



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING OF JULY 29, 2002

Michael Jones, Chair
C. Kent Conine, Vice-Chair

Beth Anderson, Member
Vidal Gonzalez, Member

Shadrick Bogany, Member
Norberto Salinas, Member

BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Capitol Extension Auditorium, 1400 North Congress, Austin, Texas 78701
July 29, 2002 10:30 a.m.

AGENDA ADDENDUM

The following reflects Action Item 3 from the Agenda:

Item 3 Presentation, Discussion and Possible Action on Appeals to Board from Michael Jones
Low Income Housing Tax Credit Applicants on Application Matters
as follows:

02-015 Eagles Point Apartments
02-023 Ensenada de la Palma
02-028 Cricket Hollow
02-031 La Estrella Apartments
02-032 Padre de Vida Apartments
02-033 Pueblo de Paz Apartments
02-078 Sphinx at Murdeaux
02-074 Arbor Woods
02-086 Refugio Street Apartments (tabled at June 24, 2002 Meeting)
02-087 El Capitan Apartments
02-116 Killeen Stone Apartments
02-133 Ryans Crossing

Any Other Appeals Timely Filed in Accordance with the Qualified Allocation Plan
And Rules

Other Appeals Timely Filed Include:

02-023 Ensenada de la Palma (additional appeal documents submitted)
02-113 Birch Wood Park Apartments
02-115 Pampa Gardens Apartments

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

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ATTORNEYS AND COUNSELORS AT LAW

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GOVERNMENTAL CONSULTANTS
MARGARET A. MENDUNI
M. LANE STEPHENS

July 22, 2002

Ms. Delores Groneck
Board Secretary
Texas Department of Housing
and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

TELECOPIER

RE: 2002 LIHTC Application
Development Name: Ensenada de la Palma
TDHCA #02023

Dear Ms. Groneck:

This letter will serve as an appeal of the above-described Application to the Board for consideration at their July 29, 2002 meeting. The Applicant is appealing the Department's determination regarding underwriting criteria as well as the amount of housing tax credits recommended to be allocated to the application. An original appeal was filed with the Executive Director on or about June 24, 2002 and the Applicant is now appealing the Executive Director's response dated July 8, 2002. As set forth below, the Applicant contends that the Department's underwriting analysis was flawed in light of current market conditions. The Applicant also contends that construction costs listed in the Application were appropriate based upon enhanced design features and the Department's approval of similar developments.

Direct Construction Cost Computation

The Applicant contends that the Department's computation of direct construction costs is flawed and that the construction costs reflected in the application are appropriate. The underwriter's analysis states that the Applicant's construction costs are excessive and should be reduced by \$676,000. In reaching this conclusion, the underwriter apparently used the Marshall & Swift Residential Cost Handbook, which was apparently further adjusted by the Brownsville local multiplier of .82.

Page 2

July 22, 2002

Section 49.8(b) of the 2002 QAP sets forth the underwriting guidelines with respect to reviewing applications. Subsection B deals specifically with construction standards and states that the cost basis is defined by using the "Average" quality as defined by the Marshall & Swift Residential Cost Handbook. However, the rule goes on to state that "[i]f the Development contains amenities not included in the Average Quality Standard, the Department will take into account the costs of the amenities as designed in the Development." (Emphasis added).

In this case, the Applicant is providing a development with amenities greater than Average quality as that term is defined in the Marshall & Swift Residential Cost Handbook. For instance, 75% of the exterior finish consists of brick and masonry products; the development will include a club house of approximately 3,400 square feet; the HVAC has a SEER rating of 12; the development will be constructed with 30-year architectural grade shingles; microwave ovens will be provided in each unit; and the development will have a gated entry. All of these above average features will dramatically increase construction costs. These factors were not taken in consideration when assessing the appropriateness of the Applicant's development costs.

In addition, in 2001 the principles of this Applicant submitted the Westchester Woods, Ltd. Application, which is a similar development to Ensenada de la Palma which and contains similar amenities and apartment-building designs, which was designed by the same architect. In fact, both developments are or will be constructed by the same builder. In analyzing the Westchester Woods application, the underwriters determined that the construction costs associated with the development were appropriate. The Westchester Woods application was further approved by the Department and received a funding allocation earlier this year. In submitting its application, Ensenada de la Palma estimated its construction costs based upon the approved construction costs contained in the Westchester Woods application. As reflected in the attached Exhibit "A," the per square foot construction cost for both developments is virtually identical. The Applicant should not be penalized for relying on previously approved construction costs.

