File #: 1515 **Agenda Date:** 7/9/2026 **Agenda #:**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for St. Augustine Estates (HTC #05609)

RECOMMENDED ACTION

WHEREAS, St. Augustine Estates (HTC #05609) received an award of 4% Housing Tax Credits (HTCs) in 2005 for the new construction of 150 units for the elderly in Dallas, Dallas County;

WHEREAS, the Land Use Restriction Agreement (LURA) for the Development states that throughout the 15-year Compliance Period, which ended on December 31, 2021, the Development must be a project which is solely occupied by persons 62 years of age or older, or at least 80% of the units in the Development must be operated for occupancy by at least one person 55 years or age or older per unit;

WHEREAS, St. Augustine Estate Apartments, L.P. (Development Owner or Owner) has continued to operate the Development as restricted for the elderly and requests approval to extend the elderly designation throughout the 30-year affordability period; and

WHEREAS, 10 TAC §10.405(b)(2)(C) states that changes to the Target Population are material amendments to the Land Use Restriction Agreement (LURA);

NOW, therefore, it is hereby

RESOLVED, that the Board approves amendment to the LURA of St. Augustine Estates to extend the elderly restriction throughout the term of the LURA as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

St. Augustine Estates received an award of 4% Housing Tax Credits in 2005 for the construction of 150 units for the elderly in Dallas, Dallas County. The LURA for the Development states that throughout the 15-year Compliance Period, which ended on December 31, 2021, the Development must be a project which is solely occupied by persons 62 years of age or older, or at least 80% of the units in the Development must be operated for occupancy by at least one person 55 years or age or older per unit.

In a letter dated May 18, 2026, Kandis Gren, the representative for the Owner, requests approval to extend the elderly designation of the Development throughout the 30-year affordability period. The Owner has indicated that the Development has continued to operate as elderly and meets the requirements of the Housing for Older Persons Act.

10 TAC §10.405(b)(2)(C) states that changes to the target population are material amendments to the LURA and require Board approval. 10 TAC §10.405(b)(1)(F) states that a change in target population if the elderly restrictions in the LURA expired at the end of the Compliance Period would be a non-material LURA amendment if the amendment is requested within one year of expiration and contains a certification from the Development Owner that the Development still qualifies as elderly. However, because it has been more than one year since the end of the Compliance Period for this Development, this request to extend the elderly requirement requires Board approval.

The Owner complied with the requirements for requesting a material LURA amendment, including holding a public meeting and notifying each resident of the Development and the lender and the investors for the Development that they are requesting a LURA amendment to extend the elderly requirement throughout the term of the LURA. The public hearing was held on May 28, 2026. The Owner reported that 25 residents attended the public hearing, and the comments received were all in favor of maintaining the elderly designation at the Development.

Staff recommends approval of the amendment request as presented herein.

May 18, 2026

VIA EMAIL
Texas Department of Housing and Community Affairs
Asset Management Division
Attention: Lucy Weber
Email: lucy.weber.@tdhca.texas.gov

Re: St. Augustine Estates (the "*Development*")
St. Augustine Estate Apartments, L.P. (the "*Owner*")
TDHCA File Number 05609
LURA Amendment Request

Dear Ms. Weber:

As you know, we are counsel to the Owner of the above-referenced Development, and submit this request on the Owner's behalf. Owner and the Texas Department of Housing and Community Affairs ("*TDHCA*") entered into that certain Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Credits on January 12, 2007, which was filed in the Official Public Records of Dallas County, Texas (the "*Public Records*") on March 20, 2007, as File Number 2007010001, and was amended by that certain First Amendment to Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Credits dated effective January 12, 2007, which was filed in the Public Records on July 2, 2010, as File Number 201000167607 (collectively, the "*LURA*"). The LURA requires that throughout the Compliance Period, the Development shall be a "Qualified Elderly Development" (as defined in the LURA). The Compliance Period ended on December 31, 2021, but Owner would like the Development to maintain its status as a "Qualified Elderly Development".

This letter is to formally request an amendment to the LURA (the "*Amendment*") to extend the term by which the Development is a "Qualified Elderly Development" through the end of the Extended Use Period (as defined in the LURA).

The Amendment is necessary because Owner would like to continue to market and lease the Development elderly residents. There are 150 units and 210 residents at the Development and the Development is known generally throughout the community as elderly housing. Opening the Development to lease to the general population would cause confusion in the community and undue hardship on the current residents.

There is good cause for the change because the current residents entered into a lease at the Development under the assumption that the Development was for elderly tenants. The Amendment will not have a financial impact on the Development since the Development will continue to be subject to the rent and income restrictions set forth in the LURA through the end of the Extended Use Period.

The requested Amendment was not reasonably foreseeable at the time of initial application for low-income housing tax credits because after the date of initial application there was a transfer of interests in Owner. On May 25, 2016, TDHCA approved such ownership transfer. The current Owner did not file the initial application but would like to continue to operate the property as a "Qualified Elderly Development". If the current Owner had made the initial application, it would have applied for this restriction to be applicable through the end of the Extended Use Period.

The required amendment fee was scheduled to be paid to TDHCA by Owner on May 18, 2026.

We understand that for Material LURA Amendments such as this, Owner will need to provide reasonable notice and hold a public hearing at least 20 days prior to the July 23, 2026 THDCA board meeting where this request will be considered. Attached hereto as Exhibit A, is the proposed notice to be circulated regarding the public hearing.

We look forward to working with you to resolve any concerns with respect to this request. If there are any questions or if further discussion is needed, please let us know. Thank you for your time and consideration.

Sincerely,

Kandis Gren
Attorney at Law
kandis@clarkbusinesslaw.com
801-808-4600

CC: Ysella Kaseman, ysella.kaseman@tdhca.texas.gov (*via email*)
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Natasha Vargas, nvargas@peakliving.com (*via email*)

Encl.: Exhibit A