File #: 1316 **Agenda Date:** 2/5/2026 **Agenda #:**

Presentation, discussion, and possible action regarding a Material Amendment to the Land Use Restriction Agreement for The Heights at 8721 (HTC #20486)

RECOMMENDED ACTION

WHEREAS, The Heights at 8721 formerly known as Old Manor Senior (the Development) received a 4% Housing Tax Credit (HTC) award in 2020 for the new construction of 207 multifamily units, all of which are designated as low-income units, for the elderly, in Austin, Travis County;

WHEREAS, ECG Old Manor, LP (the Development Owner or Owner) represented at application and also executed a Land Use Restriction Agreement (LURA) reflecting a limitation for the elderly population;

WHEREAS, due to severe and ongoing occupancy challenges attributed largely to the elderly demographic restriction, the Development Owner requests to amend LURA to remove the current elderly restriction and instead allow for general occupancy for all ages with all committed incomes and rent limits remaining in place;

WHEREAS, 10 TAC §10.405(b)(2)(C) requires approval by the Board if there is a change to the Target Population; and

WHEREAS, the Development Owner has complied with the amendment requirements in 10 TAC §10.405(b), including holding a public hearing;

NOW, therefore, it is hereby.

RESOLVED, that the requested material LURA amendment for The Heights at 8721 is approved 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

The Heights at 8721 formerly known as Old Manor Senior received a 4% Housing Tax Credit (HTC) award in 2020 for the construction of 207 multifamily units, in Austin, Travis County. All the units in the Development are low-income units, and the target population is the elderly. The Elderly Limitation requirement in the LURA is the following:

- As determined by the HUD Secretary, is specifically designed and operated to assist elderly persons as defined in and provided under any Federal, State, or local government programs; or
- Is intended for, and solely occupied by persons who are 62 or older; or
- Is intended and operated for occupancy by at least one person 55 years of age or older per Unit, where at least 80% of the total housing Units are occupied by at least one person who is 55 years of age or older; and adheres to policies and procedures which demonstrate an intent by Development Owner and manager to provide housing for persons 55 years of age or older.

The Development is required to lease 100% of the units to individuals and families whose incomes do not exceed 60% of the area median gross income.

Construction of the Development was completed in 2024, and the cost certification documentation for the Development has been submitted by the Owner and is currently under review by the Department.

In a letter as of October 21, 2025, C. Hunter Nelson, representative for the Owner, requests approval to modify the current elderly restriction to allow general occupancy for all ages. Mr. Nelson explained that the change is necessary due to the fact that, despite the project’s high quality and low rents, lease-up has been significantly slower than anticipated, with current occupancy only at 62%. The underperformance and lack of traffic is something that the developer has not experienced in the more than 50 HTC properties that they have developed nationwide to date. The Owner indicated that, in response at the Development, they have implemented a range of targeted strategies to improve occupancy, including offering generous lease concessions, reducing rents well below the 60% AMI maximums, making staffing changes, and more. However, the property is failing to reach stabilization, and the Development continues to face severe and ongoing occupancy challenges attributed largely to the elderly demographic restriction. The amendment request letter further explains that the community would continue to house elderly residents, but population flexibility and access to a broader resident pool would allow the property to lease-up, stabilize and operate feasibly for decades to come. Without this consideration, the Owner fears the property is not financially or operationally feasible. While the construction lender has extended loan maturity to 2026, the anticipated financial cures are severe and not realistic. This, combined with the loss of equity due to a limitation on the Owner’s ability to fully claim the tax credits, creates a catastrophic scenario for the Owner.

The amendment request included an updated Market Analysis from the Gill Group. The market study prepared by Samuel T. Gill in October 2025 evaluated market conditions for the property under both the elderly-restricted and a general occupancy scenario for consideration by the Department. The Market Analysis demonstrates that the subject property is fundamentally misaligned with demand under its current elderly restriction. The study indicates that the property does not meet the Department’s base gross capture rate (GCR) threshold of 10%, which may be increased to 15% only in MSAs over one million population where the average occupancy of stabilized affordable housing within a 20-minute drive time exceeds 92.5%. Senior properties within the 20-minute drive time average 83.5% occupancy, well below the 92.5% requirement, meaning the subject property cannot qualify for the elevated 15% allowance and must be measured against the 10% base threshold. Against this standard, the subject property's inclusive capture rate of 18% fails both the 10% and even the 15% tests. The study also indicates that there are 228 vacant senior units already competing in the market and reflects a penetration rate of 320.6% for this property based on only 109 income-eligible senior households. In short, the study indicates that the senior segment is oversupplied, structurally weak, and unable to support the subject.

By contrast, the family scenario in the Market Analysis meets all QAP requirements. Stabilized affordable properties within the 20-minute drive average 96.2% occupancy, thereby qualifying for the elevated 15% GCR. The subject property, if converted to general occupancy, would reflect an inclusive capture rate of 7.4% (simple 5.1%), comfortably below both the 10% base threshold and the 15% allowance.

The Development Owner held a public hearing at an offsite location on January 6, 2026, to discuss the proposed change to the designation from senior to general. Ten residents attended the hearing, and representatives of the Development Owner received feedback and answered questions regarding the change in residency requirements. Several comments of concern were made about the proposed switch, including about the level of security, management issues at the property, and lack of common area for children. In addition, the Department received written correspondence from several tenants expressing their opposition to this amendment.

Due to financial infeasibility and a potential for default on the financing and possible loss of LIHTC affordable units through foreclosure by the lender, staff recommends a conditional approval of the requested material amendment to the LURA for the Development. As a condition for this approval, the Department is recommending and the Owner has agreed to provide written notice to all households residing at the Development by March 31 2026, that there will be no penalty under their lease for terminating the lease early if the household provides the Owner by May 31, 2026, that they wish to terminate the lease early and providing an effective termination date because of the property switching from an Elderly Development to a General Development. Likewise, a notice will be provided to any household on the waiting list by March 31, 2026 that the Development is switching to a general development and that if the household notifies the Owner by May 31, 2026 that they wish to be taken off of the waiting list, any nonrefundable deposit or application fee will be refunded to the household.

