant that would likely have the effect of fomenting opposition to an Application.

Analysis and Resolution: Staff has reviewed the challenge and the response provided by the Applicant. With respect to the CRP, the QAP requires that the plan be in place as of the Full Application Final Delivery Date. The letter was requested and received through the administrative deficiency process. Regarding the challenger’s assertion that the Applicant violated §10.202(1)(N) of the Uniform Multifamily Rule, staff received conflicting stories from the challenger and the Applicant, both of which contained some evidence to support their conclusions but neither of which included definitive information. In addition, staff concluded that Mr. Bienski is not a member of the Development team on the subject Application, therefore, no technical violation of the rule exists. A scoring notice was issued on May 13, 2015.

TDHCA ID#	15049	Development Name:		Kennedale Seniors	
City:	Kennedale	Region:	3	Fee Received:	Yes
Challenger:	Thomas E. Huth, Palladium USA				

Nature and Basis of the Challenge: The challenger asserts that the development site should be deemed ineligible because it is bisected by a high voltage transmission line. The challenger further points out that the site is located within close proximity to an active drag racing track called Texas Raceway and that this should be deemed an undesirable site feature because it is an environmental factor that negatively affects the site.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. The Rule with respect to the High Voltage Transmission lines specifically states that a “development site in which the buildings are located within the easement of any overhead high voltage transmission lines” will be deemed ineligible. The site plan for Kennedale Seniors is bisected by a high voltage transmission easement; however, no buildings are proposed to be located within the easement, and therefore the site plan does not violate the Rule. However, staff does have concerns about the safety of such a site plan, particularly with regards to a potential fire at the development site. The Department’s REA Division is working with the Applicant to ensure adequate Fire/EMS access to the site. With respect to the race track, according to the Applicant’s response, the city has plans to close the business (through eminent domain or a similar process). Regardless, staff does not consider proximity to this race track an undesirable site feature to the extent of causing the site to be found ineligible. A scoring notice was issued on May 13, 2015.

Staff reserves the right to place conditions upon this award (should it be awarded) to address any concerns regarding the high voltage power lines.

TDHCA ID#	15061	Development Name:		Abbington Vista of Henrietta	
City:	Henrietta	Region:	2	Fee Received:	Yes
Challenger:	Mark Feaster				

Nature and Basis of the Challenge: The challenger asserts that the Application is ineligible for points under §11.9(d)(2) of the QAP, related to Commitment for Development Funding by Local Political Subdivision, because the loan is coming from Henrietta Growth Corporation and not the City of Henrietta. The challenger quotes the QAP stating that “funding from instrumentalities of a city or county will not qualify for points under this scoring item unless such instrumentalities first award the funds to the city or county for their administration.”

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. The language from the QAP that the challenger quotes does not end with “first award the fund to the city or county for their administration.” The sentence continues “at least 60 percent of the governing board of the instrumentality consists of city council members from the city in which the Development Site is located (if located in a city) or county commissioners from the county in which the Development Site is located, or 100 percent of the governing board of the instrumentality is appointed by the elected officials of the city in which the Development Site is located (if located within a city) or county in which the Development Site is located.” Because the Henrietta Growth Corporation is an instrumentality of the City of Henrietta in which 100% of the Board of Directors is appointed by the City Council of Henrietta, the loan from Henrietta Growth Corporation is eligible for points under this scoring item. A scoring notice awarding these points was issued on May 13, 2015.

TDHCA ID#	15063	Development Name:	Palladium Van Alstyne Senior Living		
City:	Van Alstyne	Region:	3	Fee Received:	Yes
Challenger:	James S. Grauley, Columbia Residential, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application is ineligible for points under §11.9(d)(7) of the QAP, related to Community Revitalization Plan (“CRP”), because the CRP included does not appear to meet the requirements of the QAP, specifically as it relates to the public input process. The QAP states “the adopting municipality or county must have performed, in a process providing for public input, an assessment of the factors in need of being addressed as a part of such community revitalization plan.” The challenger contends that because there was only one public hearing on the plan itself, immediately prior to the plan’s adoption, that “a valid and adequate process for public input” did not exist thereby make the plan ineligible for points under this scoring item.

Analysis and Resolution: Staff has reviewed the challenge and the response provided by the Applicant. Staff disagrees with the challenger. The City of Van Alstyne Community Revitalization Plan includes a Plan Adoption Schedule which shows planning activities going back to 2012. Additionally the letter from the Mayor indicates that “the CRP was duly adopted with the required public comment processes followed.” Scoring notice issued awarding CRP points on May 27, 2015.

TDHCA ID#	15065	Development Name:	Rhine Forest Apartments		
City:	New Braunfels	Region:	9	Fee Received:	Yes
Challenger:	Robert M. Picerne, Picerne Affordable Development of Texas, LLC				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15068	Development Name:		Artisan at Potranco Park	
City:	San Antonio	Region:	9	Fee Received:	Yes
Challenger:	Robert M. Picerne, Picerne Affordable Development of Texas, LLC				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15071	Development Name:		Abbington Hill of Brownsboro	
City:	Brownsboro	Region:	4	Fee Received:	Yes
Challenger:	Mark Feaster				

Nature and Basis of the Challenge: The challenger asserts that the Application is ineligible for points under §11.9(d)(2) of the QAP, related to Commitment for Development Funding by Local Political Subdivision, because the loan is coming from Brownsboro Area Economic Development Corporation and not the City of Brownsboro. The challenger quotes the QAP stating that “funding from instrumentalities of a city or county will not qualify for points under this scoring item unless such instrumentalities first award the funds to the city or county for their administration.”

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. The language from the QAP that the challenger quotes does not end with “first award the funds to the city or county for their administration.” The sentence continues “at least 60 percent of the governing board of the instrumentality consists of city council members from the city in which the Development Site is located (if located in a city) or county commissioners from the county in which the Development Site is located, or 100 percent of the governing board of the instrumentality is appointed by the elected officials of the city in which the Development Site is located (if located within a city) or county in which the Development Site is located.” Because the Brownsboro Area Economic Development Corporation is an instrumentality of the City of Brownsboro in which 100% of the Board of Directors is appointed by the City Council of Brownsboro, the loan from Brownsboro Area Economic Development Corporation is eligible for points under this scoring item. Staff issued a scoring notice awarding these points on May 27, 2015.

TDHCA ID#	15076	Development Name:		Provision at Four Corners	
City:	Four Corners	Region:	6	Fee Received:	Yes
Challenger:	Nicole M. Durio, CPA				

Nature and Basis of the Challenge: The challenger asserts that the Application is not eligible for points under §11.9(d)(2) of the QAP, related to Commitment of Development Funding by Local Political Subdivision for a number of reasons. First, the challenger points out that in order to qualify for the maximum 11 points, a loan would be needed in the amount of \$247,500. The loan outlined in the Resolution from Fort Bend County Housing Finance Corporation (“FDCHFC”) is in amount of \$275,000. Second, the challenger asserts that based on the Comprehensive Annual Financial Report of Fort Bend County, FDCHFC is not in a financial position to make a loan in the required amount. Third, the challenger questions whether FDCHFC is statutorily able to make a loan to the project under several sections of Texas Government Code.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. Section 11.9(d)(2) of the QAP states that “development funding from instrumentalities of a city or county will not qualify for points under this scoring item unless such instrumentalities first award the funds to the city or county for their administration, at least 60 percent of the governing board of the instrumentality consists of city council members from the city in which the Development Site is located (if located in a city) or county commissioners from the county in which the Development Site is located, or 100 percent of the governing board of the instrumentality is appointed by the elected officials of the city in which the Development Site is located (if located within a city) or county in which the Development Site is located.” Staff reviewed the make-up of FDCHFC’s Board of Directors and determined it qualified as an instrumentality eligible for points under this scoring item. The Rule does not require the Local Political Subdivision to provide evidence of its funding source nor that it has the statutory authority to make such a loan. In the event that the loan is ultimately not made, the points could be rescinded (if prior to carryover), or the Applicant would be subject to negative Previous Participation findings in the future, which would affect the ability to receive awards in subsequent funding cycles. Staff has no reason to believe that FDCHFC lacks the statutory ability to make such a loan. A scoring notice was issued on April 22, 2015.

TDHCA ID#	15093	Development Name:		Stonebridge at Childress	
City:	Childress	Region:	1	Fee Received:	Yes
Challenger:	Audrey Watson, Overland Property Group, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application should be deemed materially deficient because the Applicant failed to include a Title Commitment with the submission, and thereby terminated. In addition to the missing Title Commitment, the challenger noted that the Application contained 20 other deficiencies.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant's response. During the program review, staff identified the missing Title Commitment and requested correction through the Administrative Deficiency process. The Applicant cleared the deficiency. Staff did not view the lack of a Title Commitment as material missing information. Staff issued a scoring notice on April 20, 2015.

TDHCA ID#	15101	Development Name:		Reserve at Summit West	
City:	Wichita Falls	Region:	2	Fee Received:	Yes
Challenger:	Justin Zimmerman, Zimmerman Properties, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application is not eligible for the 17 points under §11.9(d)(1) of the QAP related to Local Government Support because the resolution provided was solely for points under §11.9(d)(2) of the QAP related to Commitment of Development Funding by Local Political Subdivision.

Analysis and Resolution: Staff has reviewed the challenge and the response from the Applicant. Staff agrees with the challenger that the resolution does not meet the standard of support required under the scoring item. Staff issued a scoring notice denying the points on May 27, 2015. The Applicant has filed an appeal, which is scheduled to be heard at the June 30, 2015, Board Meeting.

TDHCA ID#	15121	Development Name:		The Glades of Gregory-Portland	
City:	Gregory	Region:	10	Fee Received:	Yes
Challenger:	Teresa A. Shell				

Nature and Basis of the Challenge: The challenger asserts that the Application is not eligible for several points claimed under §11.9(c)(4) of the QAP, related to Opportunity Index. Specifically, the Applicant claimed two points related to a full service grocery store for La Tiendita Food and Beverage; however, the challenger points out this business is actually convenience store. The Challenger further points out that the Kidz Club After School Program is not located within the required 1.5 distance. Additionally, the Challenger claims that the Head Start Program does not provide care for infants and would therefore not be eligible for the two points. Lastly, the challenger states that the Application is only eligible for 11 points under §11.9(e)(2) related to Cost of Development per square foot, as opposed to the 12 points claimed by the Applicant.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. Staff had already addressed the issue related to La Tiendita Food and Beverage in the scoring notice issued 04/22/15, where those two points were denied. Likewise, points were not awarded for the Kidz Club After School Program. However, two points were awarded for the Head Start Program. The challenger failed to recognize that the language in the 2015 QAP was change to read “a child care program for infants, toddlers, *and/or* pre-kindergarten. Staff also identified the issue related the Cost of Development per square foot, and consequently, awarded only 11 points under this scoring item. The Applicant is appealing the points related to the Opportunity Index, which is scheduled to be heard at the June 16, 2015, Board Meeting.

TDHCA ID#	15122	Development Name:		Casa Toscana	
City:	Brownsville	Region:	11	Fee Received:	Yes
Challenger:	Sara Reidy, Casa Linda Development Corporation				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15122	Development Name:		Casa Toscana	
City:	Brownsville	Region:	11	Fee Received:	Yes
Challenger:	Steve Lollis, Texas Grey Oaks, LLC				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15134	Development Name:		Artisan at Judson Park	
City:	San Antonio	Region:	9	Fee Received:	Yes
Challenger:	Robert M. Picerne, Picerne Affordable Development of Texas, LLC				

Nature and Basis of the Challenge: The Challenger asserts that the Applicant does not qualify for the two (2) points elected under §11.9(c)(7), related to Tenant Populations with Special Housing Needs, because the Applicant elected the points under the wrong section of the scoring item. The Challenger contends that the proposed development meets the requirements to participate in the 811 Program and therefore is ineligible to elect to set aside 5% of units for Person with Special Housing Needs. The Challenger also asserts that the Applicant should not qualify for points under §11.9(d)(2), related to Commitment of Development Funding by Local Political Subdivision, because the entity making the loan, the Bexar County Housing Authority (“BCHA”), is not legally “empowered to commit to the making of a loan to an entity” in which BCHA does not have a financial interest.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. During its review, staff identified the incorrect election under Tenant Populations with Special Housing Needs, and the issue was corrected through the Administrative Deficiency process. As for the Commitment of Development Funding by Local Political Subdivision, staff has no reason to believe that BCHA lacks the legal authority to make the loan to which it committed. A scoring notice was issued on June 6, 2015, awarding the points under both of these scoring items.

TDHCA ID#	15135	Development Name:	Columbia at Renaissance Square		
City:	Fort Worth	Region:	3	Fee Received:	Yes
Challenger:	Thomas E. Huth, Palladium USA				

Nature and Basis of the Challenge: The challenger asserts that the Application is ineligible for points under §11.9(c)(5) of the QAP, related to Educational Excellence, because the development site falls within the attendance zones for schools in Fort Worth Independent School District that do not meet the criteria for points under this scoring item. The challenger further points out that the Applicant attempted to use a non-profit charter district, and that the schools within that charter district do not meet the minimum requirements set forth in the scoring item.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant's response. Staff identified the issue related to the charter school district during the program review, and ultimately did not award Educational Excellence points. A scoring notice to that effect was issued on June 8, 2015. Scoring notice is being appealed and is scheduled to be heard at the June 30, 2015 Board Meeting.

