

## **2007 Competitive Housing Tax Credit (HTC) Challenges – Updated July 30, 2007**

The attached table titled, **Status Log of 2007 Competitive Housing Tax Credit Challenges Received as of July 30, 2007** (“Status Log”), summarizes the status of the challenges received on or before July 30, 2007. The challenges were made against Applications in the 2007 Application Round. Behind the Status Log, all imaged challenges are provided in project number order. This PDF document has been bookmarked by application number for quick access.

All challenges are addressed pursuant to §49.17(c) of the 2007 Qualified Allocation Plan and Rules (“QAP”), which states, “the Department will address information or challenges received from unrelated entities to a specific 2007 active Application, utilizing a preponderance of the evidence standard, in the following manner, provided the information or challenge includes a contact name, telephone number, fax number and e-mail address of the person providing the information or challenge:

- (1) Within 14 business days of the receipt of the information or challenge, the Department will post all information and challenges received (including any identifying information) to the Department’s website.
- (2) Within seven business days of the receipt of the information or challenge, the Department will notify the Applicant related to the information or challenge. The Applicant will then have seven business days to respond to all information and challenges provided to the Department.
- (3) Within 14 business days of the receipt of the response from the Applicant, the Department will evaluate all information submitted and other relevant documentation related to the investigation. This information may include information requested by the Department relating to this evaluation. The Department will post its determination summary to its website. Any determinations made by the Department cannot be appealed by any party unrelated to the Applicant.”

Please note that a challenge is not eligible pursuant to this section if it is not made against a specific active 2007 HTC Application. If an Application is no longer active because the Development has been awarded tax credits by the Texas Department of Housing and Community Affairs’ (the “Department”) Board, challenges relating to that awarded/inactive Application are not eligible under this section.

To the extent that the Applicant related to the challenge responds to the challenge(s), point reductions and/or terminations could possibly be made administratively. In these cases, the Applicant will be given an opportunity to appeal pursuant to §49.17(b) of the 2007 QAP, as is the case with all point reductions and terminations. To the extent that the evidence does not confirm a challenge, a memo will be written to the file for that Application relating to the challenge. The table attached reflects a summary of all such challenges received and determinations made as of July 30, 2007.