ELMINGTON

October 21st, 2025

Hunter Nelson

Managing Member

ECG Manor SLP, LLC

1030 16th Ave S, Suite 500, Nashville, TN 37212

Mr. Rosalio Banuelos

Director of Multifamily Asset Management

Texas Development of Housing and Community Affairs

221 East 11th Street, Austin, TX 78701

Mr. Banuelos,

I am writing on behalf of Old Manor, LP, the partnership for Old Manor Senior (TDHCA #20486), which is now operating as "The Heights at 8721". This 207-unit new construction community, located at 8721 Eastern Heights Blvd, Austin, TX 78724, provides affordable housing for elderly residents (55+).

Despite the project's high quality and low rents, lease-up has been significantly slower than anticipated, with current occupancy only at 62%, and the property is failing to reach stabilization. For the sustainability of the community, **we respectfully request that TDHCA allow the removal of the elderly population restriction within the LURA so the property may also serve a general family population.** The community would continue to house elderly residents, but population flexibility and access to a broader resident pool would allow the property to lease-up, stabilize and operate feasibly for decades to come. Without this consideration, we fear the property is not financially or operationally feasible.

The underperformance and lack of traffic is something that Elmington hasn't experienced in the 50+LIHTC properties nationwide that we have developed to date. In response at Old Manor Senior, we have implemented a range of targeted strategies to improve occupancy, including offering generous lease concessions, reducing rents well below the 60% AMI maximums, making staffing changes, and more. The high vacancy rates at Old Manor Senior, largely driven by the senior-only occupancy restriction, reduces Net Operating Income, making it increasingly difficult to meet operating expenses, comply with loan obligations, and maintain financial stability. Additionally, sustained low occupancy places our LIHTCs at risk as non-compliance with lease-up requirements jeopardize our ability to fully claim the credits. These issues must be addressed promptly to ensure the development may continue to serve Austin's affordable housing needs.

In addition to our property specific data and observations, our portfolio-wide data from our Austin properties strongly reinforces that the age restriction at this community is the driving factor hindering lease-up. Our two comparable family-oriented communities in lease-up in Austin, Yager Flats and Capital View Flats, leased at a significantly faster pace.

Without removing the elderly restriction, Old Manor Senior is not sustainable. While the construction lender has extended loan maturity to 2026, the anticipated financial cures are severe and not realistic. This, combined with the loss of equity from reduced equity, creates a catastrophic scenario for ownership.

We are requesting TDHCA to support ownership submitting a Material Amendment Request to remove the elderly age restriction. Thank you.

Regards,

C. Hunter Nelson

Managing Member, ECG Manor SLP, LLC

President, Elmington Affordable, LLC

Updated Market Analysis

ECG Manor SLP, LLC engaged Gill Group to complete a market study of Old Manor Senior, aka The Heights at 8721 in Austin, Texas. The analysis, prepared by Samuel T. Gill in October 2025, was specifically intended to evaluate market conditions for the property under both an elderly-restricted and a general occupancy (family) scenario for consideration by TDHCA.

The Market Study demonstrates that the subject property is fundamentally misaligned with demand under its current elderly restriction. TDHCA's QAP (§11.302(i)(1)) establishes a base gross capture rate (GCR) threshold of 10%, which may be increased to 15% only in MSAs over one million population where the average occupancy of stabilized affordable housing within a 20-minute drive time exceeds 92.5% (§11.303(d)(10)(E)(iv)). Senior properties within the 20-minute drive average only 83.5% occupancy, well below the 92.5% requirement, meaning the subject cannot qualify for the elevated 15% allowance and must be measured against the 10% base threshold. Against this standard, the subject's inclusive capture rate of 18.0% fails both the 10% and even the 15% tests. This outcome is reinforced by 228 vacant senior units already competing in the market, the subject's own 59% vacancy at the time of the study (122 units), and a penetration rate of 320.6% based on only 109 income-eligible senior households. In short, the senior segment is oversupplied, structurally weak, and demonstrably unable to support the subject.

By contrast, the family scenario meets all QAP requirements. Stabilized affordable properties within the 20-minute drive average 96.2% occupancy, thereby qualifying for the elevated 15% GCR. The subject, if converted to general occupancy, would reflect an inclusive capture rate of 7.4% (simple 5.1%), comfortably below both the 10% base threshold and the 15% allowance. Penetration rates confirm the strength of the family market, with over 1,800 income-eligible renter households at 60% AMI compared to only 109 for seniors. Affordable family comparables report 8.3% vacancy versus 25.9% among senior comparables, highlighting the stability and depth of family demand.

The broader market data reinforces these conclusions. The study identifies a total of 552 surveyed senior units in the primary market area, with 143 of them vacant, reflecting a persistent vacancy rate of nearly 26%. Several senior communities—such as the Village at Fiskville (28% vacant), Sunday Village (30% vacant), and Village at Collinwood (24% vacant) – remain years after opening without achieving stabilization. Property managers report that concessions and rent adjustments have not meaningfully improved performance, suggesting the weakness is structural rather than cyclical. The subject's own 59% vacancy rate places it squarely within this broader trend, confirming that it is not an isolated issue. Conversely, family developments show markedly different outcomes. Among 1,058 surveyed affordable family units, only 85 are vacant, yielding a vacancy rate of 8.3% – less than one-third of the senior vacancy rate. Family properties like Residences at Decker (4% vacancy), Eagles Landing (2% vacancy), and Reserve at Springdale (5% vacancy) demonstrate durable demand and consistently stabilized operations. Moreover, when supply is compared to the eligible household base, the differences become starker: senior penetration exceeds 320%, signaling oversaturation, while family penetration is balanced against a large pool of over 1,800 income-qualified households at 60% AMI. These conditions validate the capture rate findings, showing that senior demand is fundamentally insufficient while family demand is strong, resilient, and capable of absorbing the subject's units in compliance with QAP thresholds.