TDHCA ID#	15138	Development Name:		Indian Lake Apartment Homes	
City:	Indian Lake	Region:	11	Fee Received:	Yes
Challenger:	Tim Lang, Huntington Estates, LP				

Nature and Basis of the Challenge: The challenger asserts that the Application is ineligible for points under two scoring criteria in the QAP: §11.9(d)(1) related to Local Government Support, and §11.9(e)(2) related to Cost of Development per Square Foot. First, the challenger contends that on February 27, 2015, the Full Application Delivery Date, the development site was located in the ETJ of Indian Lake, and would thereby require a resolution from the City and the County in order to be eligible for the full 17 points under this scoring item; the Applicant only provided a resolution of support from the City of Indian Lake which would only qualify for 8.5 points. Second, the challenger contends that because the Application does not meet the criteria for a High Cost Development, the cost schedule only supports 11 points, not the 12 requested in the self score.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant's response. An initial scoring notice was issued on April 22, 2015, awarding 17 point for the Resolution from Indian Lake; however, staff agrees with the challenger that, on the Full Application Delivery Date, the development site was located in the ETJ of Indian Lake. That being the case, in order to achieve maximum points under the scoring item the Applicant would have need a resolution from both Indian Lake and Cameron County. The Application only included a resolution from Indian Lake. Staff issued a revised scoring notice on June 9, 2015, denying 8.5 points under Local Government Support. As for the Cost of Development per Square Foot scoring item, staff calculated costs at \$69.99, which is just under the threshold for maximum points.

TDHCA ID#	15139	Development Name:		Arbor Creek Apartment Homes	
City:	Los Fresnos	Region:	11	Fee Received:	Yes
Challenger:	Sara Reidy, Casa Linda Development Corporation				

Nature and Basis of the Challenge: The Challenger asserts that the Applicant is ineligible for points under §11.9(b)(6) of the QAP, related to Underserved Area: Economically Distressed Area, because the census tract in which the site is located has a median household income of \$39,384. This exceeds the “75 percent or less of the statewide median household income” required under the definition of Economically Distressed Area. The Challenger further asserts that the Application is only eligible for 5 points under the Opportunity Index, as opposed to the 7 points claimed, because the development is located in a 2nd quartile census tract.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. This Application is currently under review. Staff has identified both of these issues and is seeking clarification from the Applicant through the Administrative Deficiency process. Should the Applicant’s response prove to be insufficient to substantiate the points request, a scoring notice would be issued denying points. Any such scoring notice would be subject to appeal.

TDHCA ID#	15151	Development Name:		Cascade Place	
City:	Wichita Falls	Region:	2	Fee Received:	Yes
Challenger:	Audrey Watson, Overland Property Group, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application is ineligible for points under 11.9(d)(2) of the QAP, related to Commitment of Development Funding by Local Political Subdivision, because the board make up of the Wichita Falls Housing Authority does not meet the requirement under the scoring item. The QAP states “development funding from instrumentalities of a city or county will not qualify for points under this scoring item unless such instrumentalities first award the funds to the city or county for their administration, at least 60 percent of the governing board of the instrumentality consists of city council members from the city in which the Development Site is located (if located in a city) or county commissioners from the county in which the Development Site is located, or 100 percent of the governing board of the instrumentality is appointed by the elected officials of the city in which the Development Site is located (if located within a city) or county in which the Development Site is located.” The challenger contends that because the Mayor of Wichita Falls appoints the Commissioners of the Housing Authority, the instrumentality does not meet the requirements of the Rule which uses the plural “elected officials.”

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. Staff disagrees with the challenger, and finds that the Wichita Falls Housing Authority is a qualified Local Political Subdivision. A scoring notice was issued awarding the points on April 15, 2015.

TDHCA ID#	15166	Development Name:	Warrington Station		
City:	Fairview	Region:	3	Fee Received:	Yes
Challenger:	Thomas E. Huth, Palladium USA				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15173	Development Name:		The Heights Apartments	
City:	Murillo CDP	Region:	11	Fee Received:	Yes
Challenger:	Manish Verma, Versa Development, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application is ineligible for points under §11.9(c)(6) of the QAP, related to Underserved Area. The Applicant claimed points under this scoring item and represented that the development site was located in Murillo CDP as of the Full Application Final Delivery Date, and therefore qualified for points because the property is located in a municipality or county that has never received a competitive tax credit allocation or a 4 percent non-competitive tax credit allocation.” The challenger contends that several days after the Application was submitted, the City of Edinburg annexed the development site, and because the City of Edinburg is a place that has previously received allocations of tax credits, the Application should not qualify for points.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. Staff disagrees with the challenger. The Department has consistently applied the standard of evaluating development sites and relevant facts as they exist on the Full Application Delivery Date. In this case, the site was located in Murillo CDP on the Full Application Delivery Date, and therefore the Application is eligible for the points scoring item. A scoring notice awarding the points was issued on May 13, 2015.

TDHCA ID#	15180	Development Name:		Campanile at Seabourne Creek	
City:	Rosenberg	Region:	6	Fee Received:	Yes
Challenger:	Nicole M. Durio, CPA				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15190	Development Name:		Stillhouse Flats	
City:	Harker Heights	Region:	8	Fee Received:	Yes
Challenger:	Dru Childre, Dharma Development, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application is ineligible for points under §11.9(d)(2) of the QAP, related to Commitment of Development Funding by Local Political Subdivision, because the in-kind contribution included in the Application for points “does not directly impact the proposed development.” It is the challenger’s contention that because the road being constructed as part of the site plan will be dedicated to the City of Harker Heights, the reimbursement of costs to construct such a road should not qualify for points under the scoring item.

Analysis and Resolution: Staff has reviewed the challenge as well as the Applicant’s response. Staff has thoroughly reviewed the documentation submitted in support of the LPS funding and disagrees with the challenger. The City of Harker Heights is requiring the construction of the road contemplated in the site plan and has agreed to reimburse the Applicant for certain costs associated with that construction. A scoring notice was issued on April 9, 2015.

TDHCA ID#	15194	Development Name:		The Villas of Leon Gardens	
City:	Brownsville	Region:	11	Fee Received:	Yes
Challenger:	Arthur J. Schuldt, Jr., Housing Solutions Alliance, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application fails to meet threshold on multiple counts and should thereby be terminated. First, the challenger states that the Applicant did not properly demonstrate site control at Pre-Application or Full Application. Second, the challenger asserts that the Applicant failed to notify a newly appointed elected official, Ms. Minerva M. Pena of the Brownsville ISD Board of Trustees. Third, the challenger points out that the Applicant failed to include: 1.) evidence of zoning, 2.) a Third-Party Legal Opinion related to Non-profit status, and 3.) evidence of experience. Additionally, the challenger asserts that the Application is ineligible for points under two different scoring items: §11.9(d)(2) of the QAP related to Commitment of Development Funding by Local Political Subdivision (“LPS”), and §11.9(b)(2) related to Sponsor Characteristics. Under LPS Funding, the challenger points out that the Applicant included two funding resolutions, one from the City of Brownsville, and the other from Cameron County Housing Authority (“CCHA”). The challenger points out that the City resolution states funding will come from the Municipal Housing Financing Corporation of Brownsville (“MHFCB”), and, as such, is ineligible for points because no information was included showing MHFCB to be an eligible instrumentality of the City. The challenger claims that the resolution from CCHA is ineligible for points because CCHA is a related party to the Applicant. Second, under Sponsor Characteristics, the challenger claims that Community Housing and Economic Development Corporation (“CHEDC”), the non-profit sponsor, does not have a proper combination of ownership in the project in order to qualify for points under the scoring item. Finally, the challenger states the Application includes numerous administrative deficiencies which “taken as a whole should be considered a Material Deficiency” and should thereby be terminated.

Analysis and Resolution: Staff has reviewed the challenge as well as the Applicant’s response. The Applicant confirmed that the new President of the Brownsville ISD Board of Trustees was not notified; the Application was terminated on May 28, 2015. The Applicant did not appeal.

TDHCA ID#	15195	Development Name:	West Ridge Villas		
City:	Frisco	Region:	3	Fee Received:	Yes
Challenger:	Deidrea Laux				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15242	Development Name:		Sundance Meadows	
City:	Brownsville	Region:	11	Fee Received:	Yes
Challenger:	Linda Brown, Casa Linda Development Corporation				

Nature and Basis of the Challenge: The Challenger asserts that the Applicant is ineligible for points under §11.9(b)(6) of the QAP, related to Underserved Area: Economically Distressed Area, because the census tract in which the site is located has a median household income of \$49,650. This exceeds the “75 percent or less of the statewide median household income” required under the definition of Economically Distressed Area.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. During its review, staff also identified that the median household income for the census tract exceeds the percentage required under the definition of Economically Distressed Area. A scoring notice was issued on May 13, 2015 denying the points under this scoring item. The Applicant filed an appeal, which is scheduled to be heard at the June 30, 2015, Board Meeting.

TDHCA ID#	15242	Development Name:		Sundance Meadows	
City:	Brownsville	Region:	11	Fee Received:	Yes
Challenger:	Steve Lollis, Texas Grey Oaks, LLC				

Nature and Basis of the Challenge: The Challenger asserts that the Applicant is ineligible for points under §11.9(b)(6) of the QAP, related to Underserved Area, specifically Economically Distressed Area, because the census tract in which the site is located has a median household income of \$49,650. This exceeds the “75 percent or less of the statewide median household income” required under the definition of Economically Distressed Area. The Challenger also asserts that the Applicant is ineligible for points under the same scoring item, related to Colonia, because the site does not “demonstrate similar economic and physical characteristics” as a Colonia.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. During its review, staff also identified that the median household income for the census tract exceeds the percentage required under the definition of Economically Distressed Area, and also determined that the area did exhibit the same physical and economic characteristics as a Colonia. A scoring notice was issued on May 13, 2015 denying the points under this scoring item. The Applicant filed an appeal, which is scheduled to be heard at the June 30, 2015, Board Meeting.

TDHCA ID#	15244	Development Name:		The Brittmoore	
City:	Houston	Region:	6	Fee Received:	Yes
Challenger:	Nicole M. Durio, CPA				

Nature and Basis of the Challenge: The challenger asserts that the Application is not eligible for points under §11.9(d)(2) of the QAP, related to Commitment of Development Funding by Local Political Subdivision for a number of reasons. First, the challenger points out the conditional nature of the \$1,000,000 commitment from Houston Housing Finance Corporation (“HHFC”), and that the Harris County Housing Finance Corporation (“HCHFC”) resolution is not sufficient to evidence that its governing body approved funding of such commitment. Second, the challenger asserts that based on the Comprehensive Annual Financial Report of City of Houston, HHFC is not in a financial position to make a loan in the committed amount. Third, the challenger questions the HHFC’s statutory ability to make a loan to the project under several sections of Texas Government Code. Finally, the challenger asserts that because the Commitment of Development Funding by Local Political Subdivision is ineligible, the Application should also be denied points under §11.9(e)(1) of the QAP, related to Financial Feasibility.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. Staff has no reason to believe that either of these entities lacks the legal authority to enter into such a loan commitment, nor does the Rule require Local Political Subdivisions to provide such evidence or prove funding availability. In the event that the loan is ultimately not made, the points could be rescinded (if prior to carryover), or the Applicant would be subject to negative Previous Participation findings in the future, which would affect the ability to receive awards in subsequent funding cycles. A scoring notice was issued on May 5, 2015, awarding points under Commitment of Development Funding by Local Political Subdivision and Financial Feasibility.

TDHCA ID#	15247	Development Name:	City Square Apartment Homes		
City:	Garland	Region:	3	Fee Received:	Yes
Challenger:	Megan Lasch, O-SDA Industries, LLC				

Nature and Basis of the Challenge: The challenger asserts that the Application has failed to provide evidence of site control on the entire parcel of land contemplated in the site plan. The challenger points out that the two tracts under contract are bisected by a City of Garland road, and that because the Right of Way (“RoW”) abandonment requested by the Applicant has not yet been approved, the Applicant has not demonstrated adequate site control and should therefore be terminated. The challenger also questions the points claim under §11.9(d)(7) of the QAP, related to Community Revitalization. Additionally, the challenger asserts that the Applicant failed to notify the appropriate State Senator and should thereby be terminated.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. Staff identified the potential notification issue during its review of the Application, but, through the Administrative Deficiency process, the Applicant provided the necessary documentation to prove the appropriate notifications were made. Staff has thoroughly reviewed the CRP and determined that it would be eligible for points. However, staff did have additional questions related to the site control and issued an Administrative Deficiency on June 11, 2015.

TDHCA ID#	15264	Development Name:	La Palmilla		
City:	Murillo CDP	Region:	11	Fee Received:	Yes
Challenger:	Steve Lollis, Texas Grey Oaks, LLC				

Nature and Basis of the Challenge: Challenger contends that Applicant failed to demonstrate proper site control documentation and should therefore be terminated. The development site consists of 2 tracts, each of which has a separate contract. The Challenger points out that the contract for tract 1 is missing a signature of The Arnaldo & Angelita G. Cantu Trust. Further, the challenger states that contract for tract 2 is not legally enforceable because the contract submitted with the Application is not between the current land owner and the Applicant. Finally the challenger points out that proof of consideration was not provided for tract 2.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant's response. Staff disagrees with the Challenger. The issue with the Cantu Trust is addressed in the First Amendment to the Tract 1 contract, which identifies the missing Trust as a scrivener's error in the original contract. With regards to tract 2, the Rule allows for a series of contract to demonstrate site control. During its review, staff requested and was provided copies of all necessary contracts to establish site control between the current land owner and the Applicant. The necessary proof of consideration was also provided through the administrative deficiency process. Staff issued a scoring notice on June 5, 2015.

TDHCA ID#	15277	Development Name:	The Veranda Apartment Homes		
City:	Plano	Region:	3	Fee Received:	Yes
Challenger:	Thomas E. Huth, Palladium USA				

The above referenced Application has been terminated, and is pending appeal. That appeal is scheduled to be heard at the June 16, 2015, Board Meeting. Staff has taken note of the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reinstated.

TDHCA ID#	15277	Development Name:	The Veranda Apartment Homes		
City:	Plano	Region:	3	Fee Received:	Yes
Challenger:	Lisa M. Stevens, Saigebrook Development, LLC				

The above referenced Application has been terminated, and is pending appeal. That appeal is scheduled to be heard at the June 16, 2015, Board Meeting. Staff has taken note of the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reinstated.

TDHCA ID#	15282	Development Name:		Orchard View at Mirabella	
City:	McAllen	Region:	11	Fee Received:	Yes
Challenger:	Steve Lollis, Texas Grey Oaks, LLC.				