Based upon the foregoing, the amount of eligible basis should remain unchanged. The underwriter report should reflect an annual allocation of tax credits in the amount of \$959,106.

City of Brownsville Funding

In reviewing the Application, the Department did not consider funding from the City of Brownsville. Specifically, the underwriter states that "the Applicant has not provided a commitment for the \$1,000,000 in funds from the City of Brownsville and [has] insufficient cash flow projected to be available to allow for any additional debt service of funds."

Section 49.7(e)(5)(D)(iii) of the 2002 QAP sets forth the information required to demonstrate a local commitment. As set forth in this portion of the QAP "[a]t a minimum, evidence from the

Page 3

July 22, 2002

lending agency that an application for funding has been made and a term sheet which clearly describes the amount and terms of the funding must be submitted." As reflected in attached Exhibit "B," the Applicant complied with this rule. In responding to the appeal, the Department contends that the Applicant had to provide a commitment from the local government. However the QAP does not require a commitment. Rather, the applicable rule merely requires that the Applicant provide evidence that it filed an application for funding and included a term sheet within the application. This Applicant complied with the requirements of the rules and therefore should be given credit for this funding source.

In addition, the underwriter reflects that the project's debt service should not exceed \$125,796. However, the underwriter fails to list this figure as one of the conditions to funding. The Applicant requests that the underwriting report be amended to reflect that allocation of credits is conditioned upon obtaining a loan commitment reflecting a debt service not to exceed \$125,796. This is consistent with other applications submitted in this cycle.

Inability to Repay Deferred Developer Fees within 15 Years
and Gap Funding caused by ineligibility for TDHCA HOME Funds

In failing to award an allocation of tax credits, the Department determined that the Applicant failed to demonstrate that deferred developer fees could be repaid within 15 years. In making this assessment, the Department apparently considered the Applicant's inability to obtain a below market \$300,000 loan from the TDHCA HOME Program. Given current market conditions, the Applicant does not need the TDHCA HOME Program funds as a funding source and can repay the developer fees within the proscribed time frame.

When the Applicant submitted its application, funding was originally predicated upon an 8% loan as well as a syndication rate of .79. As reflected in attached Exhibits "C" and "D," the Applicant is currently able to obtain a syndicate rate of .81 and first mortgage financing at a rate of 7.07%. Based upon market conditions as they existed at the time of underwriting and as they exist today, the Applicant does not need the TDHCA HOME Funds in order for its application to be viable. In addition, as a result of lower interest rates (which will reduce debt service) and an increase in syndication rates (which will increase syndication proceeds), the repayment of the deferred developer fee will easily occur within 15 years.

Accordingly, there is no gap in funding and the Applicant can repay its deferred developer fee within 15 years. If there is a continuing concern with respect to satisfying the repayment of the deferred developer fee, the Board may condition an allocation of credits based upon the Applicant obtaining financing with debt service at rates which ensure repayment of the deferred developer fee within this 15-year time frame.

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

Page 4

July 22, 2002

In conclusion, the Applicant feels that it has demonstrated that it is entitled to an allocation of tax credits from the Department and respectfully requests that the Board approve an allocation of tax credits to the Ensenada de la Palma development.

Pursuant to the QAP, Ensenada de la Palma requests that its appeal be heard before the Board at its meeting on July 29, 2002.

Sincerely,



Michael G. Maida

MGM/knb

Enclosures

cc: Todd Borck

COST COMPARISON OF WESTCHESTER WOODS (TDHCA #01451) AND ENSENADA DE LA PALMA (TDHCA # 02023)

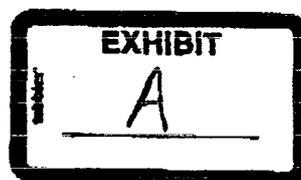
	WESTCHESTER WOODS TDHCA #01451 UNDERWRITTEN 10/01 250 UNITS	ENSENADA DE LA PALMA TDHCA #02023 UNDERWRITTEN 6/02 138 UNITS
TOTAL SQUARE FOOTAGE	267,220	153,812
HARD COSTS	\$ 13,200,000.00	\$ 7,633,810.00
PER SQUARE FOOT COST	\$49.3975	\$49.6941
SITE WORK PER SQ. FT.	\$ 5.51	\$ 5.82
ADMINISTRATIVE COST OF DAVIS-BACON PER SQ. FT.	\$ -	\$ 0.49
NET PER SQ. FT. COSTS	\$ 43.89	\$ 43.58
DIFFERENCE PER SQ. FT. COSTS		\$ (0.30)
PERCENTAGE DIFFERENCE		-0.69%

ADDITIONAL COSTS ASSOCIATED WITH ENSENADA DE LA PALMA AS A RESULT OF THE QAP

UPGRADED ENERGY FEATURES

ADDITIONAL MASONARY

ADDITIONAL AMENITIES



WINCHESTER WOODS, LTD.