The Market Study's conclusion is clear: as an elderly-restricted project, the subject fails TDHCA's QAP standards at every level – it does not qualify for the elevated 15% test due to weak senior occupancy, it materially exceeds the 10% base threshold with an 18.0% capture rate, and it suffers from excessive penetration relative to eligible households. As a family project, it passes both capture thresholds, demonstrates materially lower penetration, and aligns with a proven pattern of stabilized occupancy across comparable assets. The evidence is overwhelming that the senior restriction is proven inconsistent with the QAP framework and market realities, while conversion to family aligns the project with demand and ensures its long-term viability.

Property Occupancy Trends

Old Manor Senior has been experiencing persistent lease-up challenges since leasing efforts began in summer 2024. Of the 207 total units, only 129 are currently occupied, placing the property at just approximately 62% leased, with 38% of the units remaining vacant. The low occupancy rates are creating significant financial strain on the development.

This prolonged vacancy rate is having a significant negative impact on the property's operating income, resulting in substantial underperformance relative to our initial projections. The combination of low operating income and high expenses is causing Old Manor Senior to incur financial losses.

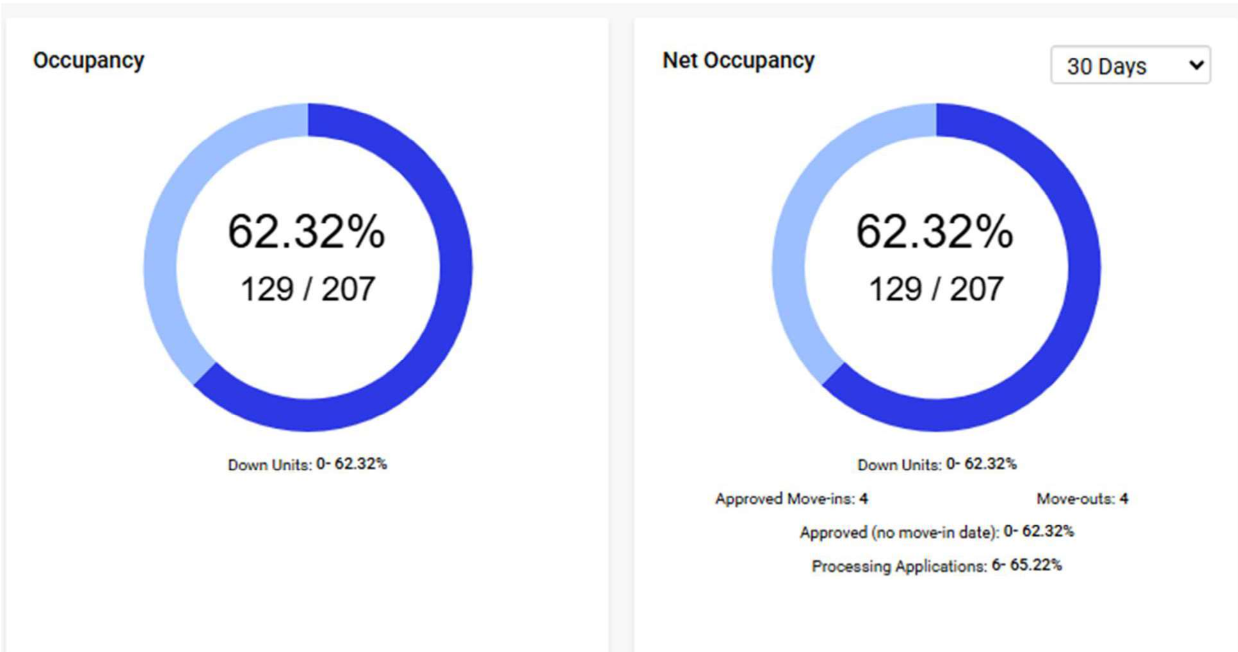
The low occupancy rates stand to have a significant effect on the project's financial sources. Our permanent debt financing is contingent upon Old Manor Senior achieving 90% occupancy for a consecutive 90 days, which isn't realistic based on current trends.

By contrast, our other affordable housing developments in the Austin market are performing notably better. Capital View Flats (21436) is currently 95% occupied and will convert in late 2025. Yager Flats (21435) has reached 99% occupancy and will convert in late 2025. Neither of these properties are subject to an elderly restriction.

Under the current guidelines of the Land Use Restriction Agreement (LURA), Old Manor Senior is permitted to lease up to 20% of its units, equating to 41 apartments, to individuals under the age of 55. At present, all these non-senior units are fully occupied, highlighting a strong and ongoing demand for affordable housing options for non-elderly residents in the area.

Given the strong demand we're seeing for non-age-restricted apartments in Old Manor Senior and our other communities, it's evident that the elderly restriction at Old Manor Senior is the primary barrier to achieving stabilization occupancy. The limited tenant pool created by this restriction is not aligned with the housing needs of this Austin submarket.

Removing the age restriction would allow Old Manor Senior to, not only help the property reach to financial feasibility, but to better meet the housing needs of the Travis County population.



Rental Rates

Due to persistently low occupancy at Old Manor Senior, we have significantly reduced our asking rents to remain competitive and attract qualified tenants. The property offers a mix of one- and two-bedroom units, all of which are restricted to 60% AMI prices per the LURA.