The above referenced Application is not currently deemed to be competitive in the region because staff determined it was ineligible for points under §11.9(c)(6)(A), related to Underserved Area: Colonia. The Applicant has filed an appeal of that determination, which is schedule to be heard at the June 16, 2015, Board Meeting.

TDHCA ID#	15285	Development Name:		Residences at Earl Campbell	
City:	Tyler	Region:	4	Fee Received:	Yes
Challenger:	Miranda Ashline, The ITEX Group				

Nature and Basis of the Challenge: The challenger asserts that the Application fails to meet threshold related to zoning because the email included to evidence that the Applicant has applied for a zoning change is from the City of Wylie rather than Tyler where the development site is located. The challenger also points out that the zoning application is signed by the Applicant as opposed to the seller and should therefore be considered invalid. The challenger asserts the Application is ineligible for points under §11.9(d)(7) of the QAP, related to Community Revitalization Plan, because the plan fails to assess 5 of the 8 factors listed in the QAP, the plan area is too large, and the Applicant failed to demonstrate the criteria listed in sub-clause (VI) of the scoring item related to a letter from the appropriate local official. The challenger also asserts that the Application is ineligible for the 12 points elected under §11.9(e)(2)(B), related to Cost of Development per Square Foot, because the building cost per square foot exceeds the threshold for 12 points.

Analysis and Resolution: Staff has reviewed the challenge as well as the Applicant's response. Missing documentation related to zoning was resolved through the Administrative Deficiency process. Further, the Department has no reason to question the validity of a zoning application that was accepted by a local municipality. Staff disagrees with the challenger's opinion of the Community Revitalization Plan. During its review, staff identified the issue with regard to the Cost of Development per Square Foot. A scoring notice was issued on June 10, 2015 awarding the CRP points and awarding only 11 points (of the 12 requested) under Cost per Square Foot.

TDHCA ID#	15291	Development Name:	Providence Pinehurst		
City:	Humble	Region:	6	Fee Received:	Yes
Challenger:	Nicole M. Durio, CPA				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15293	Development Name:	Flora Street Lofts		
City:	Dallas	Region:	3	Fee Received:	Yes
Challenger:	Megan Lasch, O-SDA Industries, LLC				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15293	Development Name:	Flora Street Lofts		
City:	Dallas	Region:	3	Fee Received:	Yes
Challenger:	Thomas E. Huth, Palladium USA				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15303	Development Name:		Reserve at Engel Road	
City:	New Braunfels	Region:	9	Fee Received:	Yes
Challenger:	Robert M. Picerne, Picerne Affordable Development of Texas, LLC				

Nature and Basis of the Challenge: The Challenger asserts that the Applicant has failed to meet the threshold requirement of having a minimum of six amenities within a one mile radius of the development site, pointing out that specific amenities cited in the Application are either not in operation, or should not qualify as an amenity.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant's response. Staff disagrees with the challenger. During its review, staff identified sufficient community amenities in order to meet threshold. A scoring notice was issued on June 8, 2015.

TDHCA ID#	15310	Development Name:	Terraces at Arboetum		
City:	Houston	Region:	6	Fee Received:	Yes
Challenger:	Nicole M. Durio, CPA				

The above referenced Application was not deemed by staff to be competitive in the region based on the Applicant's own self-score. As of the posting of this log, the Application has not been reviewed by staff pursuant to §10.201(5) of the Uniform Multifamily Rules. Staff has noted the challenge and will review it along with any responses from the Applicant in order to make a determination should the Application itself be reviewed.

TDHCA ID#	15321	Development Name:		Providence at Kuykendahl	
City:	Conroe	Region:	6	Fee Received:	Yes
Challenger:	Nicole M. Durio, CPA				

Nature and Basis of the Challenge: The challenger asserts that the Application is not eligible for points under §11.9(d)(2) of the QAP, related to Commitment of Development Funding by Local Political Subdivision for a number of reasons. First, the challenger states that the language in the resolution from Montgomery County Housing Finance Corporation (“MCHFC”) includes the phrase “wishes to make” which should make the resolution ineligible as a firm commitment. Second, the challenger questions the HHFC’s statutory ability to make a loan to the project under several sections of Texas Government Code. Finally, the challenger asserts that because the Commitment of Development Funding by Local Political Subdivision is ineligible, the Application should also be denied points under §11.9(e)(1) of the QAP, related to Financial Feasibility.

Analysis and Resolution: Staff has reviewed the challenge and the Applicant’s response. Staff has no reason to believe that MCHFC lacks the legal authority to enter into such a loan commitment, nor does the Rule require Local Political Subdivisions to provide such evidence or prove funding availability. In the event that the loan is ultimately not made, the points could be rescinded (if prior to carryover), or the Applicant would be subject to negative Previous Participation findings in the future, which would affect the ability to receive awards in subsequent funding cycles. Scoring notice issued on May 5, 2015, awarding points under Commitment of Development Funding by Local Political Subdivision and Financial Feasibility.

5a

Supplemental Exhibits for Item 5(a)

From: [Kathryn Saar](#)
To: [Teresa Morales](#)
Subject: FW: #15602 1526 East Clarendon Crime statistics
Date: Wednesday, June 10, 2015 10:54:28 AM
Attachments: [TAAG map with LIHTC and site.pdf](#)
[TAAG map.pdf](#)
[scan0825.pdf](#)
[LTR--Waiver Request for Gateway 2015 \(Rawlings\).pdf](#)
[City of Dallas recommended projects.ppt](#)
[Census tract map of surrounding area.pdf](#)
[City Resolution 3-4-15.pdf](#)
[image002.png](#)

From: Claire Palmer [mailto:clairepalmer@sbcglobal.net]
Sent: Wednesday, June 10, 2015 10:46 AM
To: 'Jean Latsha'; 'Tim Irvine'; 'Cameron Dorsey'; 'Kathryn Saar'; micheal.lytle@tdhac.state.tx.us
Cc: 'Scott Galbraith'; 'Cathy Packard'; 'Danny White'
Subject: FW: #15602 1526 East Clarendon Crime statistics

Jean and Tim:

Since I didn't have an opportunity to respond to the Staff Recommendation, I would like to make sure the following information and documentation is made part of the record for the TDHCA Board, so that they can all see the totality of information provided on negative features about the Clarendon site. I have provided two years of crime information showing that, according to the Dallas Police Department, neighborhood scout is clearly inaccurate.

I have also provided the method that the City of Dallas used to score applications for City Support and Funding for LIHTC projects in 2015. Again, this project was only one of four that received City Funding and City Support. I think that clearly shows that the City of Dallas is committed to revitalization of this area. I have attached the City Resolution for the finding which I believe also shows the City commitment to the area. This was included in the Bond Pre-Application but not mentioned in the staff report.

In addition, the Staff Recommendation states there have been no positive or negative support letters. This is inaccurate. Mayor Rawlings provided a support letter. I have attached it again and would like to make sure that is part of the record.

On the poverty issue, I also provided a map which shows that every surrounding census tract is significantly higher than this one. I am not sure why this one tract is so much lower, but clearly the area is a decent, safe area. I have provided that map again. Obviously, there is a need for revitalization in this one tract, but this one single project will make a huge difference. Also, note that there is a tax credit senior property located one census tract south and not more than 100 feet from this project. It is a beautiful property and it was awarded in the 9% competitive round a few years ago.

Under separate cover I will also be providing a copy of Mayor Rawlings current Grow South initiative which does target this area as well as the City of Dallas Design Studio master plan for the area. I believe both will show the City's commitment to revitalization of this project area and site.

Claire Palmer
972-948-3166
clairepalmer@sbcglobal.net
or clairepalmerpllc@sbcglobal.net

Since the issue of crime has been raised again on a South Dallas project, I have again run the crime stats through the Dallas Police Department mapping system.

The new 2015 rule regarding significant crime states the following:

“The Development Site is located in an Urban Area and the rate of Part I violent crimes is greater than 18 per 1,000 persons (annually) for the immediately surrounding area. “Immediately surrounding area” for the purposes of this provision is defined as the census tract within which the Development Site is located, the police beat within which the Development Site is located for a city’s police department, or within a one half mile radius of the Development Site. The data used must include incidents recorded during the entire 2013 or 2014 calendar year but may include up to 36 consecutive months of data. Sources such as the written statement from a local police department or data from neighborhoodscout.com may be used to document compliance with this provision;”

Part I violent crimes are:

[Aggravated assault](#), [forcible rape](#), [murder](#), and [robbery](#). While [arson](#), [burglary](#), [larceny-theft](#), and [motor vehicle theft](#) are not, they are classified as property crimes.

As you know, the City of Dallas and the Dallas Police do, in fact, have a measurement system. In 2011, the Dallas Police Department adopted what is known as:

“Targeted Area Action Grid “TAAG” areas are geographic hot spots within the city where conditions are favorable for crime to occur. Twenty-seven areas have been identified and represent approximately 6% of the city, or about 26 square miles, and have about 36% of the total crimes.”

Attached is the TAAG map for the City of Dallas showing the 27 hot spots. Attached as *Exhibit E* is the TAAG map with tax credit applications approved since 2011 and the proposed site. As can be seen, this is an easy and simple way to accurately determine if the City of Dallas has determined if an area has sufficient crime to be considered an undesirable area feature. It does not rely on crime statistics that change month to month. Our site is not in a “crime hotspot”. I firmly believe that this should be the standard used by TDHCA to determine whether any site in Dallas should be considered as having significant criminal activity. I have also attached an Editorial from the Dallas Morning News dated Friday, May 15, 2015 regarding the move of crime from South to North Dallas. I think this is evident in the crime we see in the 1000 feet surrounding our site.

I have also run crime on the Dallas Police interactive map for this site. I used the same format that Jean Latsha used for an earlier project—that is crime within 1000 feet of the site. Based on that , I have found the following:

Date	Burglary		Assault	
Theft				
May, 2015		0		
	0			0
April, 2015		0		0
0				
March, 2015			1	
0				0
February, 2015		1		1
0				
January, 2015		0		1
0				
December, 2014			2	
0				0
November, 2014		0		1
0				
October, 2014			1	
0				0
September, 2014			0	
1				0
July, 2014		3		0
0				
May, 2014			2	
0				1
April, 2014		0		0
1				
March, 2014		0		
1			1 (actually more than 300 feet away)	
February, 2014		0		
0			0	
January, 2014		0		
0			0	
December, 2013		0		
0			0	
November, 2013		0		
0			0	
October, 2013		1		
1*			0	
September, 2013		0		0
0				
August, 2013		1**		
0			0	
July, 2013		1**		
0			0	

. This theft was actually at the nearby DART train station

. ** These were both car break ins.

I think by any measure, it is apparent that this site does not have high or significant crime.

Unfortunately, you cannot print the maps, but if you would like to confirm my findings, you may do so by going to the Dallas Police Website- Crime Reports- Interactive Maps.

If you have any questions or need additional information, please do not hesitate to contact me.

Thanks,
Claire



THE LAW OFFICES OF
CLAIRE G. PALMER, PLLC

CLAIRE PALMER
972-948-3166
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2224 Clearspring Drive South
Irving, Texas 75063

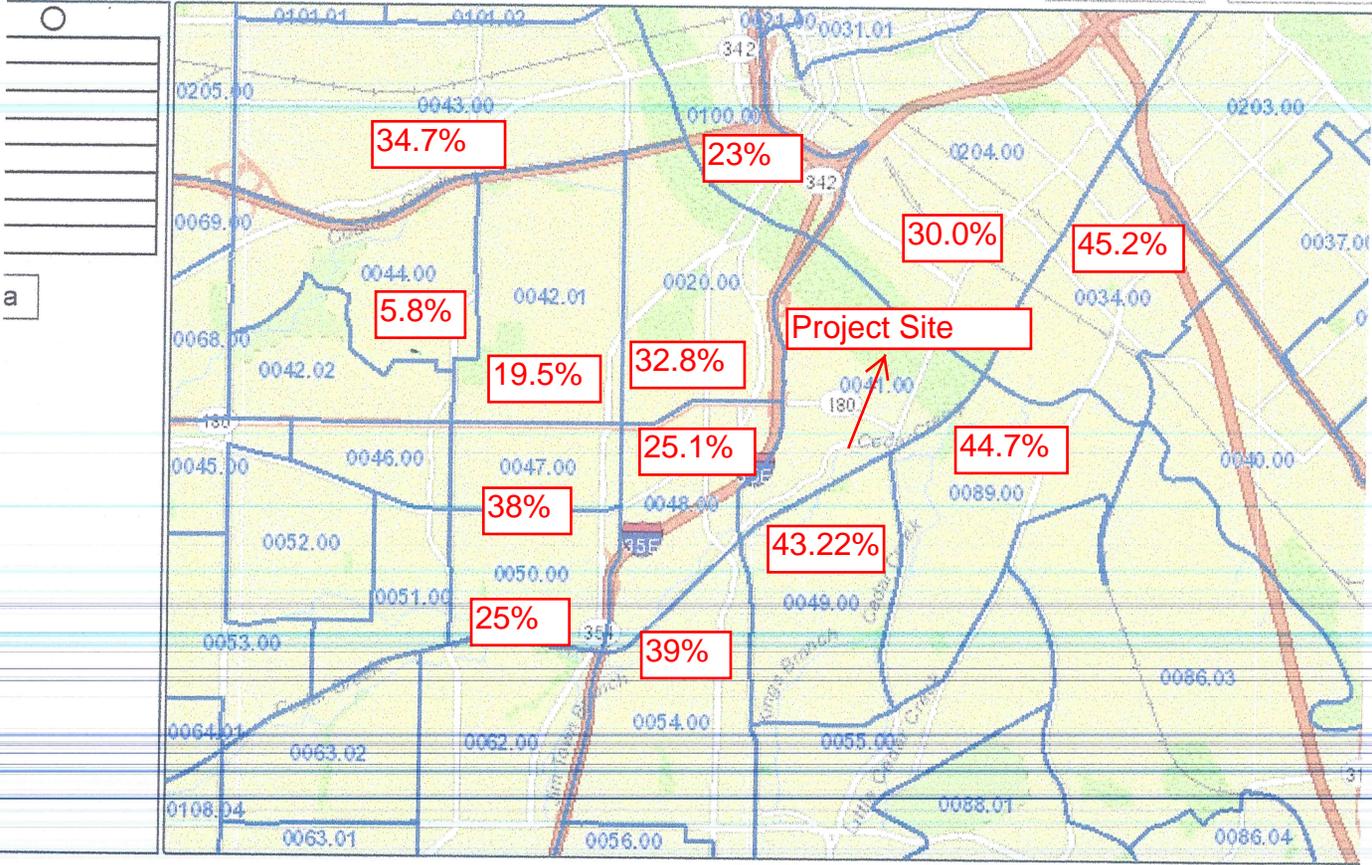
clairepalmerpllc@sbcglobal.net

Poverty Rate- Census Tracts surrounding Gateway on Clarendon Project Site

Address: 1526 Clarendon, Dallas, Tx 75203

Search

Reset





June 10, 2015

Tim Irvine
Texas Department of Housing & Community Affairs
P. O. Box 3941
Austin, Texas 78711-3941

Re: Gateway on Clarendon-Bond Application to TDHCA

Dear Mr. Irvine:

This letter is being written in support of the Gateway on Clarendon project located at 1526 East Clarendon, Dallas Texas which is requesting bond reservation from TDHCA. As you know, the City of Dallas City Council voted unanimously to support this project in February 2015. The City not only provided a resolution for support but also provided a \$3,000,000 hard loan commitment for this project to move forward.