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
4/10/07	07109	Elrod Place	Kathi Zollinger and Katrina Thornhill	<p>Two challenges regarding inconsistencies between information presented to the community and information contained in the 2007 HTC Application, and regarding the Development's location in a particular Municipal Utility District ("MUD"). The basis of the challenges as reflected in the challenge documentation is: information presented to the community by a representative of the Applicant in three separate meetings was different than, or incomplete when compared to, the Application; the role of the Harris County Housing Authority was not disclosed to the public; the right of first refusal provision was not disclosed to the public; the Development site may have negative site features such as chlorine gas and close proximity to power lines; the area in which the Development will be located already has a high concentration of low income individuals; and the Applicant represented in the Application that the Development is located in a MUD that it is not actually located in.</p>	<p><b>Analysis:</b> The meetings with the public referred to in the challenges were not required by the Department, nor were they attended by any representative of the Department; therefore, assertions made with regard to discrepancies between the information presented in the meetings and in the Application cannot be evaluated by the Department. In holding three meetings not required by the Department, however, it appears that the Applicant made a good faith effort to meet with and inform the public about the proposed Development. Regarding negative site features, an Environmental Site Assessment is required and has been performed for the Development site; in the event that this Application is chosen to receive a feasibility analysis, the report will be evaluated by the Department. The Department has a policy regarding concentration of low income individuals; the census tract in which the site is located is not an ineligible tract under the concentration policy. Finally, the land seller is in the process of annexing the site into a new MUD; this process is currently not under the control of the Applicant.</p> <p><b>Resolution:</b> The Department has evaluated the challenges pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to these challenges.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
5/2/07	07118	Lakeside Apartments	Eric Hartzell, BETCO Development	Challenge regarding eligibility for points under §49.9(i)(26) of the 2007 QAP, Third-Party Funding Commitment Outside of Qualified Census Tracts. The challenge asserts that the funding source is not a Third Party, and that the Application is, therefore, not eligible for points. The basis of the challenge as reflected in the challenge documentation is: the provider of funds and the Applicant are Related Parties and/or Affiliates because the Applicant holds the broker license under which the provider of funds operates.	<p><b>Analysis:</b> The provider of funds controls his own schedule, chooses his own sales terms, selects his own clients, and provides a percentage of his commissions to offset his operational costs, thus in essence buying his own supplies and space. This would seem to meet several of the tests for determining whether the Person in question is an employee or an independent contractor. The provider of funds, despite the broker/agent relationship, is not the Applicant, or an Affiliate thereof, a consultant, the Developer, or, because there does not appear to be any family relationship or ownership interest, a Related Party.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
7/12/07	07133	StoneLeaf at Tye	Eric Opeila, Opeila   Booth, PLLC	<p>Challenge regarding concerns that the proposed Development violates HUD’s Environmental Criteria and Standards, and poses a threat to the safety of proposed tenants. The basis of the challenge as reflected in the challenge documentation is: the Development site is located within the Accident Potential Zone 1 (“APZ 1”) of Dyess Air Force Base (“DAFB”); HUD Environmental Criteria and Standards discourage residential developments in APZ 1 to protect public health and safety; the Development’s location violates HUD’s Noise Abatement and Control standards; residents should not endure internal and external noise levels above acceptable standards; the Development would be a potential hazard to navigable airspace and would likely require reconfiguration to a single story only configuration; and the Development puts at risk the continued operations of DAFB, because the Base Realignment and Closure Commission (“BRAC”) has required bases eligible for realignment to have no residential development in APZ 1 areas.</p>	<p><b>Analysis:</b> The items identified in the challenge have been reviewed by the Department in the scope of the feasibility analysis and the location of the Development was not found to violate any Department rule. However, an award of tax credits to this Application would be conditioned on the receipt of a noise assessment specific to the development site, indicating the acceptability of noise levels based on HUD guidelines for housing developments. Any recommendations of the report with regards to mitigating potential noise issues must be incorporated into a development plan also submitted by Carryover. Regardless of the findings of the noise assessment, installation of sound attenuation materials as recommended by the Air Force Civil Engineering study would be required and evidence of plans to include such in construction of the proposed Development must be received by Carryover. In addition, the award would be conditioned on receipt by Carryover of a certification by the Development architect, and from the US Air Force confirming that there are no buildings in any crash zone or Accident Potential Zone as defined by Dyess Air Force Base in the Air Installation Compatible Use Zone report.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
4/26/07	07175	Austin Place	Eric Hartzell, BETCO Development	Challenge regarding eligibility for points under §49.9(i)(17) of the 2007 QAP, Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits. The challenge asserts that the Development is located in a census tract in which there are existing Developments supported by Tax Credits and that the Application is, therefore, not eligible for points. The basis of the challenge as reflected in the challenge documentation is: the Applicant represented that the Development is located in a different census tract than the census tract in which it is actually located.	<p><b>Analysis:</b> The Applicant has confirmed the challenge assertions. The Application is not eligible for points under §49.9(i)(17).</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP. The Application will not be awarded points under §49.9(i)(17) of the 2007 QAP.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
3/5/07, 3/15/07, and 3/16/07	07177	Hamilton Senior Village	Andy J. McMullen, Mark C. Henkes, Jesse T. Christopher, Lola Christopher, and Paula Patrick	Three challenges regarding fulfillment of signage requirements under §49.9(h)(8)(B) of the 2007 QAP. The challenges assert that the signage requirements have not been met. The basis of the challenges as reflected in the challenge documentation is: the signage is not posted within twenty feet of, and facing, the main road adjacent to the site, and is obstructed by trees.	<p><b>Analysis:</b> The Development site is located at the intersection of two public streets; the majority of the site fronts Elm Street, with only a small portion, used for ingress and egress, fronting Williams Street. The current property owner requested that the sign not be located on the portion of the site that fronts Williams Street, in order to allow the current owner continued access to the property. The Applicant does not have permission, or authority under the contract, to clear trees from the property. The Applicant placed the sign in an opening between trees on Elm Street in order to meet the requirements of the 2007 QAP, while acting within its authority under the land contract.</p> <p><b>Resolution:</b> The Department has evaluated the challenges pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to these challenges.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
6/26/07 and 7/16/07	07199	Kingsville LULAC Manor Apartments	Ino Alvarez, Kingsville Affordable Housing, Inc.	Challenges regarding eligibility for points under §49.9(i)(5) of the 2007 QAP, Commitment of Development Funding by Local Political Subdivisions. The challenges assert that proper documentation was not submitted to the Department and that the Application is ineligible for these points. The basis of the challenges as reflected in the challenge documentation is: the Application received points for a contribution of TDHCA HOME funds; a resolution from the city must be submitted to the Department if HOME funds are used for points; the Applicant did not submit the required resolution from the City of Kingsville; the QAP requires the resolution to be submitted with the Application; and the resolution from the county is not eligible because it is dated after March 1, 2007.	<p><b>Analysis:</b> Pursuant to §49.9(i)(5) of the 2007 QAP, an Applicant must provide a resolution from the Local Political Subdivision (“LPS”) authorizing the Applicant to act on behalf of the LPS in applying for HOME funds from the Department. An LPS is defined as a county or municipality in Texas. The Applicant submitted the required resolution from Kleberg County, which is an LPS pursuant to the QAP. However, the QAP states that funds from TDHCA’s HOME Program will qualify for points under this section “if a resolution is submitted with the Application...” The resolution provided was dated March 12, 2007, which is after the date that Applications are due to the Department, which is March 1, 2007.</p> <p><b>Resolution:</b> The Department has evaluated the challenges pursuant to the methodology outlined in §49.17(c) of the 2007 QAP. TDHCA HOME funds will not qualify for points under §49.9(i)(5) of the 2007 QAP because the required resolution was not provided with the Application and was dated after March 1, 2007. Pursuant to the QAP, the Applicant will have the opportunity to provide evidence of an alternative funding source to substantiate the points awarded under §49.9(i)(5) of the 2007 QAP.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
6/28/07	07220	San Gabriel Crossing	Laura Waller, LH Residents for Responsible Growth	<p>Challenge regarding eligibility for points under §49.9(i)(16) of the 2007 QAP, Demonstration of Community Support Other Than Quantifiable Community Participation, eligibility for points under §49.9(i)(20)(A) of the 2007 QAP, Site Characteristics, the validity of the market study, errors and inconsistencies within the Application, and the suitability of the Development site. The basis of the challenges as reflected in the challenge documentation is: letters submitted under §49.9(i)(16) of the 2007 QAP were submitted by parties related to the real estate agent, local officials, and the land seller; the community does not contain many of the amenities listed in the market study and Application; the market study incorrectly focuses on surrounding, larger communities, rather than the community in which the Development will be located; the land is being sold for four times the appraised value; relationships between parties involved in the Development are not properly disclosed; some costs listed in the Application are inconsistent between exhibits; the Development is not located within a Qualified Census Tract (“QCT”); and the Development is not consistent with the local consolidated plan.</p>	<p><b>Analysis:</b> All letters of support for which points were awarded under §49.9(i)(16) of the 2007 QAP met all requirements of that section. The QAP requires that letters must be from civic or community organizations that serve the community in which the Development is located. Each letter that was awarded points was from an organization that meets this definition. The QAP does not restrict the eligibility of organizations based on the relationships of their members with elected officials, local businesspeople, etc.</p> <p>Each amenity selected by the Applicant for points under §49.9(i)(20)(A) was already reviewed by Department in the scope of the review process and was found to be acceptable under the categories of amenities identified by the QAP.</p> <p>A site inspection was performed pursuant to §49.9(d)(8) of the 2007 QAP, and the site was found to be Acceptable.</p> <p>A Market Study was performed in accordance with §49.9(h)(14)(B) of the 2007 QAP, and §1.33 of the Real Estate Analysis Rules and Guidelines. Using a market that is larger than one suburban city is typical and acceptable for such a community. Therefore, the inclusion of the surrounding municipalities of Leander and Cedar Park is an appropriate methodology under Department rule.</p> <p>Regarding the comparables used in the market study, the five comparables used were chosen by the Market Analyst since these five properties will be of comparable type, style, quality and targeted similar income level and are within the proximity of the subject property that is considered reasonable for a property. There are no comparables within the city of Liberty Hill. This is an acceptable methodology under Department rule.</p> <p>Regarding proximity to transportation and employment, Liberty Hill is 8.6 miles from a new Capital Metro Park and Ride located at FM 2243 and 183 which provides transportation to the Greater Austin Area and 9 miles to the city of Leander where there are sufficient retail and medical establishments. The subject property is located approximately 35 miles from Austin where there are</p>