When lease-up began in 2024, we were unable to achieve max 60% LIHTC rents. Old Manor Senior's one-bedroom units were priced at $1,140 and two-bedroom units at $1,370. However, as leasing challenges continued, rental rates were gradually reduced to attempt to capture demand. By January 2025, pricing had dropped as low as $799 for one-bedroom units and $999 for two-bedroom units. Despite the substantial price reduction, occupancy levels did not improve, indicating that the issue stems from the population rather than pricing. Today our current rent prices are $999 for one-bedroom units and $1,299 for two-bedroom units.

The fluctuation in our rent levels has had a negative impact on our revenue stream. The original pricing of our one- and two-bedroom units was structured to meet our debt service obligations. However, the rent variability driven by market conditions and occupancy constraints has caused our NOI to fall below the minimum debt service coverage ratio required by our financing agreements.

This decline in NOI presents a significant financial risk as it will create massive loan sizing adjustments and jeopardize loan compliance. Maintaining a healthy DSCR is essential not only for ongoing operations, but also for ensuring long-term financial stability.

Removing the senior-only restriction at Old Manor Senior would allow the property to align more closely with current market demand and increase leasing volumes. Expanding eligibility to the broader affordable housing population in Austin would increase occupancy, support a return to sustainable rental rates, and restore the property's financial stability. This change is essential to ensuring the long-term viability of the development and its continued ability to serve the affordable housing needs of the community.

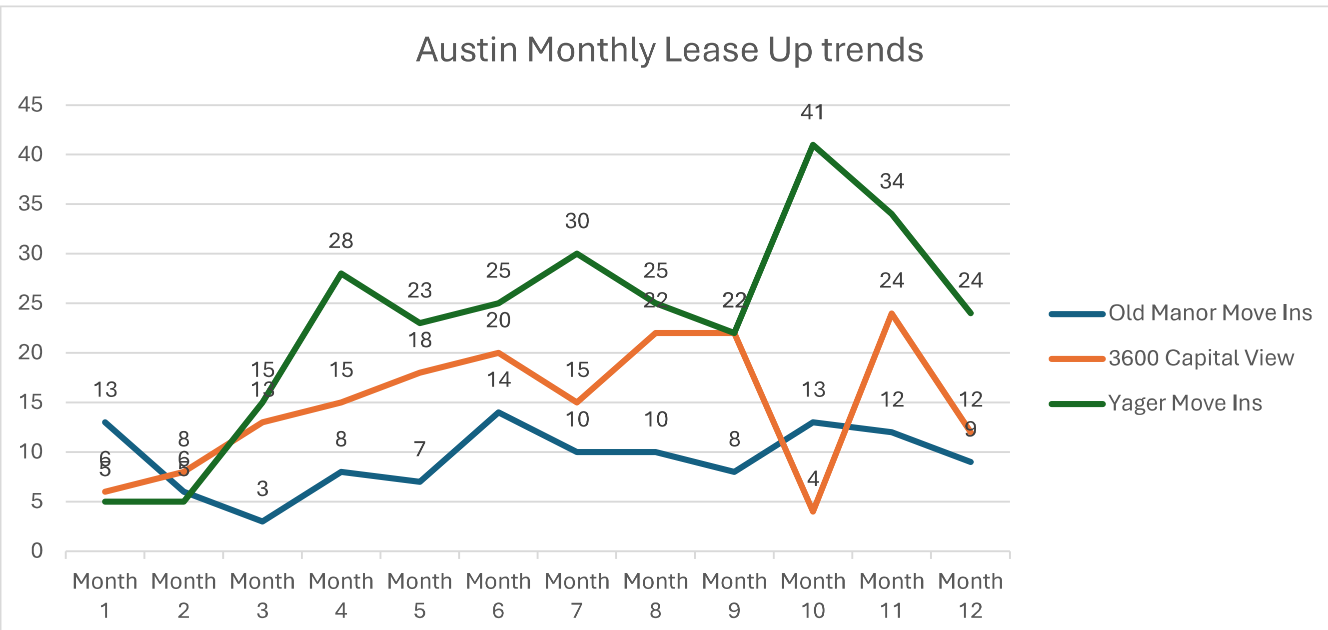
Absorption

Old Manor Senior has experienced consistently low leasing activity since opening. As of today, only 129 units are currently leased out of 207 total units. In both 2024 and 2025 to date, the property has averaged just 9 move-ins per month during its first 12 months. The property also exhibits consistent amounts of move outs per month. These two factors produce a move-in rate significantly below that of our other Austin developments.

By comparison, Yager Flats averaged 23 leases per month during its first year. Capital View Flats averaged 15 leases per month during its first year.

The disparity of move-ins per month is largely due to the senior restriction placed on Old Manor Senior. The limitation has significantly narrowed the eligible tenant pool, despite the strong demand for affordable housing in the area, demonstrated by our other affordable housing projects in Austin. It is imperative that we accelerate lease-up at the property.

By lifting the age restriction, Old Manor Senior would immediately generate greater traction from Austin's affordable housing community, increasing the number of move-ins per month. A higher number of move-ins per month would increase our occupancy rates, while allowing rental prices to return to a more sustainable level gradually over time. As a result, the overall financial health of the project will improve, allowing the development to effectively serve the community for years to come.