615 CRESCENT EXECUTIVE COURT, SUITE 120
LAKE MARY, FLORIDA 32746
TEL: (407) 333-3233
FAX: (407) 333-3919

February 26, 2002

Ben Medina, Jr.
Planning and Community Development Department
El Tapiz Building, 3rd Floor
City Hall/Market Square
Post Office Box 911
Brownsville, Texas 78522

Re: Ensenada de la Palma

Dear Mr. Medina:

Enclosed is our application for HOME funds for the above referenced community, applying for \$1,000,000 for the construction of 136 apartment homes for "very low and "low income" households.

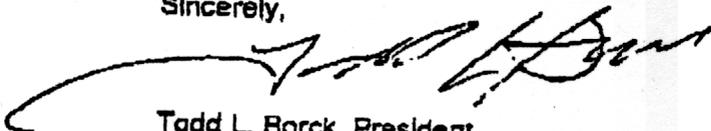
We respectfully request that the funding take place in \$500,000 increments, with the first amount funded during the first week of January 2003 and the second \$500,000 funded during the first week of January 2004.

Additionally, we would like the term of the loan to be 32 years, interest only, based on the Applicable Federal Rate ("AFR"), with 1% payable annually out of available cash flow. The difference between the 1% paid annually and the AFR would accrue until maturity.

We look forward to working with you and the City of Brownsville in the development of this much needed affordable housing community.

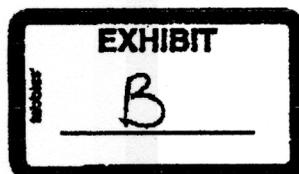
Should you have any questions or comments, please feel free to contact me.

Sincerely,



Todd L. Borck, President
Winwoo, Inc., General Partner

TLB/dw
Enclosure



CITY OF BROWNSVILLE, TEXAS
28TH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
Application for Funding
Solicitud de Fundacion

Date (Fecha): February 26, 2002

Name of Contact Person (Nombre de Contacto): Todd L. Borck

Mailing Address (Dirección): 615 Crescent Executive Court, Suite 120, Lake Mary, FL 32746

Telephone (Teléfono): (407) 333-3233

Agency (Agencia): Winchester Woods, Ltd.

Nonprofit agencies refer to Application for Funding Supplement "A"

Nonprofit agencies must submit proof of their nonprofit status.
 (Agencias sin fines de lucro necesitan presentar pruebas de estatus)

Project Name (Nombre Del Proyecto): Ensenada de la Palma

*To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase in the level of an existing service.
 (Para ser elegible y recibir por CDBG, tiene que ser un nuevo servicio o mejorar el que ya existe)

Location of Project (Localidad del Proyecto): West side of Old Port Isabel Road, south of
 intersection with Linda Vista Drive

Description of Project (Descripción del Proyecto): SEE ATTACHED Exhibit A

Amount of Request (Total Requerido): \$1,000,000

(Use Table 1 as a guide for your proposed budget)
 (Use Formas 1 como guía para su presupuesto)

Project Goals and Objectives (Metas y Objetivos del Proyecto): To provide affordable housing
 to "very low" and "low income" households in Brownsville. Deep targeting under
 Senate Bill 322.

Persons Benefiting (Beneficiarios): Households ranging in income from 30% - 60% of
 the Brownsville USA

Matching Funds (Fondos Equivalentes):

TDHCA Housing Trust Fund, HOME funds. Developer

(See Table 1/Explique en Formas 2)

(Instructions on back/Explicación en las) will provide deferred developer fees.

INSTRUCTIONS:

Please complete the Application for Funding on the reverse side. Your completed form will be placed on a list of potential projects for the City of Brownsville Community Development Block Grant (CDBG) Program funded through the United States Department of Housing & Urban Development.

This year, the City of Brownsville is eligible to receive approximately \$4,313,000 under the CDBG Program. CDBG is a federal program designed to improve housing, the environment, and economic opportunities, particularly for persons with low and moderate income. In the past the CDBG Program has funded such projects as home repairs, street improvements, sidewalk construction, extension of sewer lines, provision of drainage, etc.

There are two other programs funded through the Department of Housing & Urban Development. In the HOME Program, funds available in the amount of \$1,313,000 are for a program designed for housing opportunities for both single family and multi-family housing. In the Emergency Shelter Grant (ESG) funds an amount of \$151,000 is available for emergency shelters.