The City Council has gone to great lengths to establish criteria for giving their support to LIHTC projects this year and the Clarendon project was one of six selected for support, out of nineteen applicants, and one of only four to receive funding commitments. One of the key priorities for the City Council in addressing the housing needs and revitalization within the city of Dallas is transit-orientation and mixed-income developments.

The Clarendon project is located within census tract 41 but the more important factor is that the project is located within the redevelopment area for the Lancaster Corridor (aka TOD TIF) which has an approved plan for revitalization with no less than an anticipated \$300,000,000 investment. The Transit Oriented Development (TOD) Tax Increment Financing (TIF) District was established in December 2008 to help create a series of unique destinations, as well as foster the construction of structures that would be useful to the development of transit stations along the DART light rail system. Chapter 311 of the Tax Code was amended in 2007 to provide for the creation of a reinvestment zone of this nature. Chapter 311 permits the designation of an area as a reinvestment zone when the use of the land within the zone is in connection with and beneficial to the operation of a mass transit rail system.

Redevelopment of the Lancaster Corridor and encouragement of transit-oriented and mixed income developments around the DART stations are top City of Dallas priorities. As we have researched and found in best practices, the development of high-quality, mixed-income housing is one approach that has been used to successfully revitalize urban neighborhoods and begin to create a continuum of housing. The goal for the City of Dallas is to create high-quality housing that is both affordable to lower income people, and attractive to people with higher incomes who have options to live in a variety of locations.

Worthy of mention, transit connects communities to opportunities like jobs, education, health care, and food. When cities connect affordable housing and transit stations, the cost of commuting for working families is reduced. Working families pay over 50% of their net income on housing and transportation. The Clarendon project location is directly across the street from the DART 8th and Corinth Station.

As you further consider TDHCA bonds and tax credits for this project, please note that the project is also included in Mayor Mike Rawlings, Grow South Plan for revitalization, and the Neighborhood Plus Plan that will be adopted on June 17, 2015.

The Clarendon project does not sit in isolation as a redevelopment project. In or around 2012, TDHCA approved a LIHTC project for Fiji Seniors and on April 16, 2015, TDHCA reserved bonds for Sphinx @ Fiji Lofts both are located less than .14 miles from the Clarendon site. On June 17, 2015, the Council will consider approval of 49 townhomes, within one block of the Clarendon site, for middle income families. And, in nearby census tract 48, only half a mile from the Clarendon project, the Bottom Neighborhood Plan has been adopted by the City Council and implementation of redevelopment efforts have already begun. The nationally ranked Townview High School is also within the Bottom Neighborhood Plan and only half a mile from the Clarendon project location.

In the spirit of true partnership, we hope that you will consider carefully the message of support from the City of Dallas for this project to receive bonds and tax credits from the Texas Department of Housing and Community Affairs.

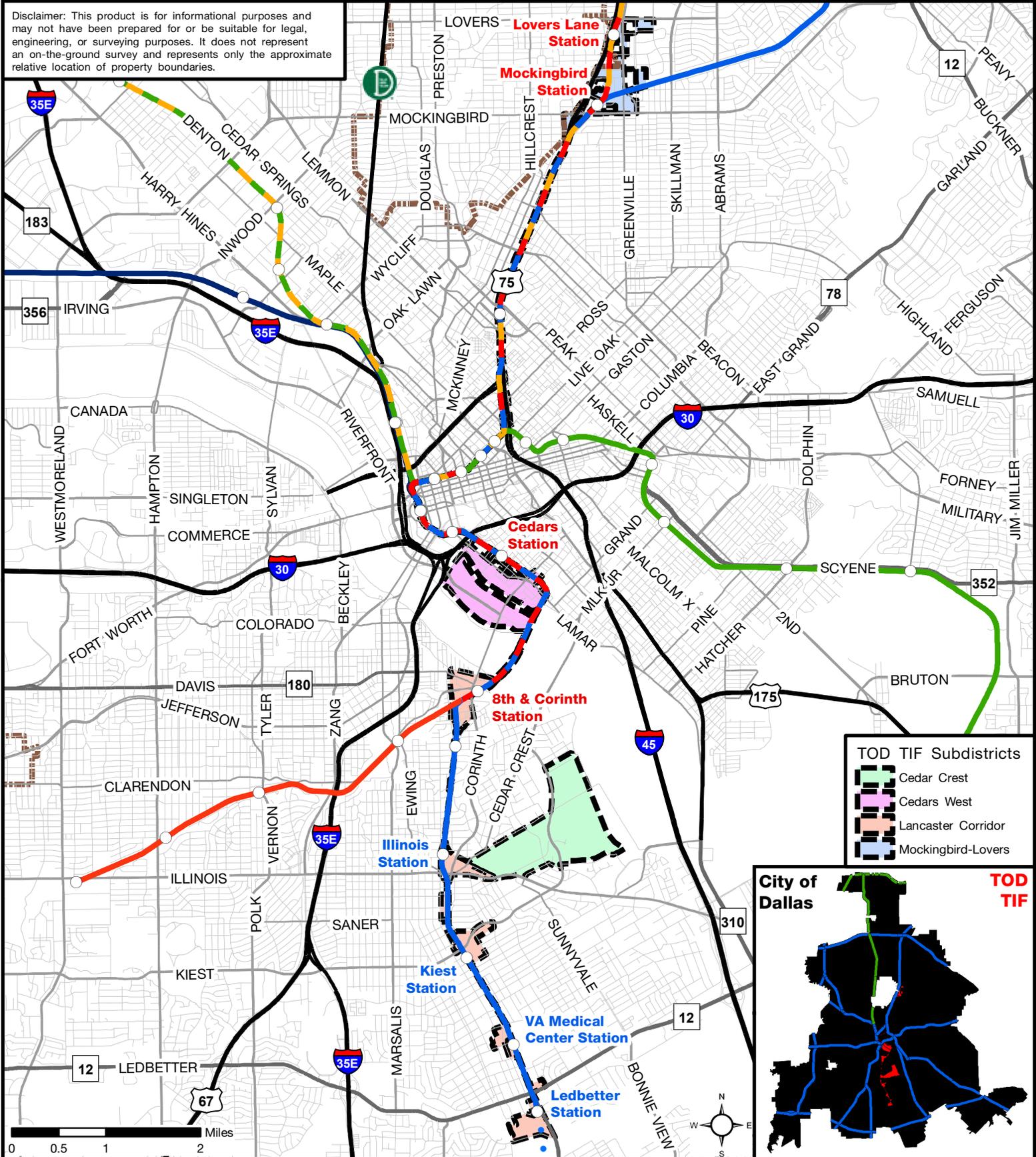
Sincerely,


FOR Bernadette M. Mitchell, Interim Director
Housing/Community Services Department

c: Claire Palmer

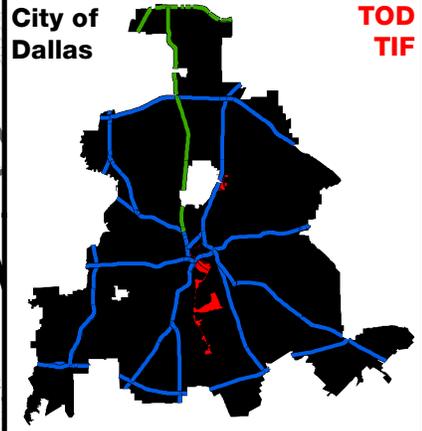
TOD TIF: Overview Map

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



TOD TIF Subdistricts

- Cedar Crest
- Cedars West
- Lancaster Corridor
- Mockingbird-Lovers



DALLAS ECONOMIC DEVELOPMENT
 Research & Information Division
 214.670.1685
 dallas-ecodev.org

Legend

- Rail Station
- DART Orange Line
- Highway
- DART Red Line
- Trinity Railway Express
- Arterial
- DART Blue Line
- DART Blue Line to UNT-Dallas (2019)
- Local Road
- DART Green Line
- Freeway or Tollway
- City of Dallas

WHEREAS, Scott Galbraith, Project Manager of Matthews Affordable Income Development, on behalf of 1526 East Clarendon LP (the "Applicant"), has proposed a development for affordable rental housing at 1526 E. Clarendon Drive named Gateway on Clarendon in the City of Dallas and has advised that it intends to submit an application to the Texas Department of Housing & Community Affairs (TDHCA) for 2015 4% Housing Tax Credits for Gateway on Clarendon; and

WHEREAS, on January 5, 2015 and February 2, 2015, the Gateway on Clarendon Housing Tax Credit multifamily project was briefed and supported by the Housing Committee; and

WHEREAS, the applicant has submitted a request for gap funding of \$3,000,000 from the City of Dallas which has been reviewed; and

WHEREAS, as a condition for being considered for the award of the 4% tax credit, the Applicant has committed to renting 125 units or 90% of the units to tenants with household incomes capped at 60% or below the area median family income (AMFI) with rents affordable to tenants whose household incomes are 60% or below the AMFI and 14 units or 10% the units as Market Rate Units; and

WHEREAS, as with the City of Dallas' funding and endorsement of the TDHCA 2015 4% LIHTC application for 1526 East Clarendon LP, the owner of the project will provide social services with the project approved by the Housing/Community Services Department, if the Project Owner is utilizing City funding in the financing of the low income housing tax credit project; and

WHEREAS, the City of Dallas desires to provide approval of the TDHCA 2015 4% LIHTC application for the Gateway on Clarendon project located at 1526 East Clarendon Drive; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City of Dallas hereby **(1)** supports the Texas Department of Housing and Community Affairs (TDHCA) 4% low-income housing tax credit (LIHTC) application and allocation for Gateway on Clarendon located at 1526 East Clarendon Drive for the construction of the proposed 139-unit multifamily residential development for mixed-income families; and **(2)** subject to the terms hereof, grants a firm commitment and authorizes a conditional loan in the amount of \$3,000,000 to Matthews Affordable Income Development, LLC for the construction of Gateway on Clarendon, conditioned upon 2015 4% LIHTC award. The loan is conditioned upon a 35-year affordability period.

SECTION 2. That in accordance with the requirements of Texas Government Code §2306.67071 and Texas Administrative Code §10.204(4), it is hereby found that:

1. Notice has been provided to the Governing Body in accordance with Texas Government Code, §2306.67071 (a); and
2. The Governing Body has had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Development; and
3. The Governing Body has held a hearing at which public comment may be made on the proposed Development in accordance with Texas Government Code, §2306.67071(b); and
4. After due consideration of the information provided by the Applicant and public comment, the Governing Body supports the proposed Application.

SECTION 3. That the City of Dallas, acting through its governing body, hereby confirms that it supports the proposed Gateway on Clarendon project construction and allocation of 2015 4% Housing Tax Credits for the Development located at 1526 East Clarendon Drive.

SECTION 4. That this formal action has been taken to put on record the opinion expressed by the City of Dallas on February 25, 2015, and that for and on behalf of the Governing Body, A.C. Gonzalez, City Manager, or his designee, is hereby authorized, empowered, and directed to certify this resolution to the Texas Department of Housing and Community Affairs.

SECTION 5. That as provided for in 10 TAC §11.3(c), it is hereby acknowledged that the Gateway on Clarendon will not be located one linear mile or less from a Development that serves the same type of household as the proposed Development and has received an allocation of Housing Tax Credits for New Construction since January 2, 2012; however, if data changes or if another Development that serves the same type of household is approved for Housing Tax Credits, the City of Dallas continues to support and specifically allows the Gateway on Clarendon to receive an allocation of Housing Tax Credit.

SECTION 6. That as provided for in 10 TAC §11.3(b), it is hereby acknowledged that the City of Dallas is not a municipality that has more than twice the state average of units per capita supported by LIHTC; however, if data changes occur, the City of Dallas would continue to support the Gateway on Clarendon.

SECTION 7. That as provided for in TAC §11.3(d) and §11.4(c)(1), it is hereby acknowledged that the proposed Gateway on Clarendon will not be located in a census tract that has more than 20% Housing Tax Credit Units per total household in the census tract; however, if data changes occur, the City of Dallas would continue to support the Gateway on Clarendon.

SECTION 8. That the City Manager or his designee, upon approval as to form by the City Attorney, is hereby authorized to execute a conditional loan in the amount of \$3,000,000 to Matthews Affordable Income Development, LLC for the development at 1526 East Clarendon Drive with the following terms:

- a. 1526 East Clarendon LP or its wholly owned subsidiary, must be awarded 2015 4% tax credits.
- b. 1526 East Clarendon LP must adhere to all applicable City requirements.
- c. 1526 East Clarendon LP must execute a note, deed of trust, and deed restriction for a 35-year affordability period. The condition of the loan is a 35-year affordability period.
- d. The lien may be subordinated to other project lenders.