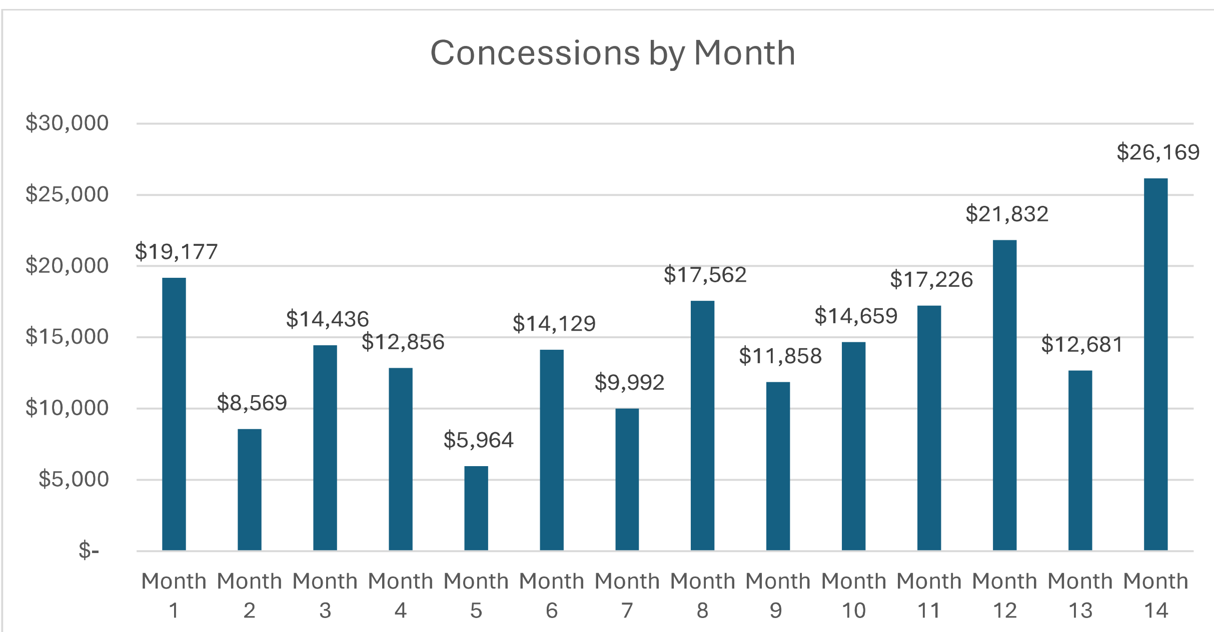
<u>Concessions</u>

Old Manor Senior's low move-ins by month have caused ownership to offer generous concessions on leases. The goal of offering these financial incentives is to attract new tenants quicker, helping to lease-up the vacant units.

Old Manor Senior's concessions began in 2024. We began offering 1-month free rent to attract new tenants. However, this was insufficient to attract new tenants. In the last year we have tripled the number of concessions we offer. New residents are now eligible for 3 months' free rent, totaling approximately $3,600 per new tenant. To date we have eclipsed $200,000 dollars in discounted rent concessions.

Our experience with previous developments has demonstrated that offering competitive lease concessions can effectively drive move-ins and support the development's occupancy goals. However, even with the concessions Old Manor Senior is just 62% occupied. The large concessions combined with low occupancy rates are putting massive amounts of financial challenges on the development. The elderly age restriction is significantly limiting the eligible tenant pool, thereby diminishing the impact of these incentives.

Removing the elderly restriction would enhance leasing performance and also enable ownership to gradually reduce concessions and setup the property for long-term financial sustainability.



Marketing Efforts

Elmington is dedicated to maximizing the potential of our properties through strategic and consistent marketing efforts. Our property management division, Elmington Property Management, develops customized marketing plans tailored to the unique needs of each developments' communities.

Our comprehensive marketing strategies include analyzing local market trends, identifying and targeting underrepresented demographic groups, engaging with local organizations, leveraging internet platforms, and more. To ensure effectiveness, Elmington Property Management conducts weekly performance reporting and periodic on-site visits to evaluate and adjust our marketing efforts as needed.

To address the current vacancy levels at Old Manor Senior, Elmington Property Management has implemented a comprehensive, multi-channel marketing strategy that integrates both digital and physical outreach efforts. This approach is designed to enhance property visibility, attract qualified leads, and improve leasing performance.

On the digital front, Elmington utilizes three key platforms: Conversion Logix, SOCI, and Maven AI. Conversion Logix manages our targeted online advertising campaigns across platforms such as Facebook, Instagram, and YouTube. These campaigns are performance-driven and track key metrics such as advertisement impressions and click-through rates. Last month, Facebook ad impressions increased by 21%, totaling 95,764 impressions with 1,296 user clicks. YouTube ad impressions rose by 27%, accompanied by a 3% click-through rate. We currently allocate approximately $4,800 per month to Conversion Logix to drive qualified internet traffic to the Old Manor Senior website.

SOCI is a lead generation and search optimization tool that helps us monitor and leverage keyword trends related to affordable housing. On average, this platform generates 950 leads per month. For instance, Elmington pays to be associated with high-value search terms such as "Affordable Apartments in Austin," allowing our property to appear prominently in relevant online searches. SOCI ensures that our content is aligned with commonly used keywords, thereby enhancing our digital visibility and increasing the likelihood of engagement from prospective residents.

Maven AI supplements these efforts by providing valuable data on user behavior. The platform tracks phone calls made to the property, online direction requests, and map views. Over the past three months, Old Manor Senior has averaged 950 phone calls, 400 direction requests, and 575 map views per month. This data allows us to assess the effectiveness of our marketing campaigns from a behavioral standpoint and informs ongoing adjustments to our strategy.

In addition to digital marketing, Elmington has expanded its physical marketing efforts in response to elevated vacancy rates. We recently commissioned two billboards in strategically selected locations near the property to increase awareness. A direct mail campaign was also distributed to surrounding neighborhoods to capture local interest. On-site, we have installed new branded signage and large promotional banners to further enhance the property's visibility and curb appeal. These physical initiatives are intended to complement our digital outreach and generate increased traffic to Old Manor Senior.

Removing the age restriction at Old Manor Senior will significantly increase the effectiveness of our marketing efforts by broadening our target audience. This change would enable us to market the community to a wider segment of Austin's affordable housing population, expanding our outreach and allowing us to better serve individuals and families in need of rent-restricted housing.