Examples of eligible projects are: acquisitions of property for rehabilitation, or construction of public facilities; neighborhood facilities; public services; fire protection and equipment; street improvements; pedestrian malls; walkways; and economic development.

Examples of ineligible activities are: political activities, income payments, transportation facilities arenas, museums, libraries, maintenance, and operations.

If you have a proposed project in mind, please complete and return this Application at our Public Hearings or mail to our office at:

City of Brownsville
Planning & Community Development
Department

ATTN: Ben Medina, Jr.
El Tapiz Bldg., 3rd Floor
City Hall/Market Square
P.O. Box 911
Brownsville, Texas 78522

Should you have any questions, contact the Planning & Community Development Department at (956) 548-6150.

INSTRUCCIONES:

Por favor llene la solicitud al reverso de la pagina. Su solicitud sera archivada en la lista de proyectos potenciales del Programa "Block Grant" de Desarrollo de la Comunidad (CDBG). Estos fondos son otorgados por el Departamento de Desarrollo Urbano y de Viviendas.

Este año, la Ciudad de Brownsville es elegible a recibir aproximadamente \$4,313,000 de CDBG. CDBG es un programa federal que fue diseñado para mejorar viviendas, el medioambiente, y oportunidades economicas, especialmente para personas de bajo y moderados recursos en Brownsville. El Programa de CDBG ha sido utilizado para proyectos como reparacion de viviendas, mejoramiento a calles, construccion de banquetas, extension de alcantarillado, instalacion de drenaje, etc.

Existen ademas, otros dos programas subvencionados por el Departamento de Desarrollo Urbano y de Viviendas. El primero es el programa "HOME". Para este programa se recibio \$1,313,000. Este es un programa diseñado para oportunidades para viviendas individuales, o departamentos. El segundo proyecto es el de albergue de emergencia. La cantidad disponible para estos proyectos es \$151,000.

Ejemplos de actividades elegibles son: Adquisicion de propiedades para rehabilitacion, o construccion de edificios publicos y de viviendas, servicios publicos, equipo y proteccion contra fuego, mejoramiento de calles, banquetas y desarrollo economico.

Ejemplos de actividades ineligibles son: Actividades politicas, pagos de ingreso, transportacion, obras publicas, museos, bibliotecas, mantenimiento y operaciones.

Favor de llenar esta solicitud si usted tiene algun proyecto en mente potencial que podia ser financiado con dinero de CDBG. Regresar la solicitud al Departamento de Desarrollo de la Comunidad durante las juntas publicas o a la direccion:

City of Brownsville
Planning & Community Development Department

ATTN: Ben Medina, Jr.
El Tapiz Bldg., 3rd Floor
City Hall/Market Square
P.O. Box 911
Brownsville, Texas 78522

Si tiene alguna pregunta, llame al Departamento de Planificacion y Desarrollo de la Comunidad al numero (956) 548-6150.

0 19 02 03:56p

BROWNSVILLE PLANNING C&D DEP 956 5488144

P-5

Do you have volunteer staff/ support? No How many? Staff N/A Other N/AAre you computerized? Yes What software do you use? Micorsoft Office/WordDo you feel your staff is adequately trained on your system? YesWhat is your organization's primary administrative need (funding, technical assistance, service gap, closure, etc.)? N/A**ABOUT YOUR CLIENTS:**Who is your clientele? Very low and low income householdsYour geographic service area Texas, Georgia, FloridaHow many are serviced monthly? All Annually? AllDo you ever have occasion to deny/decline service? YesFor what reasons? Clientele over incomeIncome range of clientele (annual)? \$5,000-\$40,000 g. income (if different) \$ UnknownFrom where are the majority of your clients referred? Resident "word of mouth", AdvertisingMethod of data collection ComputerAre there other agencies providing comparable services in this community (this is to make sure we know about everyone - please tell us about your colleagues)? Yes, many developers endeavor to provide safe, affordable housing.What do you see as the critical issue/need for your clients in the next 3-5 years? Supply.

Based on the market study, the Brownsville area has a critical shortage

of affordable housing. Many households are living in substandard

housing and paying more than 60% of their income in rent.