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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
	07220 (continued)	San Gabriel Crossing			<p>employment opportunities. Liberty Hill is a recognized, growing suburb of Austin so it is reasonable to consider employment in Austin as well as existing and forthcoming opportunities in Liberty Hill.</p> <p>Site acquisition cost is not included in eligible basis, and therefore does not aid in establishing the amount of housing tax credits that an Application is eligible for. The Purchase Contract entered into is a valid contract and meets all requirements of the QAP. Further, it is not uncommon for an appraisal district to appraise land at a much lower value than what its true market value. Moreover the Applicant and Seller appear to be unrelated entities and therefore no further investigation as to the purchase price was warranted.</p> <p>The Developer Fee has been limited to \$955,200 by the Department, consistent with developer fee limitations under the QAP. The way in which this fee is divided between the Co-Developers is at the discretion of the participants in the Application, and is not regulated by the Department. The inconsistency in the listed Co-Developer has already been resolved through the Administrative Deficiency process.</p> <p>Developments are not required to be located in QCTs in order to be eligible for the program; rather, an incentive is offered in the form of a 30% increase in eligible basis for developing in QCTs. This Application was not given this 30% increase in eligible basis because it is not located in a QCT.</p> <p>The QAP requires that appropriate evidence of zoning is provided in the application, and that final zoning is then proven up at the time the Commitment Notice is due to the Department. For Developments in areas with no zoning, the Applicant must provide a letter that states that the Development fulfills a need for additional affordable rental housing as evidenced in a local consolidated plan. The City of Liberty Hill does have zoning ordinances, however, and the Applicant met the zoning requirements of the QAP by having an application for zoning change. The Applicant will have to provide evidence of final zoning, if awarded, at the time the Commitment Notice is due.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
	07220 (continued)	San Gabriel Crossing			<p>Therefore, because Liberty Hill has zoning, a letter of consistency with the local consolidated plan is not required. In addition, the requirement that all Developments provide a letter of consistency with the local consolidated plan is a requirement of the Tax-Exempt Bond Program, not of the Competitive Housing Tax Credit Program; because this Application is not requesting funds under the Tax-Exempt Bond Program, it is not subject to the requirement for consistency with the local consolidated plan.</p> <p>The Volume 1, Tab 7, Applicant Credit Limit Documentation was completed correctly by the Applicant as it relates to the Rural Joint Venture columns. The Application is not a Rural Joint Venture, nor are those Developments for which information regarding Rural Joint Venture was not provided. In addition, the failure to list a past Development on this form has been corrected by the Applicant, as allowed under the QAP.</p> <p>The Volume 1, Tab 8, Public Notifications Information and Certification Form was inadvertently left blank by the Applicant, but has since been corrected using the Administrative Deficiency process, to correctly indicate that there have been no changes to elected officials from Pre-Application. In addition, the Pre-Application, as submitted on January 8, 2007 included a completed exhibit that correctly identified all required elected officials.</p> <p>The Volume 3, Tab 7, Evidence of Nonprofit Organization Participation was already identified as needed by the Department in the scope of the review process and was already resolved through the Administrative Deficiency process. The exhibit was completed as required under the QAP. The Nonprofit organization required to complete the exhibit, is not the same entity that will receive a portion of the developer or management fee, as alleged in the challenge.</p> <p>Although the letter from the Law Offices of Dominic Audino, P.C. incorrectly lists Liberty Hill THF Housing, L.P. as a Co-Developer, the purpose of the letter was not to delineate the Developers involved in the Application, but rather to opine on the</p>