SECTION 9. That the City of Dallas' funding and endorsement of the TDHCA LIHTC application for the project, Gateway on Clarendon, will be contingent on the following, if the owner is utilizing City funding in financing of the low income housing tax credit project: (1) the Project Owner expending a minimum of \$40,000 (a minimum of \$40,000 or \$200 per unit per year, whichever is greater) for social services for, and at no cost, to the residents of the development, based on a survey of residents needs, to be implemented within three months of project completion; (2) inclusion of this requirement in the City's Deed Restrictions containing the social services requirement (up to 50% of the social service requirement can be fulfilled with in kind social services provided the Housing/Community Services Department gives prior approval of the social service plan).

SECTION 10. That prior to receiving a conditional City of Dallas building permit required by TDHCA prior to closing on the tax credits, the Project Developer will consult with the City of Dallas Sustainable Development and Construction Department with regard to security related design standards.

SECTION 11. That the City of Dallas' funding and endorsement for this project will be contingent on the Project Owner paying to the City an annual monitoring review fee in the amount of \$500, beginning on the anniversary of the closing on the 4% tax credits and ending at the end of the tax credit compliance period, for the cost of monitoring compliance with the social service requirement, if the Project Owner is utilizing City funding in the financing of the low income housing tax credit project.

SECTION 12. That the Chief Financial Officer be authorized to disburse funds in accordance with this resolution as follows:

Matthews Affordable Income Development, LLC Vendor # VC13988

<u>Fund</u>	<u>Dept</u>	<u>Object</u>		<u>Program #</u>	<u>Encumbrance</u>	<u>Amount</u>
		<u>Unit</u>	<u>Code</u>			
HM12	HOU	893E	3015	14M1489G	HOU893EE144	\$ 506,002.00
HM13	HOU	236F	3015	14M1489G	HOU236FE144	\$ 369,051.00
14M1	HOU	489G	3015	14M1489G	HOU489GE144	\$1,688,051.63
2U53	HOU	S803	3015	14M1489G	HOUS803E144	\$ 436,895.37

SECTION 13. That the City Controller is hereby authorized to record notes receivable in balance sheet account (033F) and deferred revenue- home loan in (0859) in funds HM12, HM13, 14M1, and 2U53 for the amount of the loan.

SECTION 14. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

<p>APPROVED BY CITY COUNCIL</p> <p>FEB 25 2015</p> <p><i>[Signature]</i> City Secretary</p>

MICHAEL S. RAWLINGS

MAYOR



CITY OF DALLAS

June 4, 2015

Mr. Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

RE: Gateway on Clarendon ("Project") - Undesirable Neighborhood Characteristics

Dear Mr. Irvine,

The purpose of this letter is to support the site eligibility waiver request for Gateway on Clarendon, a 4 percent LIHTC with Tax Exempt Bond application by Family Gateway and Matthews Southwest, to be owned by 1525 East Clarendon, LP. This project is an important catalyst to revitalize an emerging neighborhood, and complements our City's GrowSouth initiative.

Reportedly, there is concern that the census tract exhibits high poverty. Poverty rates in this tract are skewed by the fact that many properties are in need of severe renovation, and many households reside in a Dallas Housing Authority Public Housing complex known as Brackin's Village. It is imperative to provide new, yet affordable units to help revitalize the neighborhood.

The Project is located nearly adjacent to the 8th Street DART station. Residents will have direct access to transit, only two stops from downtown Dallas and thousands of employment options.

The combination of affordable housing and access to transportation will save the average household residing in the project thousands of dollars annually. Further, the reduced time traveling to and from place of employment will enable families to spend more time together. Increased income and more time with family members leads to neighborhood stability.

Rising income combined with neighborhood stability reduces poverty and leads to decreased crime. Residents will also benefit from heightened security features built into the project to create a safer environment.

Gateway on Clarendon successfully competed against 19 other applicants vying for funds from the City of Dallas. The Project addresses our City's key objectives and we respectfully request that TDHCA waive its undesirable neighborhood characteristics conditions to assist the City of Dallas achieve its goals of transit-oriented, workforce housing catering to families in South Dallas.

Best regards,



Michael S. Rawlings
Mayor

Mr. Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

RE: Gateway on Clarendon (“Project”) – Request for Waiver of Site Eligibility

Dear Mr. Irvine,

The School for the Talented and Gifted at Yvonne A. Ewell Townview Center is a nationally acclaimed school, ranked by US News and World Report as the #1 high school in the US for 2012, 2013, 2014, and 2015 by US News and World Report. We are also part of the Townview Magnet Center, which houses a total of six different schools, all of which are nationally recognized. Furthermore, it has been announced that Harlee Elementary will be re-opened this coming year. All of this will be taking place less than a mile from the Project site.

Our school supports the continued development of housing that addresses diversity, access, and affordability. The project will add 139 families to the neighborhood, and includes a much needed early childhood education facility. The programs and services to be offered will enhance life skills and hopefully foster education achievements.

Improving school rankings in South Dallas can only be achieved when families have access to high-quality, affordable housing. The Project helps address the critical issue of eradicating childhood homelessness, but also prioritizes guiding children to advanced learning opportunities.

Please accept this letter in support of the waiver request for the above noted project.

Sincerely,



Ben Mackey, Principal
School for the Talented and Gifted

Crime's Troubling Trend

Several areas resist high-priority policing efforts

Dallas Police Chief David Brown announced an innovative effort in 2011 to outline the city's 27 hottest crime areas and concentrate policing efforts there to send the bad guys packing. But today, several of the 10 hottest crime areas are seeing startling increases in major crime.

The overall downward crime trend continues as it has for the past 11 years — no small feat in itself and especially impressive when matched with the 84-year low Dallas hit last year in its murder rate.

Still, we're troubled by the fact that crime is increasing in areas that supposedly were receiving extra police attention. The strategy outlined in 2011, including increased street patrols, surveillance cameras and high-tech gadgetry, doesn't appear to be working as Brown hoped.

One reason might be that Brown has decided to double his original list of the mapped high-crime zones that merited concentrated policing efforts. Doubling the watch areas might have inadvertently diluted the attention he wanted to place on those zones.

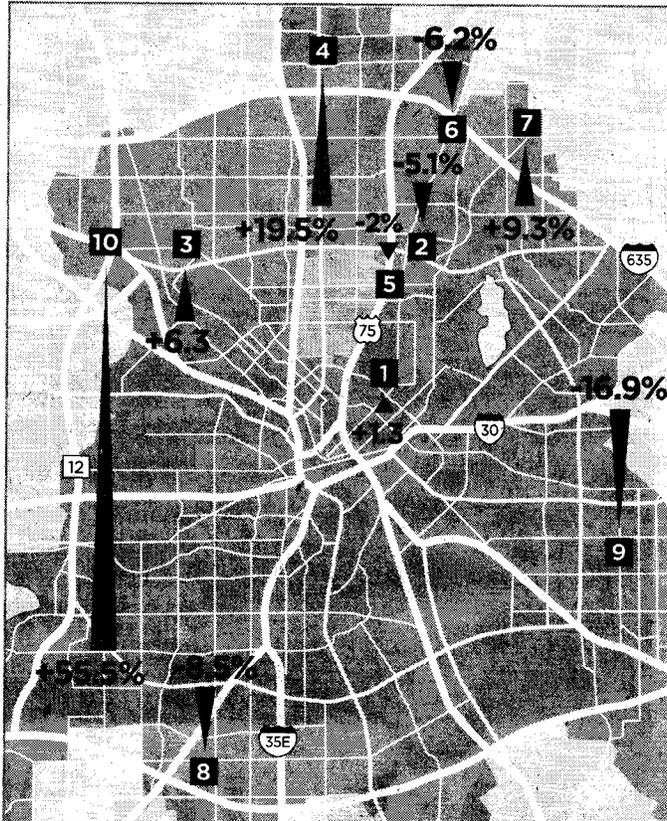
The hot-spot area with the biggest crime-rate increase, northeast of Dallas Love Field, has seen a 55.5 percent jump this year, largely because of auto thefts and car and business break-ins. The same types of crime are driving a 19.5 percent increase in the North Dallas area where Preston and Spring Valley roads intersect.

An increase in aggravated assaults, robberies and sexual assaults also is cause for alarm, as they are the driving force behind a citywide 9 percent increase in violent crime this year. Robbery is up nearly 11 percent. Aggravated assaults, already on the rise since 2013, have risen more than 5 percent in 2015, while reported sexual assaults have jumped by 29 percent.

Many of the features common to crime hot spots that this newspaper identified in an October 2011 Points special section — high concentrations of low-quality apartment complexes, payday loan shops, pawnshops and liquor stores — do not appear to have changed

Changes in high-crime areas

Here's a look at changes in 10 of the highest-crime areas in Dallas — ranked in order of major crimes — so far this year vs. the same time last year.



SOURCE: Dallas Police Department

Michael Hogue/Staff Artist

1. Ross Avenue and Bennett Avenue
2. Five Points
3. Webb Chapel Extension and Timberline Drive
4. Spring Valley Road and Preston Road
5. Central Expressway and Southwestern Boulevard

6. Greenville Avenue and LBJ Freeway
7. Forest Lane and Audelia Road
8. Camp Wisdom Road and Chaucer Place
9. St. Augustine Drive and Bruton Road
10. Northwest Highway and Walton Walker Boulevard

dramatically. The planning and zoning policies that helped create those high concentrations are entirely beyond the Police Department's ability to control and underscore Brown's long-standing call for better communitywide efforts to attack the underlying sources of crime.

It's also noteworthy that the major-crime increases are occurring entirely in northern Dallas, which helps dispel the myth that southern Dallas is the place to be avoided because of its allegedly higher crime rates.

Still, that's no cause for celebration. The idea isn't to bridge Dallas' north-south divide by moving crime northward. Rather, the city should be unified around higher quality-of-life factors that emphasize safer communities everywhere.

TAAG Map with LIHTC Deals approved after 2011

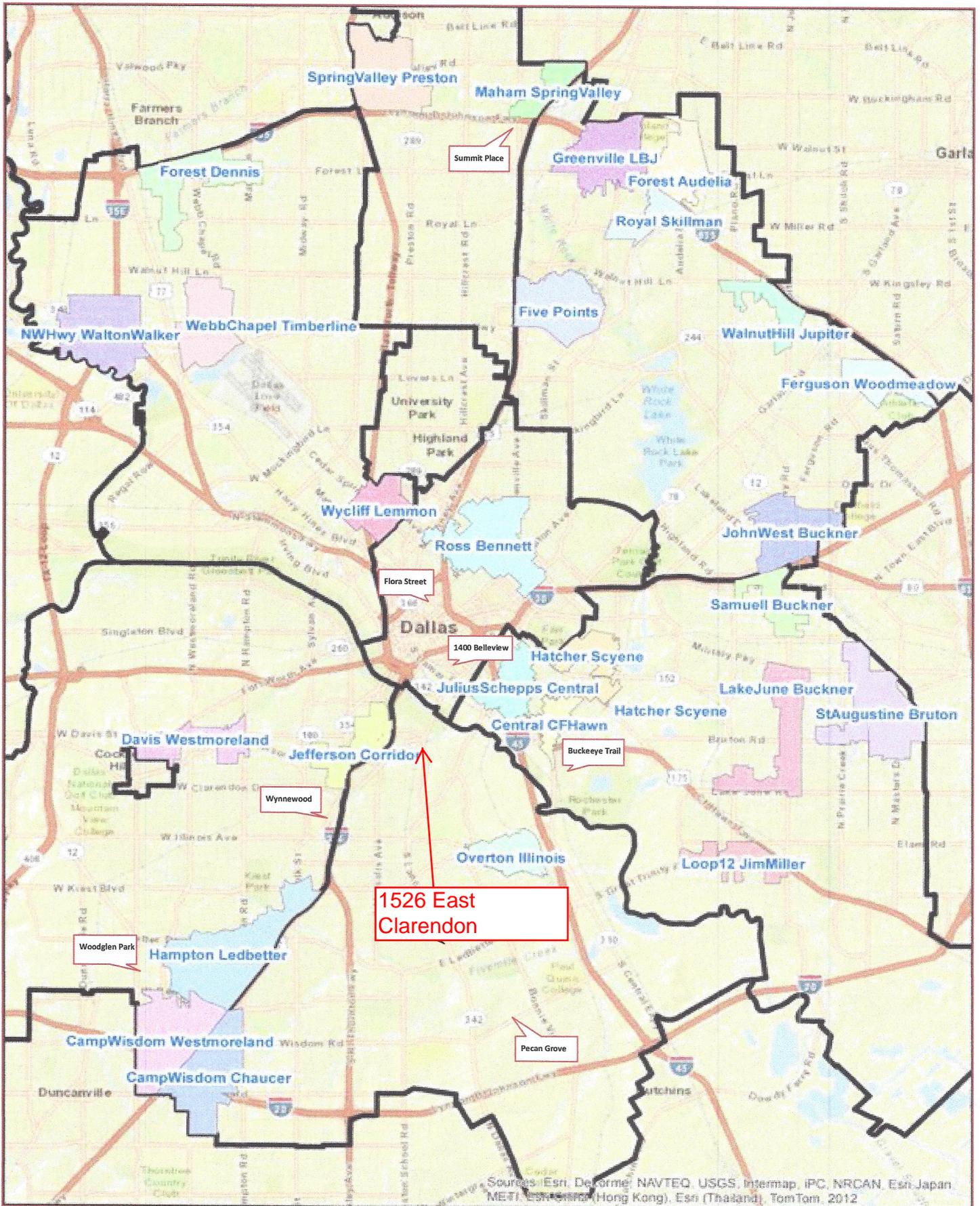
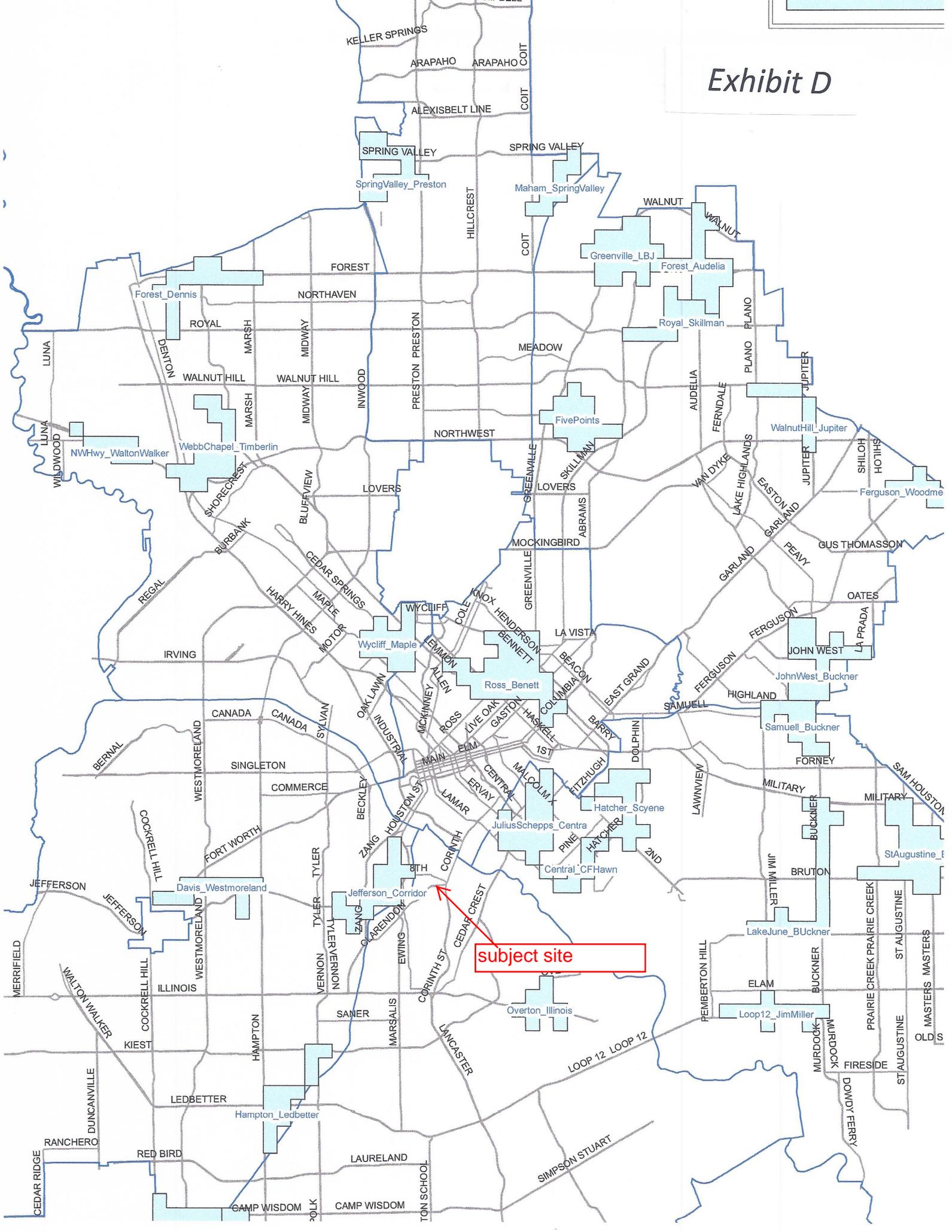