Traffic

In preparation for this appeal, we conducted a review of our applicant denial data at Old Manor Senior to better understand the extent to which the current age restriction may be contributing to ongoing lease-up challenges.

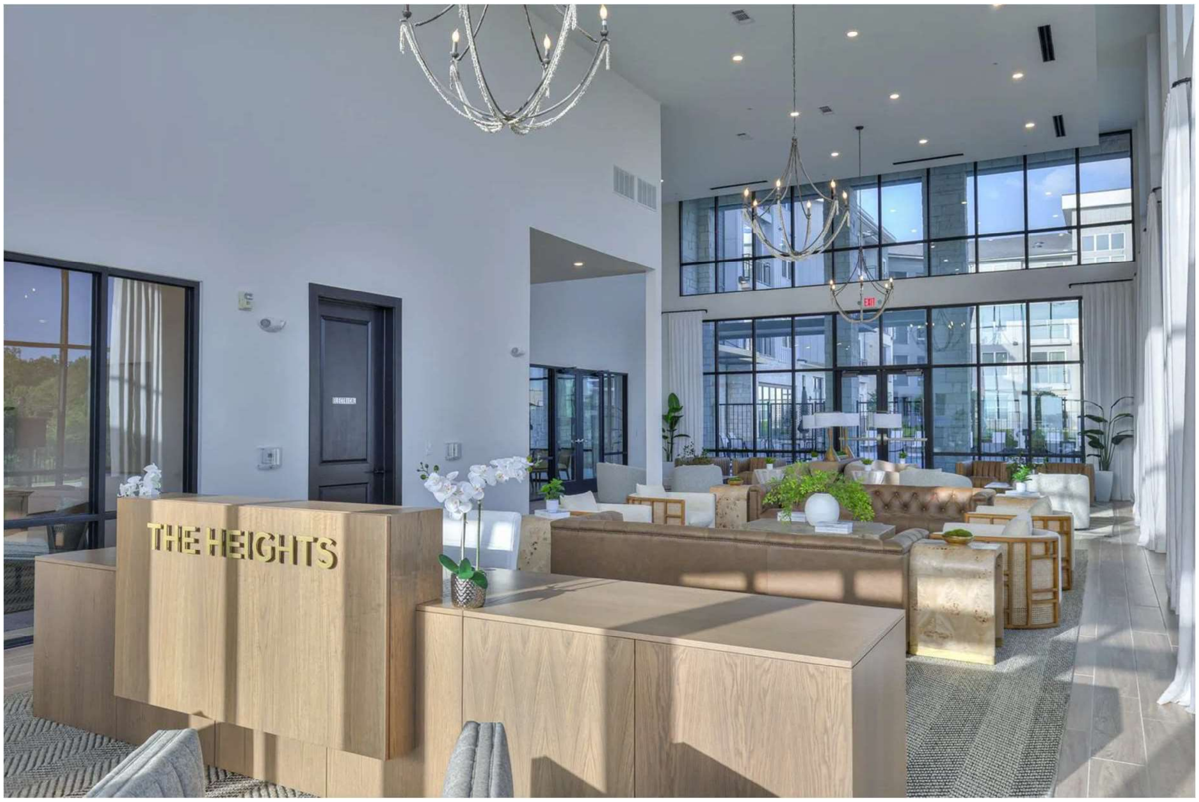
Our internal data strongly suggests that the senior-only restriction is a significant barrier to occupancy at Old Manor Senior. Even without marketing to the general population, we are receiving a steady stream of interest from non-senior applicants, highlighting a clear demand for affordable housing that our current restriction prevents us from meeting.

Lifting the age restriction would allow us to serve a broader segment of the community, making a more significant impact for the people of Austin. We are confident that opening the property to the full affordable housing population would result in far less denials and will contribute to long term tenant growth.

Conclusion

In conclusion, the evidence is clear and consistent that the current community is not meeting the affordable housing needs of Austin / Travis County and that the community is not financially sustainable. Under its current elderly restriction, Old Manor Senior fails both the base 10% and conditional 15% capture rate tests, faces chronic oversupply with senior comparables averaging only 83.5% occupancy, and is unable to stabilize despite deep concessions, marketing efforts, and management interventions. By contrast, the family scenario demonstrates compliance under all QAP standards, with an inclusive capture rate of 7.4%, strong market penetration, and comparables stabilized at 96% occupancy. Converting from elderly to a general population ensures the property aligns with actual market demand, restores financial viability, preserves financial compliance, and most importantly, activates much-needed affordable housing units for Austin citizens. For these reasons, we respectfully request TDHCA's support to remove the elderly restriction and allow Old Manor Senior to operate as a family LIHTC community.