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	07220 (continued)	San Gabriel Crossing			<p>creation of the Texas Housing Foundation. Therefore, this inconsistency does not represent any violation of the QAP.</p> <p>Both Liberty Hill THF Housing, L.P. and THF San Gabriel Crossing, L.L.C. are correctly listed as to be formed and in good standing with the Secretary of State (“SOS”). Each entity’s name has been reserved, which involves payment of fees to the SOS; payment of these required fees to the SOS results in the entities receiving a filing number and being in good standing.</p> <p>Architectural fees and impact fees presented in the Application have been reviewed in the underwriting process and have been found to be reasonable by the Department.</p> <p>The Applicant provided an Environmental Site Assessment to the Department in accordance with the QAP. This report is separate from the Market Study, which is not required to address environmental concerns.</p> <p><b>Resolution:</b> The Department has evaluated the challenges pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
4/16/07	07227	Champion Homes at La Joya	Don Pace	Challenge regarding eligibility for points under §49.9(i)(2) of the 2007 QAP, Quantifiable Community Participation, §49.9(i)(5) of the 2007 QAP, Commitment of Development Funding by Local Political Subdivisions, §49.9(i)(8), Cost of the Development by Square Foot, §49.9(i)(12) of the 2007 QAP, Development Includes the Use of Existing Housing as Part of a Community Revitalization Plan, §49.9(i)(25) of the 2007 QAP, Leveraging of Private, State, and Federal Resources, and §49.9(i)(26) of the 2007 QAP, Third-Party Funding Commitment Outside of Qualified Census Tracts.	<p><b>Analysis:</b> The items identified in the challenge were already identified by the Department in the scope of the review process and have already been resolved through the Administrative Deficiency process.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>
4/16/07	07228	Las Palmas Homes	Don Pace	Challenge regarding the fulfillment of notification requirements under §49.9(h)(8)(A) of the 2007 QAP, and eligibility for points under §49.9(i)(2) of the 2007 QAP, Quantifiable Community Participation, §49.9(i)(5) of the 2007 QAP, Commitment of Development Funding by Local Political Subdivisions, §49.9(i)(12) of the 2007 QAP, Development Includes the Use of Existing Housing as Part of a Community Revitalization Plan, §49.9(i)(25) of the 2007 QAP, Leveraging of Private, State, and Federal Resources, and §49.9(i)(26) of the 2007 QAP, Third-Party Funding Commitment Outside of Qualified Census Tracts.	<p><b>Analysis:</b> The items identified in the challenge were already identified by the Department in the scope of the review process and have already been resolved through the Administrative Deficiency process.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