CURRENTLY N/A

INCOME ELIGIBILITY AFFIDAVIT

I. ENTRY/ADMISSION INTERVIEW:

1. NAME:

Last

First

2. PHYSICAL CONDITION: Handicapped _____ Yes _____ No

3. ETHNIC ORIGIN: Hispanic _____ White _____ Other _____

4. FAMILY COMPOSITION: NAME D.O.B. AGE

Head of House: _____

Spouse: _____

Children: _____

5. SOURCE OF INCOME: (Optional)

Type	Amount
_____	_____
_____	_____
_____	_____
Total	\$ _____

6. PLEASE CIRCLE ONE OF THE FOLLOWING:

Family Size	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Income	\$20,050	\$22,900	\$25,800	\$28,650	\$30,950	\$33,200	\$35,500	\$37,800

Do you earn more than the amount circled? Yes _____
 No _____

Any falsifying or intentionally withholding of information of any part of this questionnaire will be reported to the U.S. Dept. of Housing and Urban Development.

U
 SIGNATURE _____

DATE _____

BROWNSVILLE PLANK SLD DEP 956 5486;44

CURRENTLY N/A

TABLE 1
DESCRIPTION OF PROJECT ACTIVITIES
(Use of CDBG & ESG Funds)

SUBRECIPIENT NAME:

CONTRACT PERIOD: 10/1/02 - 9/30/03

Activity Category	Description of Activities	Line Item Subtotals	Total Funds by Category
	Contract Amount: \$		
A	ADMINISTRATION (CDBG & ESG)		
	Salaries (list positions/amounts)		
	Payroll taxes & Employer benefits		
B	OPERATIONS (CDBG & ESG)		
	Salaries (list positions/amounts)		
	Payroll taxes & Employer benefits		
	Other operating costs		
	▼ FOR USE BY ESG APPLICANTS ONLY ▼		
C	ESSENTIAL SERVICES (ESG Only)		
	Salaries (list positions/amounts)		
	Other essential services costs		
D	MAINTENANCE, OPERATIONS AND FURNISHINGS (ESG Only)		
	Maintenance (contractual agreements only)		
	Operations (excluding staff costs)		
	Staff travel (Brownsville only)		
	Telephone		
	Audit		
	Food		
	Supplies (office and maintenance supplies)		
	Rent		
	Repairs		
	Security Services (contractual agreement)		
	Insurance (excluding professional & personal)		
	Utilities		
	Equipment		
	Furnishings (list item(s) & amount)		
E	HOMELESSNESS PREVENTION (ESG Only)		
	TOTAL		

CURRENTLY N/A

TABLE 2
MATCH FUNDS

SOURCE	DOLLAR VALUE	METHOD OF CALCULATION (Include Source of Match and Calculation Methods)
DONATIONS:		
Material(s)	\$ _____	_____

Building	\$ _____	_____

Funds	\$ _____	_____

LEASE OR RENT	\$ _____	_____

SALARIES	\$ _____	_____

VOLUNTEERS (@ \$5/hour)	\$ _____	_____

OTHER	\$ _____	_____

OTHER	\$ _____	_____

MATCH TOTAL	\$ _____	_____

**ENSENADA DE LA PALMA
WINCHESTER WOODS, LTD.**

Ensenada de la Palma is a proposed townhome multi-family LIHTC/Market Rate community consisting of 136 units (68 two BR/two BA and 68 three BR/two BA) and a Clubhouse. The Clubhouse will provide the offices, a community room and a central laundry facility. The apartment units will provide quality living floor plans (larger than the area average) with separate modern kitchens and baths and individually controlled heating and air conditioning. The common areas will be lighted, providing security for residents. The entire development will be fully landscaped and feature an attractive architectural design.

It will be located on Old Port Isabel Road, south of Linda Vista Drive in Brownsville on a 15 +/- acre site. The subject site is an undeveloped tract bounded by single family homes, older apartment homes and vacant land.

Winchester Woods will serve residents in the 30%, 40%, 50% and 60% of median income range and will also include market rate units. Section 8 certificate and voucher holders will be welcome.

Amenities will include a pool, playground area, car wash area, community laundry facilities, and exercise room.

Ensenada de la Palma's design and layout will be of a better quality compared to other affordable and market rate projects in the area. The unit mix and amenities provide an excellent selection for prospective tenants, and the quality of the new units will be better than other competing affordable multi-family units in the area.

WENDOVER

HOUSING PARTNERS, INC.
615 CRESCENT EXECUTIVE COURT, SUITE 120
LAKE MARY, FLORIDA 32748
TEL: (407) 333-3233 FAX: (407) 333-3819

WENDOVER HOUSING PARTNERS, INC., is a Florida corporation which specializes in the development and management of affordable housing communities throughout the United States. Jonathan L. Wolf, Todd L. Borck and Patrick E. Law are the principal shareholders in Wendover Housing Partners, Inc. Together, Messrs. Wolf, Borck and Law have been involved in developing more than 5,000 multifamily apartment homes in Florida, including multifamily apartment homes using funding sources through local housing finance authorities and the Florida Housing Finance Corporation.