Exhibit A: Old Manor Senior Images

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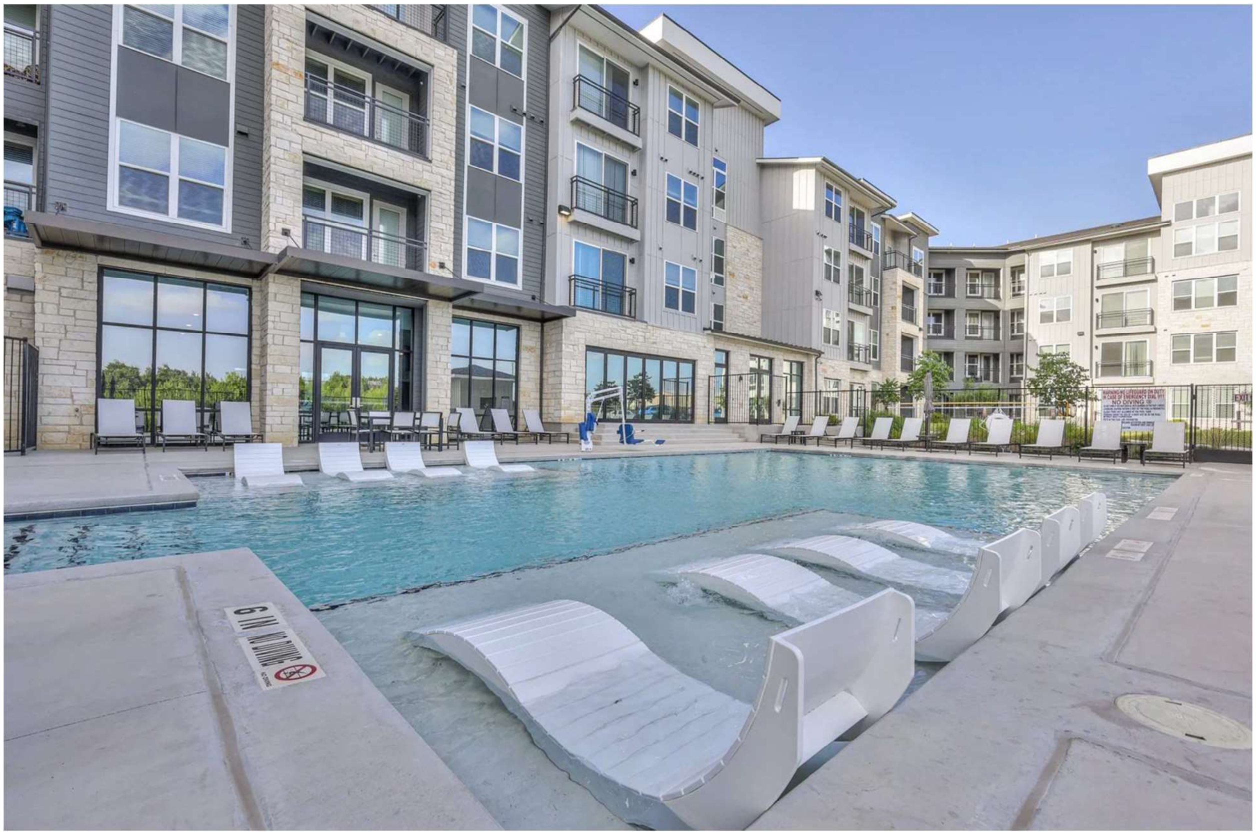
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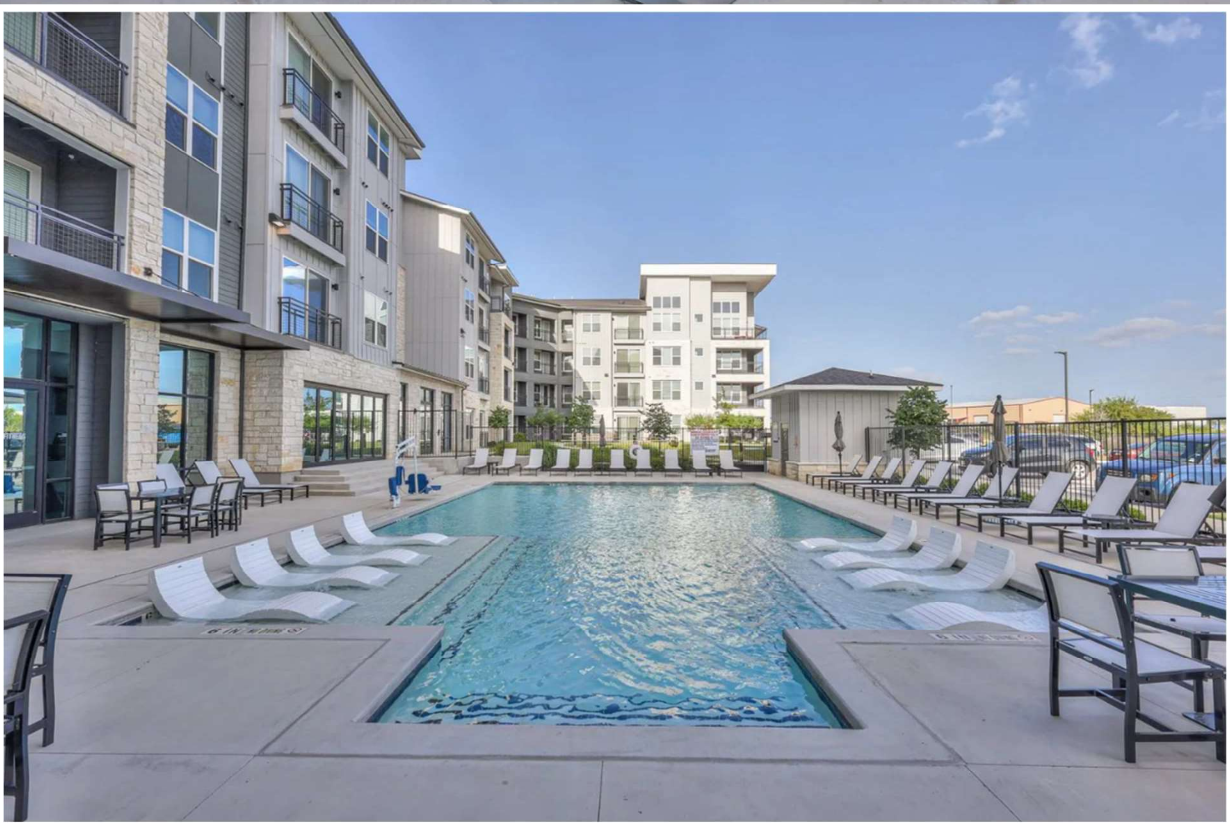