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5/25/07	07249	Bluffs Landing Senior Village	Ebby Green, Round Rock Housing Authority	Challenge regarding eligibility for points under §49.9(i)(2) of the 2007 QAP, Quantifiable Community Participation (“QCP”). The challenge asserts that the QCP letter of support from RR Vista Neighborhood Association (the “Association”) is ineligible. The basis of the challenge as reflected in the challenge documentation is: the Association was formed for the sole purpose of supporting the Development; the Association was formed one day prior to the deadline to be on record with the state or county; none of the Association’s officers live within the boundaries of the Association; the Association’s bylaws grant the power of taxation; membership is open to those with an economic interest in the area; the Association’s boundaries are inconsistent with industry standards for development; and the Association is not recognized by the City as a neighborhood organization.	<p><b>Analysis:</b> The letter of support from the Association was originally found by the Department to meet all requirements for points under §49.9(i)(2) of the 2007 QAP. The Association was formed before the deadline required by §49.9(i)(2)(A)(5) of the 2007 QAP; the QAP does not require an explanation of the reason for formation. A certification from the Association, as well as the Association’s Bylaws provide evidence that the organization is one of persons living near one another; the QAP does not require that an organization’s membership be exclusively comprised of persons that live within the boundaries of the organization. The QAP does not specify what the purpose of an organization must be, except that it includes “working to maintain or improve the general welfare of the neighborhood”; the Association met this requirement, both by certification and in its Bylaws. Finally, the QAP does not require an organization to be recognized by the city; rather, an organization must be on record with the state or county, which the Association is.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

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Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
6/1/07	07257	Orange Palm Garden Apartment Homes	Robert Crow, Nacogdoches Housing Authority	Challenge regarding the eligibility for penalty points under §49.9(i)(27)(A) of the 2007 QAP, Scoring Criteria Imposing Penalties. The challenge asserts that a member of the Development team for the Applicant is affiliated with a 2006 Housing Tax Credit (“HTC”) Development for which an extension was requested, and that the Application should therefore be awarded penalty points. The basis of the challenge as reflected in the challenge documentation is: the Applicant for TDHCA # 060132 failed to meet a Department deadline; the Development team for 07257 for construction, management, and social services is the same as for 060132; and the Applicant contact for 07257 is an Affiliate of the Applicant for 060132.	<p><b>Analysis:</b> Penalty points under §49.9(i)(27)(A) of the 2007 QAP apply to the Applicant for an Application, and do not apply to other members of the Development team. The Applicant for TDHCA #060132 is completely different from the Applicant for TDHCA #07257; the two do not share any common entities or individuals. Although the individuals listed in the Applicant structure for each Development have partnered on Applications in the past, this partnership does not exist for either TDHCA #060132 or 07257. Despite past partnership relationships between members of each Applicant, the Applicants for TDHCA #060132 and 07257 are not the same, nor do they appear to be Affiliates.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

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4/20/07	07282	Palermo	Janine Sisak, DMA Development Company, LLC	Challenge regarding eligibility for points under §49.9(i)(2) of the 2007 QAP, Quantifiable Community Participation (“QCP”), and §49.9(i)(22) of the 2007 QAP, Qualified Census Tracts with Revitalization. The challenge asserts that the QCP letter of support from Comunidad in Action is ineligible, and that the Application is not eligible for points based on the Development Site’s location in an area targeted by a Community Revitalization Plan. The basis of the challenge as reflected in the challenge documentation is: Comunidad in Action is not a neighborhood organization, but rather a broader-based community organization, and; the Development Site is not located in the areas that target specific geographic areas for revitalization and development of residential developments under the Community Revitalization Plan.	<p><b>Analysis:</b> The items identified in the challenge were already identified by the Department in the scope of the review process and have already been resolved through the Administrative Deficiency process.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