Exhibit D



subject site

5c



DISTRICT OFFICE
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State of Texas
House of Representatives

SERGIO MUÑOZ, JR.
STATE REPRESENTATIVE

CAPITOL OFFICE
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512-463-0704
(FAX) 512-463-5364
RM. E1.508

June 11, 2015

By Email c/o: tim.irvine@tdhca.state.tx.us

TDHCA Board Members
c/o Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: #15005 Las Palmas on Anaya Apartments, Hidalgo, Hidalgo County, Texas.

Dear TDHCA Board Members:

I am writing regarding the decision by the staff of the Texas Department of Community Affairs (hereinafter, "Agency Staff") during the scoring of 2015 9% Low Income Housing Tax Credit application cycle to deny two (2) Underserved Area points claimed by TGO Housing Anaya, LP (the "Applicant") for locating Las Palmas on Anaya Apartments (the "Las Palmas Project") in a Colonia. I represent District 36 in the State House of Representatives and the Las Palmas Project site is within the boundaries of my District. Based on my familiarity with the subject neighborhood and review of the relevant documentation in connection with the denial of the points, I believe that it is indeed within a defined "Colonia," as set forth in §11.9(c)(6)(A) of the 2015 Qualified Allocation Plan (the "QAP"). Accordingly, I encourage the TDHCA Board to award the Las Palmas Project two (2) points related to Underserved Area for being located in a Colonia.

First, it is my understanding that none of the applications claiming Underserved Area points based on location within a Colonia during the 2015 9% application cycle have been awarded such points. As a policy matter, this is deeply concerning. Section 2306.127 of the Texas Government Code (the "Code") instructs TDHCA to "give priority through its housing program scoring criteria to communities that are located wholly or partly in: (1) a federally designated urban enterprise community; (2) an urban enhanced enterprise community; or (3) an economically distressed area or *Colonia*." By denying Underserved Area points to *all* applicants that claimed such points for having sites located in a Colonia, TDHCA is failing to meet Section 2306.127's directive to prioritize such areas.



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State of Texas
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Specifically with respect to the Applicant, Agency Staff cited three (3) reasons for its decision that the Project site was not within a Colonia and the resulting denial of points: (1) lack of an apparent inability in the neighborhood to access basic utilities, (2) the appearance that the neighborhood is well-developed commercially and residentially, and (3) the neighborhood's "relatively high" median household income and "low poverty rate."

While these factors are persuasive, they are not dispositive as to whether a neighborhood is considered a Colonia. Additionally, as it relates to the Colonia in which the Las Palmas Project site is located, basic utilities are not universally available. Further, Eduardo "Eddie" Cantu, Hidalgo County Commissioner for Precinct 2, who is responsible for the area surrounding and including the Las Palmas Project site and perhaps the elected official most intimately familiar with such area, submitted a letter in support of the Las Palmas Project. The Commissioner described certain characteristics in the neighborhood in which the Las Palmas Project site is located that Hidalgo County is spending Colonia designated funds to improve. He commented that the neighborhood "lacks some of the basic utility infrastructure and drainage improvements commonly seen in an urban area." He further stated that "Precinct 2 is focused on improving critical services in *these Colonias*, and has several initiatives underway in targeted parts of my precinct including your neighborhood."

Commissioner Cantu has demonstrated two elements that define a Colonia based on your rules. His letter recognizes a geographic area and characteristics of a colonia based on the County's expenditure of Colonia reserved funds on projects intended to improve the conditions of those living in the subject neighborhood. Moreover, it is not just Commissioner Cantu who deems the Las Palmas Project's neighborhood to be in a Colonia – it seems that both the State of Texas and the TDHCA do as well. According to Commissioner Cantu, the Las Palmas Project site is located in a census tract eligible under the 2014/2015 Texas Bootstrap Loan Program. This loan program is administered by TDHCA and requires the Agency Staff to set aside two-thirds of the loan program funds for building or rehabilitating homes in the most underserved Colonia communities in Hidalgo County. According to the TDHCA's website, the program is only available to one of two types of groups: Colonia Self Help Centers and certified Nonprofit Owner-Builder Housing Providers; and in the Las Palmas Project's neighborhood, the loan program is facilitated by the Hidalgo County Colonia Self Help Center. I am not sure that I understand how a site can be located in a neighborhood that has recognized Colonia characteristics that qualify it to receive loan proceeds administered by TDHCA but does not meet the requires of the QAP in order to qualify for Underserved Area points for being located in a Colonia. I urge the Board to rectify this discrepancy.



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RM. E1.508

For the foregoing reasons and in recognition of the statutory directive of Section 2306.127 of the Code, I support the award of two (2) Underserved Area points to the Las Palmas Anaya Apartments because it is situated in a Colonia.

Very respectfully,

A handwritten signature in blue ink that reads "Sergio Muñoz, Jr." in a cursive style.

State Representative Sergio Muñoz, Jr

5d

Item 5d

Supplemental Posting

15242

Sundance Meadows

Item pulled

15310

Terraces at Arboretum

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 16, 2015

Presentation, Discussion, and Possible Action on Timely Filed Appeals under any of the Department's Program Rules

RECOMMENDED ACTION

WHEREAS, a Competitive Housing Tax Credit application for Terraces at Arboretum was submitted to the Department by the Full Application Delivery Date;

WHEREAS, a 2015 Competitive Housing Tax Credit scoring notice was provided to the Applicant on May 13, 2015;

WHEREAS, staff identified points that the Applicant elected but that the Application did not qualify to receive certain points under 10 TAC §11.9(d)(1) related to Local Government Support;

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, the Applicant's appeal of the scoring notice for Terraces at Arboretum (#15310) is hereby denied.

BACKGROUND

The Terraces at Arboretum, located in the Houston extraterritorial jurisdiction ("ETJ") and in Fort Bend County, was denied 8.5 points under 10 TAC §11.9(d)(1) of the 2015 Qualified Allocation Plan ("QAP"), related to Local Government Support, because a resolution of support from Fort Bend County was not received by the Final Input from Elected Officials Delivery Date as required by the rule.

Under this scoring item, Applications may be eligible to receive up to 17 points. For an Application that proposes a development site located within the ETJ of a municipality, the Application is eligible for 8.5 points for a resolution of support from that municipality and 8.5 points for a support resolution from the county where the site is located. The rule also calls for resolutions to be submitted by April 1, 2015, in order for them to qualify an Application for points.

A resolution from the City of Houston indicating support for the Application was submitted to the Department on March 27, 2015, via the Department's Serv-U Hypertext Transfer Protocol Secure system ("Serv-U system"). A resolution from the Fort Bend County Housing Finance Corporation ("HFC") was submitted on February 27, 2015, within the full application; this resolution was included behind the appropriate tab in that full application to evidence eligibility for points under another scoring item, §11.9(d)(2) related to Commitment of Funding from Local Political Subdivision. The HFC resolution was also submitted on March 27, 2015 via the Serv-U system, at the same time as the resolution from the City of Houston, but no resolution from the Fort Bend County Commissioners Court ("County") was received.

Staff initially mistook the resolution from the HFC (that was submitted via the Serv-U system) as a resolution that would qualify the application for points under §11.9(d)(1) related to Local Government Support and indicated such on an application log dated April 15, 2015, as well as on a log of support resolutions that was posted to the website in early April. However, upon a more thorough review of the Application, staff realized that the resolution, because it was not from the County, did not qualify the Application for 8.5 points under §11.9(d)(1) related to Local Government Support. On April 13, 2015, staff issued an Administrative Deficiency stating, with respect to this scoring item, "Please explain how the application is eligible for maximum points. Confirm that Fort Bend County Housing Finance Corporation is the Governing Body of the county." It is common practice for staff to issue Administrative Deficiencies even when information appears missing from an Application so as to allow the Applicant to point to where else in the original submission the information might be found. The issuance of an Administrative Deficiency is in no way an indication that a certain discrepancy can be cured; this is made clear in the rule and throughout the review process. The Administrative Deficiency notice includes a citation of this rule as well. The Applicant, in the response to the deficiency dated April 20, 2015, explained that a resolution from the County was inadvertently not included in the submission the Department received on March 27, 2015 via the Serv-U system. Because the resolution was received after April 1, 2015, it is staff's view that it was not eligible to qualify the Application for 8.5 points.

In the appeal, the Applicant contends that this omission should be treated as an Administrative Deficiency and compares this instance to one in which another Applicant inadvertently failed to submit a letter evidencing equity financing, which is one of several pieces of documentation required to meet threshold criteria. The latter instance was one in which staff did allow for the omission to be cured via the Administrative Deficiency process. Staff disagrees with the comparison, mainly due to the material nature of the missing information. Administrative Deficiencies are defined in §10.3(a)(2) as "information that is requested by Department staff that is required to...provide *non-material* (emphasis added) missing information..." The lack of one or more of dozens of exhibits related to overall eligibility of an Application is not necessarily classified as "material missing information" during the review process, although, depending on the specific circumstances, it could be. However, because this is a very competitive process, documentation related to scoring items is inherently material. The QAP

stresses this fact in the language in §11.9 of the QAP, which serves as an introduction to the rules regarding scoring criteria. It reads, “Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency.” The appeal refers to this language as well, stating that because one of two required resolutions necessary for maximum points was submitted that this rule does not apply to this situation; instead, in this case, the Applicant did not fail to submit any documentation since one required piece of documentation was submitted. Staff again disagrees with this characterization. There are a number of scoring items, including this one, which contain distinct components. For instance, under §11.9(d)(6) related to Input from Community Organizations, Applications can qualify for up to four (4) points; each letter of support from a qualifying community organization is worth two (2) points. In the case where an Application contains only one letter of support, staff only awards two (2) points and does not accept letters submitted after the deadline, even in response to an Administrative Deficiency. Further, if an Application contains one eligible letter and one letter from a non-qualifying entity, only two (2) points are awarded and the issue is not able to be cured via Administrative Deficiency.

This particular scoring item related to the Local Government Support actually includes separate clauses for each scoring component. In the case of this Application, a resolution of support from the City of Houston was submitted in order to qualify the Application for points under §11.(d)(1)(B)(i), related to resolutions of support submitted from the municipality in whose ETJ the site is located. Those points were indeed awarded to the Application. However, no resolution was submitted that would qualify the Application for points under §11.9(d)(1)(B)(iii) or §11.9(d)(1)(B)(iv), related to resolutions submitted from the county in which the site is located. Therefore, the Application is not eligible for points under those clauses and is not able to cure the issue through Administrative Deficiency.

Staff recommends that the appeal be denied.



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

June 4, 2015

(Via e-mail)

Mr. J. Paul Oxer
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Appeal – Terraces at Arboretum
TDHCA No. 15310

Dear Mr. Oxer:

On behalf of Terraces at Arboretum, Ltd. (the "**Applicant**"), we submit this appeal for the loss of 8.5 points under Section 11.9(d)(1) of the QAP for local government support. Please refer to our appeal to the Executive Director attached as Exhibit A and the Executive Director's response attached as Exhibit B for background information.