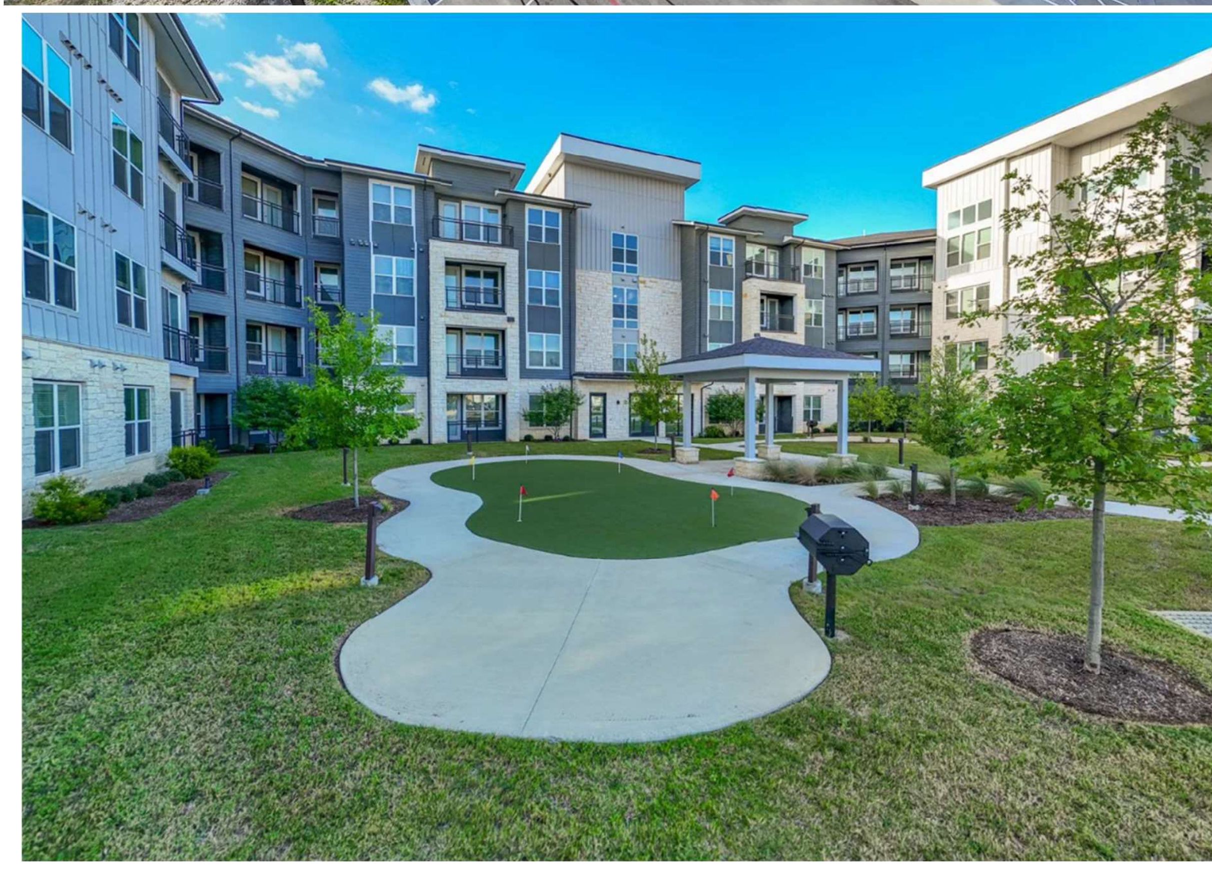
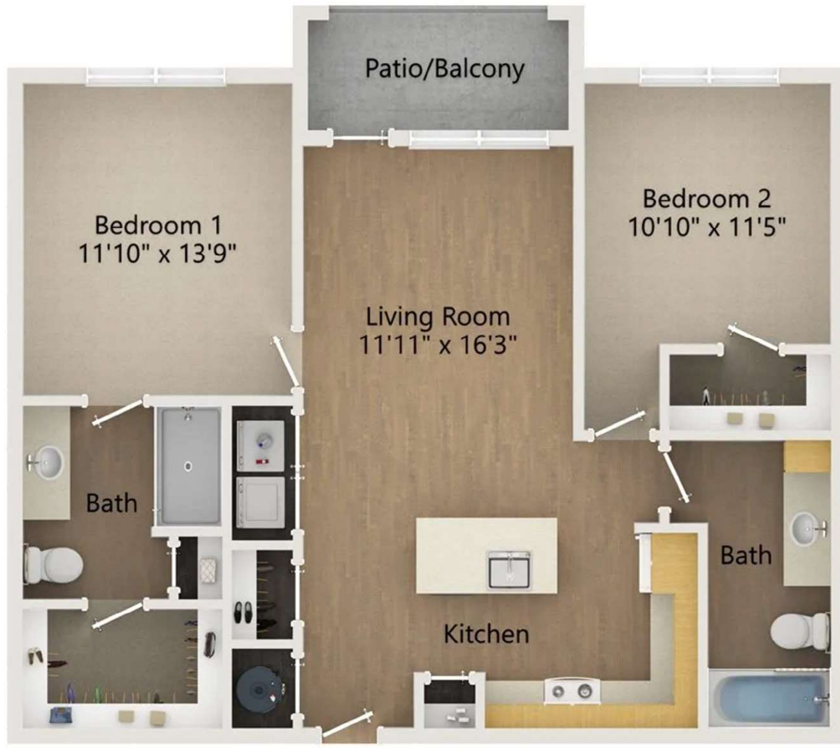


Exhibit B: Old Manor Senior Floor Plans


Patio/Balcony
Bedroom 1
11'10" x 13'9"
Living Room
11'11" x 16'3"
Bedroom 2
10'10" x 11'5"
Bath
Kitchen
Bath


Patio/Balcony
Bedroom 2
11'11" x 11'11"
Kitchen
Living Room
11'10" x 12'4"
Bath
Bedroom 1
11'7" x 12'10"
Bath