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7/5/07	07291	Cypress Creek at Reed Road	John Barineau, Reed Parque Limited Partnership	<p>Challenge regarding the presence of a market for the proposed Development and the validity of data presented by the market analyst. The challenge asserts that the market cannot support the additional units proposed. The basis of the challenge as reflected in the challenge documentation is: economic occupancy of one of the other Developments discussed in the market study has never exceeded 90%; there is a shortage of tenants at 60% of AMFI in the market area; there is no sewer line serving the proposed site; and an apartment turnover survey conducted by the challenger found different results from those found by the market analyst.</p>	<p><b>Analysis:</b> According to the Applicant's Market Analyst, tax credit or other rent-restricted properties in this market report high occupancies. The sub-92.5% economic occupancy of Reed Parque and the inability to fill units in certain income ranges do not appear indicative of the market as a whole.</p> <p>Data compiled from the Department's central database shows that while five properties are exhibiting difficulty in achieving the maximum 60% rents, four others are achieving the maximum 60% rents for the majority of their 60% units. Moreover, three of the five not achieving the maximum 60% rents are owned and operated by Mr. Barineau. The Market Analyst confirms positive demand for 60% units.</p> <p>The wastewater line for the proposed Development is expected to be developed within the next 12 months. The award is conditioned upon the receipt, review and acceptance of documentation from the City of Houston regarding the funding approval for the related Mariposa at Reed Road in order to facilitate the wastewater connection. Additionally, documentation from the City of Houston regarding approval/acceptance, time frame, and hook up/impact fees for the wastewater service line extension for the subject or an amendment to the purchase contract to reflect that the seller will provide wastewater service if the waste water service line extension is not completed is also a condition of the award.</p> <p>The Market Analyst surveyed turnover at all properties in the primary market area to accurately estimate turnover in the market. The Department is satisfied with the validity of the results of this survey.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>



## Status Log of 2007 Competitive Housing Tax Credit Challenges Received as of July 30, 2007

Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
5/4/07	07295	The Bluestone	Paul Holden, Wilhoit Properties, Inc.	<p>Challenge regarding eligibility for points under §49.9(i)(16) of the 2007 QAP, Demonstration of Community Support other than Quantifiable Community Participation. The challenge asserts that the letters of support from The American Legion Cedar Creek Post 310 (“American Legion”), Friends of the Tri-County Library, and Mabank Fire Department are ineligible, and that the Application is not eligible for these points. The basis of the challenge as reflected in the challenge documentation is: the American Legion is not located within the city limits of Mabank, the letter from the Friends of the Tri-County Library was on the library’s letterhead, and the library conducts educational activities, and; the Mabank Fire Department is a part of the City of Mabank.</p>	<p><b>Analysis:</b> Pursuant to §49.9(i)(16) of the 2007 QAP, the Development must receive letters of support from civic or community organizations that are active in and serve the community in which the Development is located. Letters from governmental entities, taxing entities or educational activities are not eligible for points. The American Legion Cedar Creek Post 310 provided sufficient evidence at the time of Application to show that the organization serves the community in which the Development is located. The QAP does not require that an organization be physically located within the city limits of the same municipality as the Development. The Friends of the Tri-County Library operates under separate bylaws and leadership from the Tri-County Library. The Friends of the Tri-County Library secures funding through fundraisers and membership dues, not through the Tri-County Library, and does not conduct educational activities. The letter from the Mabank Fire Department was not originally counted for points by the Department because adequate documentation was not pursuant to §49.9(i)(16) of the 2007 QAP.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

## Status Log of 2007 Competitive Housing Tax Credit Challenges Received as of July 30, 2007

Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
5/23/07	07302	Casa Alton	Alyssa Carpenter	Challenge regarding eligibility for points under §49.9(i)(11) of the 2007 QAP, Housing Needs Characteristics. The challenge asserts that the Application is eligible for fewer points than requested based on Development location. The basis of the challenge as reflected in the challenge documentation is: the Development is located in the City of Alton; the Application requested points based on the Development's location in Alton North; and the Affordable Housing Need Score for the City of Alton is lower than that of Alton North.	<p><b>Analysis:</b> The proposed Development Site is currently located within the City of Alton. At the time of the 2000 Decennial Census the proposed Development Site was located within the Alton North CDP; however, the Development Site has since been annexed into the City of Alton, as confirmed by the City's Planning Director and the Applicant. The current location of a Development, not its location as of the most recent Decennial Census, is used to evaluate eligibility for points based on demographic information from the most recent Decennial Census.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP. The Application score will be reduced from six points to four points for §49.9(i)(11) of the 2007 QAP based on the proposed Development's location within the City of Alton.</p>