We appreciate that Mr. Irvine has acknowledged that the missing page was not "material in terms of volume or complexity and did not place a difficult review burden on staff." We further appreciate the recognition that the resolution from the Fort Bend County Commission meets all of the requirements to qualify for 8.5 points for local government support.

Respectfully, we disagree with Mr. Irvine's position that the omission of the resolution was material simply because of the number of points involved. The tax credit application process is incredibly competitive, and every single point counts. One point often makes the difference for those who receive an award. If Mr. Irvine's stance were to carry through, then virtually nothing in the selection criteria would be capable of resolution through an administrative deficiency since even a single point could be construed as being material. Under this standard, any time an applicant mistakenly omitted something that would support the award of points, the points would be denied. We do not think this conclusion is consistent with the spirit of the QAP or the previous practice of TDHCA.

First, as noted in our original appeal, the QAP specifically says that applicants that do not provide "any" support documentation cannot cure the omission with an administrative deficiency. This clearly implies that if the applicant submits information, but the information is unclear or is missing something, it can be cured with an administrative deficiency. For instance, under the community input category, an applicant is required to submit a letter of support from a community organization, along with proof that the organization has tax exempt status and is actively working in the community. What if an applicant submitted a copy of the organization's tax exemption letter and a screenshot from its website, but mistakenly failed to include the actual support letter? (This assumes that the applicant had the support letter in hand at the time of application; it was simply omitted.) Would the points be denied in that instance, as well? Certainly, the items included would put TDHCA on notice of the applicant's intent to qualify for the points based upon the support of this organization. We believe this is just the kind of scenario that the language of the QAP is intended to address.

And we believe that the Applicant's circumstances are consistent with this position. The Applicant submitted a pdf file, descriptively entitled "Fort Bend Co Resolution of Support." That file was 4/5ths complete – it was intended to be five pages long – but as noted by Mr. Irvine, in it the Applicant included a four-page resolution from the Fort Bend Housing Finance Corporation but failed to include a single page, the resolution from Fort Bend County itself. Mr. Irvine suggests that the resolution from the County's Housing Finance Corporation "does not clearly, in and of itself, show that the Application was addressing the issue of the county resolution of support." But such would be the case with any deficiency, whether there is an omission or a submission that does not include all of the required information. So, again, this position could lead to a result where a deficiency can never be cured. Further, a commitment of funding undoubtedly implies support. If the County's Housing Finance Corporation did not support the proposed development, it obviously would not have offered funding. And, as Mr. Irvine noted, "given that the [housing finance] corporation is an instrumentality of the county . . . [it is] unlikely to act in a manner at odds with the county. . . ." There is a real link here. Given the totality of facts presented in the application and the deficiency response, it is reasonable to conclude that the Applicant was endeavoring to show TDHCA that both the County and its Housing Finance Corporation were supporting Terraces at Arboretum and that the single page resolution from the County was simply accidentally omitted.

Finally, it would be inconsistent with TDHCA's common practice to conclude that the Applicant's omission of the county resolution is material and incapable of cure by an administrative deficiency just because of the magnitude of the points involved. As noted in our original appeal, there is significant precedent that when an applicant omits a threshold item, like a financing commitment for equity, that omission can be cured with an administrative deficiency. Yet, failure to meet threshold criteria in the rules is grounds for termination of an application, a penalty far more extreme than the loss of points. Why would TDHCA allow cure of omissions by administrative deficiency for threshold items (arguably a more serious offense, given the consequences) but not for selection items (arguably a less serious offense, given the consequences)?

Mr. J. Paul Oxer
June 4, 2015
Page 3

We are grateful for Mr. Irvine's careful consideration and note that he feels constrained in his authority to grant relief. But we firmly disagree with his conclusion that the points at issue make the omission material and incapable of cure by administrative deficiency. Extending that theory could lead to an absurd result where virtually no selection items could be resolved by administrative deficiencies but threshold items could be. These are the kinds of decisions where the role of the Board is so important – to consider appropriate policy and provide the staff with guidance on how the rules and processes should be implemented. We hope you will see the merit in this appeal and grant the 8.5 points to the Applicant.

Thank you for your consideration.

Sincerely,



Cynthia L. Bast

Exhibit A – Appeal to the Executive Director

Exhibit B – Executive Director Response

cc: *Atlantic Pacific Communities LLC*

Tim Irvine
Jean Latsha
TDHCA

Exhibit A

Appeal to the 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

May 20, 2015

(Via e-mail)

Mr. Tim Irvine
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Appeal – Terraces at Arboretum
TDHCA No. 15310

Dear Mr. Irvine:

On behalf of Terraces at Arboretum, Ltd. (the "**Applicant**"), we submit this appeal for the loss of 8.5 points under Section 11.9(d)(1) of the QAP for local government support.

Background. The proposed Development is located in the Houston ETJ. As a result, in order to qualify for 17 points under this QAP item, the Applicant must present evidence of support from both the City (8.5 points) and the County (8.5 points). The Applicant submitted evidence of support from both the City and County by the Final Input from Elected Officials Delivery Date¹. A copy of the materials provided to TDHCA is attached as Exhibit A. These materials include Resolution No. 2015-11 from the City of Houston and a Resolution from the Fort Bend Housing Finance Corporation. Unfortunately, the Applicant omitted one page from the submission. TDHCA gave the Applicant an Administrative Deficiency, asking the Applicant to explain its qualification for the full 17 points under this item. A copy of the Administrative Deficiency is attached as Exhibit B. At that time, the Applicant realized the omission and provided TDHCA with the additional page, which was a Resolution of the Fort Bend County Commissioners Court dated March 10, 2015. A copy of the Applicant's response to the Administrative Deficiency is attached as Exhibit C. TDHCA followed up with a scoring notice, denying 8.5 points for the County's support, because the Resolution from the County Commissioners Court was not delivered by the Final Input from Elected Officials Delivery Date.

¹ Capitalized terms used but not defined in this letter shall have the meanings assigned to them under the Uniform Multifamily Rules and the QAP, as applicable.

Appeal. The omission of the resolution from the County Commission should be treated as an Administrative Deficiency. Since the omitted page was timely delivered during the Administrative Deficiency period, the points should be fully earned.

Arguments. Administrative Deficiencies are defined in the Rules:

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

TDHCA regularly uses Administrative Deficiencies to correct threshold items that are not delivered by the Full Application Delivery Date. For instance, in a prior application round, an applicant failed to submit its letter of intent for equity financing, and another applicant failed to submit a financial exhibit, both of which are threshold items. When challenged that the applicants failed to timely meet a threshold requirement and that the applications should be terminated, TDHCA staff responded that the items could be resolved with Administrative Deficiencies. There are likely other similar circumstances that would not be apparent to the public as a challenge or an appeal because they were simply handled as Administrative Deficiencies in the regular course.

With regard to selection criteria items, the QAP provides:

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. (emphasis added)

In this case, the Applicant did not fail to provide any supporting documentation. The Applicant did submit supporting documentation for both the City and the County. It simply omitted one page. Because supporting documentation was provided, the omission falls within the definition of an item that can be resolved by an Administrative Deficiency.

The Resolution of the Fort Bend County Commissioners Court was adopted prior to the Final Input from Elected Officials Delivery Date. It contains all of the information required to count for 8.5 points under Section 11.9(d)(1) of the QAP. The Applicant's omission of this page from its original delivery should not result in a loss of points, just like the omission of a threshold item from an original application submission does not result in the termination of an application. Rather, the omission should be treated as an Administrative Deficiency, which has been properly cured.

Mr. Tim Irvine
May 20, 2015
Page 3

For all these reasons, we respectfully request that you restore 8.5 points to this Application.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia L. Bast".

Cynthia L. Bast

Exhibit A – Original Submission for Local Government Support

Exhibit B – Administrative Deficiency from TDHCA

Exhibit C – Applicant's Response to Administrative Deficiency

cc: Atlantic Pacific Communities LLC

Exhibit A

Original Submission for Local Government Support

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
FORT BEND COUNTY HOUSING FINANCE CORPORATION §

I, the undersigned officer of the Board of Directors of Fort Bend County Housing Finance Corporation, hereby certify as follows:

1. The Board of Directors of said corporation convened in REGULAR MEETING ON THE 19th DAY OF FEBURARY, 2015, at the designated meeting place in Rosenberg, Texas, and the roll was called of the duly constituted officers and members of said Board, to wit:

Tom Shirley	President and Director
Shad Bogany	Vice President and Director
George Johnson	Assistant Vice President and Director
Manuel Zamora	Secretary and Director
Carmen Martinez	Director
Sam Hopkins	Director
Daniel M. McJunkin	Director
Marilynn Kindell	Assistant Secretary and Ex Officio Director
Jim Gonzalez	Ex Officio Director

and all of said persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

RESOLUTION

was duly introduced for the consideration of said Board and read in full. It was then duly moved and seconded that said Resolution be adopted; and, after due discussion, said motion carrying with it the adoption of said Resolution, prevailed and carried, with all members of said Board shown present above voting "Aye," except as follows:

NOES: _____. ABSTENTIONS: _____.

2. A true, full and correct copy of the aforesaid Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; said Resolution has been duly recorded in said Board's minutes of said Meeting; the above and foregoing paragraph is a true, full and correct excerpt from said Board's minutes of said Meeting pertaining to the adoption of said Resolution; the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said Board as indicated therein; each of the officers and members of said Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Resolution would be introduced and considered for adoption at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose.

SIGNED 02/19/15



President

RESOLUTION

Whereas a statutory purpose of the Fort Bend County Housing Finance Corporation is to finance the cost of residential ownership and development that will provide decent, safe, and sanitary housing at affordable prices for residents of local governments and is able to make loans for such purposes and the board of directors has determined that making this Loan is within Fort Bend County Housing Finance Corporation's public purpose; and

Whereas, 10 TAC Section 11.9(d)(2)(B) and 11.9(d)(2)(D) of the Texas Department of Housing and Community Affairs rules governing the Competitive Housing Tax Credit Program provide for an applicant to be awarded points for a resolution from a unit of local government confirming its commitment of qualifying funding.

Be it resolved that the Fort Bend County Housing Finance Corporation is wishing to make a Loan to Terraces at Arboretum, Ltd. (the "Borrower"), in the amount of \$1,500,000.00 (the "Loan") to pay for costs associated with the development of the Terraces at Arboretum in Fort Bend County, Texas, intended for rental to people with incomes not to exceed 60% of the area median family income (the "**Project**").

1. It is understood that the development of the Project will be financed, in part, with the proceeds of low-income housing tax credits ("Tax Credits") authorized under Section 42 of the Internal Revenue Code of 1986, as amended. Borrower intends to receive a commitment of Tax Credits from the Texas Department of Housing and Community Affairs pursuant to its 2015 Qualified Allocation Plan (the "QAP"). Fort Bend County Housing Finance Corporation understands that this Loan allows Borrower to qualify for certain points under its Tax Credit application and Borrower and Fort Bend County Housing Finance Corporation intend this Loan to comply with the QAP.
2. The Loan will be evidenced by a Promissory Note (the "Note"), which will have a term of at least (15) fifteen years, an amortization period of at least (30) years, and shall bear interest at a rate equal to at least 3% per annum.
3. The Loan shall be 100% collateralized in a form satisfactory to Fort Bend County Housing Finance Corporation and shall have a guaranty by a person or entity of sufficient financial strength as determined by the reasonable satisfaction of Fort Bend County Housing Finance Corporation. Such guaranty shall be evidenced by a Guaranty Agreement of even date with the Note.
4. This Resolution constitutes the commitment of Fort Bend County Housing Finance Corporation to make a loan to Borrower on the terms and conditions described above. Such commitment is conditioned upon: (1) Fort Bend County Housing Finance Corporation's receipt and approval of final form loan documents; (2) no material adverse change in Borrower or the Project or the circumstances surrounding Borrower's development of the Project that would, in Fort Bend County Housing Finance Corporation's reasonable discretion, make the Loan unacceptable to Fort Bend County Housing Finance Corporation; (3) final approval of the documents for the transaction by Fort Bend County Housing Finance Corporation's counsel; (4) Borrower receives a commitment of Tax Credits from the Texas Department of Housing and Community Affairs for the Project; (5) final approval by the Board of Directors of the Fort Bend County Housing Finance Corporation of the Loan to the Borrower on the terms and conditions set forth in loan documents; and (6) availability to the Fort Bend County Housing Finance Corporation of funding sources in an amount sufficient to fund the Loan at the time of closing.
5. The Loan Commitment expires upon the Borrower's failure to satisfy any one of the numbered conditions described above. Neither the Fort Bend County Housing Finance Corporation nor any person representing the Fort Bend County Housing Finance Corporation makes any representation with respect to

whether the Loan qualifies the Borrower for the award of certain points by the TDHCA in connection with an application for a commitment of Tax Credits under any requirement, rule, policy or guideline of the TDHCA, including but not limited to the QAP.

6. Fort Bend County Housing Finance Corporation is not a related party to the Borrower, and any funding assistance committed by Fort Bend County Housing Finance Corporation to the development of Terraces at Arboretum pursuant to this resolution will not have been provided by Fort Bend County Housing Finance Corporation by the Borrower or any related party to the Borrower.

City of Houston, Texas, Resolution No. 2015-

A RESOLUTION CONFIRMING SUPPORT FOR THE PROPOSED DEVELOPMENT AS AFFORDABLE RENTAL HOUSING OF APPROXIMATELY FIVE PROPERTIES, EACH LOCATED IN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF HOUSTON, TEXAS OR HAVING BEEN ANNEXED INTO THE CITY OF HOUSTON ONLY FOR LIMITED PURPOSES, AND THE SUBMITTAL OF APPLICATIONS FOR HOUSING TAX CREDITS FOR SUCH DEVELOPMENTS; MAKING VARIOUS FINDINGS AND PROVISIONS RELATING TO THE SUBJECT.