JONATHAN L. WOLF is the president and founder of Wendover Housing Partners, Inc., which specializes in the development and management of affordable housing communities throughout the United States. Additionally, Mr. Wolf is president and founder of Wendover Holdings & Company, Inc., an investment banking and real estate development company that has managed the placement of over \$100 million in debt/equity for affordable housing programs as well as completing complex transactions including the sale of a corporation to a NASDAQ-traded entity.

Prior to his leadership of the Wendover companies, Mr. Wolf was president and founder of Park Myers Woodside Group, Inc. of Orlando, Florida from 1987-1992. This real estate development firm specialized in single and multi-family residential developments along the mid-atlantic and southeastern coast. He has also provided extensive work-out management for clients and major financial institutions, including Sunbank, Barnett Bank, GE Capital, AmeriFirst and the RTC. Park Myers Woodside Group was acknowledged by Arthur Andersen & Co. for its considerable achievements as one of Orlando's top private companies in 1990.

Mr. Wolf possesses an extensive banking and financial background, including executive positions at Citicorp Industrial Credit, Inc. and The Chase Manhattan Bank, both of New York. He holds a Bachelor of Science degree from the Georgetown University School of Foreign Service and attended the American University in Cairo, Egypt.

TODD L. BORCK is the president and founder of Wendover Management, Inc., which specializes in managing low income housing tax credit communities. Prior to forming Wendover Management, Mr. Borck was active in the direct management of

hundreds of multi-family and single-family affordable housing units through Florida Affordable Housing and Auburn Management, Inc.

Mr. Borck's management responsibilities include all compliance issues with section 42 of the IRS Code and other state and federal programs, training on-site personnel and insuring that all compliance requirements are satisfied. He is also involved in the day-to-day oversight of property personnel, budgeting and occupancy rates as well as creating and initiating marketing programs. A primary focus of Mr. Borck's management responsibility has been in the area of senior affordable housing.

Additionally, Mr. Borck has an extensive background in all facets of the application process for low income housing tax credits and has expertise in negotiating with various state, county and municipal governments, obtaining waivers of impact fees, and obtaining grants and loans to complete financing packages. He has negotiated financing and tax credits for thousands of affordable housing units throughout the southeastern United States. Mr. Borck attended the University of Wisconsin and has a degree in Finance from Florida Atlantic University.

PATRICK E. LAW contributes over twenty-five years of successful experience in multi-family development/construction and management.

In addition to his affordable housing development activities with Wendover Housing Partners, Inc., Mr. Law has had direct responsibility for the development and construction of some 4,000 multi-family units, including:

- A) Six 22 to 27 story condo towers in N. Miami Beach (1,200 units in Aventura/Turnberry);
- B) A 29 story apartment complex in Dallas, Texas (rehab.);
- C) 506 garden apartment units in Georgia and Florida;
- D) Over 600 single family and townhome units in New Jersey.

Mr. Law is a cum laude graduate of the University of Kansas with a B.S. in Business Administration.

BIRCH WOOD PARK, LTD.

July 22, 2002

Board of Texas Department of
Housing and Community Affairs
507 Sabine/Suite 400
Austin, Texas 78711-3941

RE: Birch Wood Park Apartments

The following is a response to the Texas Department of Housing and Community Affairs ("TDHCA") letter dated July 5, 2002.

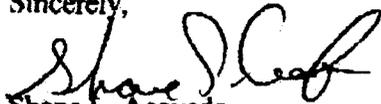
- (a) TDHCA has continued to argue that Birch Wood Apartments did not make an application to ORCA for financing during a specified period of time. Birch Wood argues again (as we have in the past appeals) that the letter sent to Sam Tessen on January 3, 2002 (**Attachment A**), constitutes all that was necessary for an application for ORCA funds. In fact, we indicate in the letter that the municipality will (at the appropriate time) actually make a formal application directly to ORCA. However, the letter sent to ORCA (**Attachment A**) was appropriate at the time of Universal Application to TDHCA.
- (b) Your June 20 letter indicates that an application for \$600,000 has been made for Birch Wood Park. It also bears noting that the \$600,000 amount indicated in your June 20, 2002 letter is also \$1,118,690 less than the amount proposed in the LIITC application, resulting in a funding gap of similar amount. The amount is new information that was not included in the original application and as such may not be eligible for consideration under the Departments appeal process. As we stated in the Universal Application and indicated via phone to the TDHCA underwriter, the amount of ORCA funds requested for Birch Wood Park is \$1,718,690. Via conversation with the underwriter, we indicated that the \$600,000 reflected on the June 20, 2002 was a mistake and the correct amount is the \$1,718,690. The underwriters report reflects the

correct amount. Therefore, this is not new information and should be considered.