## Status Log of 2007 Competitive Housing Tax Credit Challenges Received as of July 30, 2007

Challenge Received Date	TDHCA #	Development Name	Challenger	Nature and Basis of Challenge	Status
6/19/07	07306	Zion Village Apartments	George Vaults	Challenge regarding the validity of site control under §49.9(h)(7)(A) of the 2007 QAP. The challenge asserts that the land seller entered into an illegal contract for the sale of the land. The basis of the challenge as reflected in the challenge documentation is: the land seller did not have the approval of the church's membership to enter into the sale.	<p><b>Analysis:</b> According to the Articles of Incorporation, as amended, the management of the church is vested in the Pastor, Officers, Deacons, and Trustees, as provided for in the Bylaws. The Bylaws state that the Pastor is the chief administrator of the church's fiscal affairs. A resolution of the church's Officers grants authority to the Pastor and Chairman of Deacons the authority to transact the financial business of the church and to execute all necessary documents required in order to transact that business. The Department has reviewed the documents submitted and believes that this is an internal matter between members of the church. The certification from the Pastor, who appears to have the authority to speak for the church, is clear and gives a reasonable basis of authority to sell the property. An internal challenge to the Bylaws is just that, an internal challenge.</p> <p><b>Resolution:</b> The Department has evaluated the challenge pursuant to the methodology outlined in §49.17(c) of the 2007 QAP and has determined that no further action will be taken with regard to this challenge.</p>

# Challenge

## 07109



# WITNESS AFFIRMATION FORM

Texas Department of Housing and Community Affairs  
P.O. Box 13941, Austin, TX 78711-3941 Phone: (512) 475-3800

UPON COMPLETION OF THIS FORM, PLEASE RETURN TO DEPARTMENT STAFF.  
PLEASE PRINT LEGIBLY.

I want to appear and offer testimony, in so appearing, I hereby make the following statements:

Date of Statement: 4/10/07 Location of Hearing: Houston City of

My name is: KATH ZOLLINGER

My occupation, profession or business is: HC MUD 71 Board / Bridgewater Comm. Assoc.  
Ke-level Law Enforcement.

My mailing address is: \_\_\_\_\_ Phone: (281) 615-8853

21619 DALTON SPRING LANE

KATY TX 77449

In appearing before this body, I represent:  myself or  the following persons, firms, corporations, classes or groups:

HC MUD 71 / BRIDGEWATER COMM. ASSOC. 3080 Greenhous  
Allen Boone & Associates Robinson Houston TX  
Their business address is: \_\_\_\_\_

I wish to make the following written statements: (Attach additional sheet(s) if extra space is needed.)

SEE ATTACHED

If this statement is in regard to a specific TDHCA development or application, also provide the following information:

TDHCA Development #: 07109 Development Name: ELBOD PLACE

Development City: KATY  I support this development.  I oppose this development.

I hereby certify that the above statements by me are true and accurate, and that I have listed all persons, firms, corporations, classes, or groups that I represent in reference to the matters on which I am appearing. I further certify that the testimony I give before this body will be true and accurate.

[Signature]  
Signature of Witness

4.10.07  
Date

Note: At the discretion of the Department, the length of time available for each public comment may be limited.

TDHCA Staff:

4-10-07

My name is Kathi Zollinger. I sit on the HC MUD 71 Board and the Bridgewater Community Association Board, which sits directly adjacent to the proposed Elrod Place project.

Thank you for giving me the opportunity to speak here today.

You have received letters from both Boards I sit on and will either have already heard or will hear a supplemental letter from the MUD 71 Board based on research I did over the weekend based on the posting of the filed application. It is a VERY long document.

I won't reiterate the contents of those letters.

What I'm here to say is this:

That application, much of the 400 some odd pages of it...most of it which I have read...needs to be re-studied and investigated because intentionally or unintentionally, the contents of that document either do not coincide, may be false, were concealed or are incomplete. What I mean by that is this: Applicant in what I believed was good faith did three presentations. One was to the Bridgewater Community Associations Homeowners (a public entity), one to the HC MUD 71 Board (a governmental entity) and another a group of about 700 HC MUD 71 Homeowners and many, many things I found in the TDHCA application were either MISSING from the information provided to us or erroneous. In addition, I have sat in on several other meetings with applicant and others and the information I found was not gleaned from those meetings either. I can only surmise that it was meant to me concealed.

Due to the volume of material and time between the time the document came out (posted) on Friday and this hearing, there was simply not enough time to prepare a complete document showing all points. However, I would like to make an offer to meet with the TDHCA staff or attorneys here in town or I will come to Austin in the near future to show the inconsistencies I have found. Some of these include:

- ✓ The biggest thing obviously is the issue of eluding the fact that the applicant had already been annexed into HC MUD 287 which he has not been.
- ✓ HCHA MOU was never mentioned and the implication of that document.
- ✓ It states that HCHA is the General Partner in the project and that they may give notice and purchase the project.
- ✓ It also states that A "Qualified" non-profit corporation designated by the general partner (HCHA) has the first right of refusal to purchase the project for the outstanding debt. Applicant never told the community this and in fact stated that at the 15 year point that he would be likely rehabbing the units, the people

living in them would be able to purchase them for the outstanding debt and they would then become a regular taxpaying unit in the district. This is in every way I can see was very misleading to our community.