* * *

WHEREAS, the City Council (the "City Council") of the City of Houston (the "City") finds that each of the entities whose name is listed in the column on Schedule I captioned "Applicant Name" (individually referred to as "Applicant") has proposed a development for affordable rental housing whose name and location are set forth beside the name of such Applicant in the columns on Schedule I captioned "Project Name" and "Project Address" (individually referred to as "Applicant's Project" with respect to the Applicant whose name is listed beside such information), each located in the Extraterritorial Jurisdiction of the City of Houston, Texas or having been annexed into the City of Houston only for limited purposes pursuant to an agreement between the City and the applicable municipal utility or other special purpose district, which provides that the areas remain in the Extraterritorial Jurisdiction of the City of Houston Texas for all other purposes, as set forth on Schedule I; and

WHEREAS, the City Council finds that each Applicant has advised that it intends to submit an application, bearing the number set forth beside the name of such Applicant in the column on Schedule I captioned "TDHCA Number" (individually referred to as "Applicant's Application" with respect to the Applicant whose name is listed beside such TDHCA Number), to the Texas Department of Housing and Community Affairs for 2015 Competitive 9% Housing Tax Credits for the Development; and

WHEREAS, the City Council, as the governing body of the City, supports each Applicant's Project and the Applicant's Application related thereto; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOUSTON:

Section 1. That the findings contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

Section 2. That the City Council hereby confirms that it supports each Applicant's Project and the Applicant's Application related to such project.

Section 3. That this Resolution shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this

Resolution within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 11th day of March, 2015.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Resolution is _____.



City Secretary

(Prepared by Legal Dept. )
Assistant City Attorney

(Requested by Neal Rackleff, Director, Housing and Community Development Department)

(LD File No. 0291500012001)

AYE	NO	
✓		MAYOR PARKER
....	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
✓		NGUYEN
✓		PENNINGTON
✓		GONZALEZ
✓		GALLEGO
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		ROBINSON
✓		KUBOSH
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

Housing and Community Development Department
Schedule I - Resolutions Support - ETJ Projects

Applicant Name	Project Name	Project Address	TDHCA Number
Riverbrook Village, LP	Riverbrook Village	Approximately the 5500 Block of Atascocita Road, Houston Extraterritorial Jurisdiction (Limited Purpose Annexation)	15184
Provision at Four Corners, LP	Provision at Four Corners	15014 Old Richmond Road, Houston Extraterritorial Jurisdiction (Limited Purpose Annexation)	15076
Lodge at Westlake Apartments, L.P.	Lodge at Westlake	Near the Southwest Corner of FM 1960 and Atascocita Shores Drive, Houston Extraterritorial Jurisdiction	15170
EBH-NH Pinehurst LP	Providence Pinehurst	Northwest Quadrant of FM 1960 and Pinehurst Trail Drive, Houston Extraterritorial Jurisdiction	15291
Terraces at Arboretum, Ltd.	Terraces at Arboretum	15298 Old Richmond Road, Houston Extraterritorial Jurisdiction	15310

Exhibit B

Administrative Deficiency from TDHCA

From: Liz Cline [<mailto:liz.cline@tdhca.state.tx.us>]
Sent: Monday, April 13, 2015 1:36 PM
To: Dan Wilson; Liz Wong
Subject: 15310 Application - 9% HTC Application Deficiency Notice
Importance: High

In the course of the Department's Housing Tax Credit **Eligibility/Selection/Threshold** and/or HOME 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 2015 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. Zoning: The zoning letter indicates that a municipality and Management District should be contacted in addition to the county. Confirm that zoning has been approved by all appropriate local governments with jurisdiction.
2. Zoning: The submitted letter is not dated. Confirm that the documentation conforms to §10.204(11).
3. Local Government Support: Please explain how the application is eligible for maximum points. Confirm that Fort Bend County Housing Finance Corporation is the Governing Body of the county.
4. Floor Plans: Elevations and the Building/Unit Type Configuration Form indicate three stories for several buildings, however, floor plans for the third floor were omitted. Please clarify.
5. Elevations: Confirm that the exterior composition is typical for all sides of each building type.
6. Utility Allowances: Confirm that the non-PHA utility allowance documentation was reviewed by the Department (Jackie Kawas) prior to application submission.
7. Commitment of Funding by LPS: The resolution states that the loan will have an interest rate equal to at least 3% per anum. Clarify how the application will conform to the requirement of an interest rate no higher than 3% per anum pursuant to §11.9(d)(2). Additionally, I could not locate the certification that the Applicant intends to maintain the Development funding for the full term of the funding, barring unanticipated events.
8. Credit Limit Certification Part II: The form was omitted for Atlantic Pacific Communities, LLC. Additionally, the form for Kenneth Cohen was not dated.

Any applicant requesting points for Commitment of Development Funding by Local Political Subdivision must provide a firm commitment of funds as a condition of the Commitment

Notice (except for Applicants electing the point under [§11.9(d)(2)(C)]). All commitments of funds must include a statement from the provider that the funds were not first received from the applicant or related party. [§11.9(d)(2)]

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 2015 Uniform Multifamily Rules.

All deficiencies related to the HOME 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 will be treated in accordance with §10.201(7)(B) of the 2015 Uniform Multifamily Rules.

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 2015 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 20, 2015. 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.

Exhibit C

Applicant's Response to Administrative Deficiency

TERRACES AT ARBORETUM, LTD



April 20, 2015

Texas Department of Housing and Community Affairs
Multifamily Division
221 East 11th Street
Austin, Texas 78701
Attention: Liz Cline-Rew

**RE: Terraces at Arboretum– 2015 Application Deficiency Notice for TDHCA
#15310**

Dear Mrs. Cline-Rew,

This letter is in response to your application deficiency email received on April 13, 2015. Below please find our response and/or additional information.

Deficiency 1: **Zoning:** The zoning letter indicates that a municipality and Management District should be contacted in addition to the county. Confirm that zoning has been approved by all appropriate local governments with jurisdiction.

Response 1: Please accept this correspondence as confirmation that there are no additional municipalities or Management Districts that have a jurisdiction over the zoning approval process for our development site.

Deficiency 2: **Zoning:** The submitted letter is not dated. Confirm that the documentation conforms to §10.204(11).

Response 2: Please see the attached correspondence with County Official Clay Forister (County Engineer) that verifies the effective date of the submitted letter. Also, please accept this correspondence as confirmation that the letter submitted conforms to 10.204(11) of the 2015 Multi-Family Rules and the pertaining code 2306.6705 (5).

Deficiency 3: **Local Government Support:** Please explain how the application is eligible for maximum points. Confirm that Fort Bend County Housing Finance Corporation is the Governing Body of the county.

Response 3: We inadvertently omitted one page from the file that was submitted to the department's FTP server for the Resolution of Support from Fort Bend County. Our intention was to include both the Fort Bend County Resolution of Support and their commitment of funding for the development site, but the last page of our file was inadvertently omitted. We have attached hereto the last page of the pdf file which provides the Resolution of Support from the Governing Body of the county.

Deficiency 4: **Floor Plans:** Elevations and the Building/Unit Type Configuration Form indicate three stories for several buildings, however, floor plans for the third floor were omitted. Please clarify.

Response 4: Please accept this correspondence as confirmation that the 2nd and 3rd floor plans are identical to one another for every building type containing three floors.

Deficiency 5: **Elevations:** Confirm that the exterior composition is typical for all sides of each building type.

Response 5: Please accept this correspondence as confirmation that the exterior composition will be identical for all sides of each building type.

Deficiency 6: **Utility Allowances:** Confirm that the non-PHA utility allowance documentation was reviewed by the Department (Jackie Kawas) prior to application submission.

Response 6: We have attached hereto correspondence with Ms. Jacqueline Kawas that was sent prior to the application deadline. Our original correspondence started on February 9, 2015 and our official request to Ms. Kawas for approving an alternate utility allowance was submitted on February 14, 2015. The approval was still pending on March 1, 2015, however the approval was granted by Ms. Kawas on April 15, 2015. The approval letter from Ms. Kawas is attached hereto for your reference. The approval letter granted the development site to utilize the City of Houston Housing Authority utility allowance for our development site which was submitted in the tax credit application.

We also had some verbal interaction with Ms. Kawas prior to the application deadline and she confirmed that if the request was submitted

prior to the application deadline that would be fine for our tax credit application purposes.

Deficiency 7: **Commitment of Funding by LPS**: The resolution states that the loan will have an interest rate equal to at least 3% per annum. Clarify how the application will conform to the requirement of an interest rate no higher than 3% per annum pursuant to §11.9(d)(2). Additionally, I could not locate the certification that the Applicant intends to maintain the Development funding for the full term of the funding, barring unanticipated events.

Response 7: We have attached hereto a corrected page of the commitment of development funding and correspondence from the Fort Bend County Housing Finance Corporation confirming that the interest rate will be equal to or less than 3% per annum.

Additionally, we have attached hereto our certification that the Applicant intends to maintain the Development Funding from the Fort Bend County Housing Finance Corporation for the full term of the funding, barring unanticipated events.

Deficiency 8: **Credit Limit Certification Part II**: The form was omitted for Atlantic Pacific Communities, LLC. Additionally, the form for Kenneth Cohen was not dated.

Response 8: We have attached hereto both of the correct Part II Credit Limit Certifications for Atlantic Pacific Communities, LLC and Kenneth Cohen.

Should you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,



Enrique Flores
Authorized Representative of Terraces at Arboretum, Ltd.
8311 Rockwood Lane
Austin, TX 78757
(512) 914-0953 Phone
(512) 900-2860 Fax
hflores@madhousedevelopment.net

RESPONSE #3
ATTACHMENT

A RESOLUTION OF FORT BEND COUNTY COMMISSIONERS COURT SUPPORTING THE DEVELOPMENT OF TERRACES AT ARBORETUM LTD

WHEREAS, Terraces at Arboretum LTD has proposed a development for affordable rental housing at +/- 10.1545 Acres at 15928 Old Richmond Road named Terraces at Arboretum in Fort Bend County and the Houston ETJ; and

WHEREAS, Terraces at Arboretum LTD has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2015 Competitive 9% Housing Tax Credits for Terraces at Arboretum; and

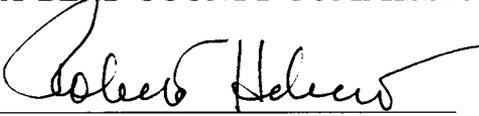
WHEREAS, Atlantic Pacific Communities LLC will construct a six acre recreation area including soccer/football fields, walking trail, restrooms, concession stand and parking lot which will be subsequently donated to a non-profit organization based in Fort Bend County.

NOW, THEREFORE, BE IT RESOLVED, that Fort Bend County, acting through its governing body, hereby confirms that it supports the proposed Terraces at Arboretum located at +/- 10.1545 Acres at 15928 Old Richmond Road, TDHCA Application #15310 and that this formal action has been taken to put on record the opinion expressed by Fort Bend County and

BE IT FURTHER RESOLVED that the Commissioners Court of Fort Bend County are hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

PASSED, APPROVED AND RESOLVED on this the 10th day of March, 2015.

FORT BEND COUNTY COMMISSIONERS COURT

BY: 
Robert Hebert, County Judge

ATTEST:

Laura Richard, County Clerk



Exhibit B

Executive Director Response



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS

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

May 28, 2015

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

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

RE: 15310 TERRACES AT ARBORETUM: SCORING NOTICE APPEAL

Dear Ms. Bast:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated May 20, 2015, of the scoring notice for the above referenced Application. This Application was denied points under §11.9(d)(1) of the 2015 Qualified Allocation Plan ("QAP"), related to Local Government Support, because the Application did not include a resolution from the Fort Bend County Commissioners Court.

I understand and it has been documented that Fort Bend County did, in fact, timely adopt a resolution of support. However, in the process of compiling and submitting the application a resolution of support from the City of Houston was included and a resolution of financial support from the Fort Bend Housing Finance Corporation was included, but the resolution of support from Fort Bend County was not included.

In your letter appeal you take the position that since the resolution from Fort Bend County was inadvertently omitted from the initial Application submission, this type of omission should be susceptible to cure via the Administrative Deficiency process. Specifically, §10.3(2) of the Uniform Multifamily Rules defines an Administrative Deficiency, allowing for staff to request "*non-material* (emphasis supplied) missing information...that may be cured by supplemental information or explanation." The appeal states that it is common practice for staff to issue Administrative Deficiencies which ultimately require applicants to submit information that was not included in the original Application.

Although the missing item was not material in terms of volume or complexity and did not place a difficult review burden on staff, its impact on the Application, 8 ½ points, is certainly significant, and for that reason I feel constrained in finding that it was non-material and using that as a necessary predicate to granting the appeal.

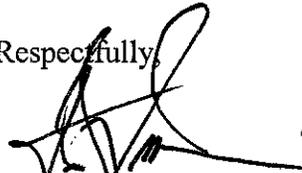
The appeal also points out that the resolution was passed prior to the deadline for submission and that it met all of the requirements (other than inclusion in the Application) to support the claimed points. Department staff does not dispute this. Finally, the appeal references §11.9(a) of the QAP, which states that if *no* documentation is submitted in support of eligibility for a scoring item that the



omission cannot be cured administratively. In this case, two resolutions, one from the City of Houston and one from the Fort Bend County Housing Finance Corporation, were submitted, but no resolution from Fort Bend County itself was supplied. While I can see how the financial support resolution of Fort Bend County Housing Finance Corporation would be consistent with county support, given that the corporation is an instrumentality of the county and unlikely to act in a manner at odds with the county, it does not clearly, in and of itself, show that the Application was addressing the issue of the county resolution of support. I do not find that the points raised in your appeal clearly demonstrate how this is a matter that could and should have been addressed via the administrative deficiency process, and accordingly I must deny the appeal.

If you are not satisfied with this decision, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2015 Uniform Multifamily Rules for full instruction on the appeals process. Should you have any questions, please contact Kathryn Saar, Competitive Tax Credit Program Administrator, at kathryn.saar@tdhca.state.tx.us or by phone at 512-936-7834.

Respectfully,

A handwritten signature in black ink, appearing to read 'Timothy K. Irvine', written over the word 'Respectfully,'.

Timothy K. Irvine
Executive Director