- (c) Regardless if the ORCA funds were made available, they would need to be provided in the form of a grant. While it is possible that the deferred loan would be restructured at the end of the 30-year term, the underwriter's proforma analysis suggests that it would not be reasonable to anticipate that there would be sufficient NOI to re-structure this award in the form of a fully amortizing loan, after thirty years of deferral, without some form of forgiveness. Therefore, this source of funds remains infeasible for reasons of programmatic restriction as well as failure to provide evidence of application. Being that the loan is 0%, the ORCA funds are a soft debt and do not impose any negative restrictions on the NOI. Additionally, without an appraisal to establish value, it is not prudent to assume that the refinancing of the project will not pay off the debt. If the syndicator and lender are willing to invest in the project, why would 30 years down the road be of concern to the allocating agency?
- (d) With regard to the HTF source of funds, as explained by Brooke Boston's letter dated June 8, 2002, application was not made to TDHCA by the deadline of March 1, 2002. Birch Wood Park indicated in the universal pre application and universal application, that if ORCA funds were unsuccessful, we would need HTF funds. The applicant was under the understanding that the universal application was all that was needed to apply for HTF funds. Therefore, we applied for HTF funds.
- (e) Furthermore, the underwriting analysis suggests that the development will not generate sufficient cash flow after year 10 to service even the recommended minimum first lien debt of \$504,739; therefore, the proposed HTF loan is infeasible even as a deferred, 0% interest rate loan. Our underwriting indicates that the project can handle a \$650,000 first mortgage at 8.25% for 30 years (**Attachment B**) Again, the lender will lend an amount that will be feasible for the project.

In closing, it must be stressed that Birch Wood Park, Ltd. followed the process necessary to adequately apply for the ORCA funds as stated in our previous appeals. Additionally, the lender and syndicator have reviewed the feasibility of the project and have agreed to invest in rural Texas. Please accept this appeal and justly grant the tax credits to this worthy project.

Sincerely,



Shane L. Acevedo
Birch Wood Park, Ltd.

A & S Development, Inc.

1577 Dundee Drive
Winter Park, FL 32793

Phone: (407) 657-1113
Fax: (407) 657-1245

ATTACHMENT
(CA)

January 3, 2002

Mr. Sam Tesson
Executive Director
Office of Rural Community Affairs
P. O. Box 12877
Capitol Station
Austin, TX 78711

Dear Mr. Tesson:

Please be advised that A & S Development, Inc. is making complete applications for the credit financing with Texas Department of Housing and Community Affairs (TDHCA) for three (3) developments located in rural Texas. It is our intent to cause applications to be made with your agency for the TDHCA consideration under your Housing Infrastructure Fund and others to assist financing the rural developments.

As you may be aware, there are difficulties that arise when one is trying to develop affordable housing located in rural areas. Of the most difficult, lower incomes result in lower rents being paid to the developer. As a consequence, a development can't offer that many attractive amenities due to lack of financing because the development can't carry the debt associated with the added costs.

Therefore, it is imperative that a developer seek out inexpensive money to help finance an affordable development. This allows the developer to offer a very attractive product at no added cost to the tenant. Many times, rural areas are well behind other areas with respect to the availability of such, desired affordable housing. Because of this, we have focused on three (3) rural communities that are in such a need. The projects are:

- (1) **Palms Willows Apartments:** This is a project that has 52 units targeting Senior Citizens in Gray County. The targeted incomes will be 40%, 50% and 60% of the median income. The Total Project Cost is \$4,250,000. The request from your office is \$950,133, 0% with a 30 year term.

Page 2

January 3, 2002

- (2) Pampa Gardens Apartments: This is a project that has 72 units targeting Families in Gray County. The targeted incomes will be 40%/50% and 60% of the median income. The total Project Cost is \$6,095,000. The request from your office is \$1,81,597, 0% with a 30 year term.
- (3) Birch Wood Apartments: This is a project that has 72 units targeting Families in Hockley County. The targeted incomes will be 40%/50% and 60% of the median income. The Total Project Cost is \$6,095,000. The request from your office is \$1,718,690, 0% with a 30 year term.

The funds that are requested will allow the projects to offer very affordable rents and attractive amenities. Additionally, these developments will help fill the need of safe, decent affordable housing in rural Texas.

Please be aware that the city or county where the development is located will actually made the applications to your organization. Please see the attached site plans of each development.

Thank you very much for your consideration of this application and we look forward to working with you in the near future.

Sincerely,


Shane L. Acovedo
A & S Development, Inc.

Cc: File

PAMPA GARDENS, LTD.

July 22, 2002

Board of Texas Department of
Housing and Community Affairs
507 Sabine/Suite 400
Austin, Texas 78711-3941

RE: Pampa Gardens Apartments

The following is a response to the Texas Department of Housing and Community Affairs ("TDHCA") letter dated July 5, 2002.

- (a) TDHCA has continued to argue that Pampa Gardens Apartments did not make an application to ORCA for financing during a specified period of time. Pampa Gardens argues again (as we have in the past appeals) that the letter sent to Sam Tessen on January 3, 2002 (**Attachment A**), constitutes all that was necessary for an application for ORCA funds. In fact, we indicate in the letter that the municipality will (at the appropriate time) actually make a formal application directly to ORCA. However, the letter sent to ORCA (**Attachment A**) was appropriate at the time of Universal Application to TDHCA.
- (b) Your June 20 letter indicates that an application for \$1,087,000 has been made for Pampa Gardens Apartments while your June 17 letter confirms the \$600,000 figure. It also bears noting that, the \$600,000 amount is also \$501,597 less than the amount proposed in the LIHTC application, resulting in a funding gap of similar amount. The amount is new information that was not included in the original application and as such may not be eligible for consideration under the Departments appeal process. As we stated in the Universal Application and indicated via phone to the TDHCA underwriter, the amount of ORCA funds requested for Pampa Gardens Apartments is \$1,101,597. Via conversation with the underwriter, we indicated that the \$600,000 was a mistake and the correct amount is the \$1,101,597. The

underwriters report reflects the correct amount. Therefore, this is not new information and should be considered.

- (c) Regardless if the ORCA funds were made available, they would need to be provided in the form of a grant. While it is possible that the deferred loan would be restructured at the end of the 30-year term, the underwriter's proforma analysis suggests that it would not be reasonable to anticipate that there would be sufficient NOI to re-structure this award in the form of a fully amortizing loan, after thirty years of deferral, without some form of forgiveness. Therefore, this source of funds remains infeasible for reasons of programmatic restriction as well as failure to provide evidence of application. Being that the loan is 0%, the ORCA funds are a soft debt and do not impose any negative restrictions on the NOI. Additionally, without an appraisal to establish value, it is not prudent to assume that the refinancing of the project will not pay off the debt. If the syndicator and lender are willing to invest in the project, why would 30 years down the road be of concern to the allocating agency?
- (d) With regard to the HTF source of funds, as explained by Brooke Boston's letter dated June 8, 2002, application was not made to TDHCA by the deadline of March 1, 2002. Pampa Gardens indicated in the universal pre-application and universal application, that if ORCA funds were unsuccessful, we would need HTF funds. The applicant was under the understanding that the universal application was all that was needed to apply for HTF funds. Therefore, we applied for HTF funds.
- (e) ORCA staff also advises that the funding sub-recipient would have to be a neighborhood-based nonprofit organization. The project has entered into an agreement with Texas Interfaith (a not-for-profit organization) to provide services to the project. It is our intent to add HUD's additional activities to the not-for-profit in assisting the city and project to carry out the project I accordance with HUD Subpart C, Community Development Rules and Regulations 570.200 through 570.209.

In closing, it must be stressed that Pampa Gardens, Ltd. followed the process necessary to adequately apply for the ORCA funds as stated in our previous appeals. Additionally, the lender and syndicator have reviewed the feasibility of the project and have agreed to invest in rural Texas. Please accept this appeal and justly grant the tax credits to this worthy project.

Sincerely,



Shane L. Acevedo
Pampa Gardens, Ltd.

A & S Development, Inc.

1977 Dundas Drive
Winter Park, FL 32792

Attachment
"A"

Phone: (407) 657-1113
Fax: (407) 657-1245

January 3, 2003

Mr. Sam Tesson
Executive Director
Office of Rural Community Affairs
P. O. Box 12877
Capitol Station
Austin, TX 78711

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Page 2

January 3, 2002

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Please be aware that the city or county where the development is located will actually make the applications to your organization. Please see the attached site plans of each development.

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Sincerely,


Shane L. Acoveto
A & S Development, Inc.

Cc: File