- ✓ By not revealing the agreement overall, it appears however unlikely that the HCHA could come in at anytime they chose and purchase the project themselves and the project would never become the taxpaying entity that the applicant stated that it would.
- ✓ In regards to Negative Site issues on page 19: There may be issues regarding chlorine gas at one of the MUD 71 water and sewer plants on Elrod Road. We realize there are existing homes on Elrod already, however we want to know whether the federal and state guidelines are different for proximity and applicant has met those in addition to power lines near to the property.
- ✓ Applicant has also given himself points on page 18 for Proximity of site issues: Applicant has stated he will have a van for the elderly to go to doctor's appts, pharmacy, etc. But when asked what will happen when there are more trips necessary than that one van can handle there has not been a good enough response. In fact, I would like to know what would happen in the event of a disaster, flood, and hurricane. We are in unincorporated Harris County and our services out here and as we learned in preparing for Hurricane Rita were very limited.
- ✓ I also ask that the non-profit letters be investigated. I believe (and have been told) that they have no direct bearing in our immediate area. I would ask how often and when was the last time that any of the applicant's non-profits had any direct, specific ongoing work in our immediate area. Please also show data that would show that any of the Hi-risk, people coming out of a shelter, HIV outreach, chemical dependency, or others, coming their 'stated' low income waiting lists would qualify to rent from his development.
- ✓ The last few things...I'm not sure if any of you looked at our school report card from the Houston Chronicle recently. However, there is an area for low income in there. Our schools are certainly not the highest low income ratio but I was surprised to see that they were at between 38-42%. When you start looking south of I-10 the ratios were looking like 2%, 6%, 10% and 12%. I started feeling a little angry and thinking that it wasn't fair that they developers were picking areas that were already beginning to be at a high low income ratio instead of somewhere where they could even if out. This would seem 'fair'. Even IF the land is a little more expensive. Isn't this what these tax credits should be about, after all?

- ✓ There are many more things, but these are some of the major ones.

Thank you for letting me speak before you today and please, compel these developers to be honest and truthful in their dealings with you and the public and if they are not, do not let them proceed with their projects.

Thank you,

Kathi Zollinger  
21619 Dalton Spring Lane  
Katy, TX 77449  
(281) 398-1096-home (281) 615-8855-cell

cc: Rep: William Callegari





# WITNESS AFFIRMATION FORM

Texas Department of Housing and Community Affairs  
P.O. Box 13941, Austin, TX 78711-3941 Phone: (512) 475-3800

UPON COMPLETION OF THIS FORM, PLEASE RETURN TO DEPARTMENT STAFF.  
PLEASE PRINT LEGIBLY.

I want to appear and offer testimony, in so appearing, I hereby make the following statements:

Date of Statement: 4-10-07 Location of Hearing: Bağaj - City of Houston

My name is: Katrina Thornhill

My occupation, profession or business is: HC MUD 71 Director

My mailing address is: 2803 Morton Cove Ln. Phone: \_\_\_\_\_  
Katy TX 77449

In appearing before this body, I represent:  myself or  the following persons, firms, corporations, classes or groups:  
HC MUD 71

Their business address is: CLAY RD  
KATY TX 77449

I wish to make the following written statements: (Attach additional sheet(s) if extra space is needed.)  
\* Attached

If this statement is in regard to a specific TDHCA development or application, also provide the following information:  
TDHCA Development #: 07109 Development Name: ELROD PLACE  
Development City: KATY  I support this development.  I oppose this development.

I hereby certify that the above statements by me are true and accurate, and that I have listed all persons, firms, corporations, classes, or groups that I represent in reference to the matters on which I am appearing. I further certify that the testimony I give before this body will be true and accurate.

Katrina Thornhill  
Signature of Witness

4-10-07  
Date

Note: At the discretion of the Department, the length of time available for each public comment may be limited.

**HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 71**

c/o Allen Boone Humphries Robinson LLP  
3200 Southwest Freeway, Suite 2600  
Houston, Texas 77027-9944

April 9, 2007

VIA U.S. MAIL AND FACSIMILE (512) 475-0764

Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
Attn: Audrey Martin  
P.O. Box 13941  
Austin, Texas 78711-3941

Dear Ms. Martin:

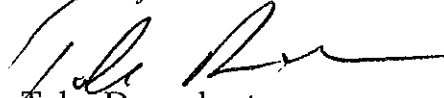
This letter is to follow up to the letter dated March 27, 2007 to express Harris County Municipal Utility District No. 71's (the "District's") opposition to the proposed application for affordable rental housing submitted by Elrod Place, Ltd., located at 3700 Elrod Road, Katy, Texas 77494, by Barry Kahn.

The District has been reviewing Mr. Kahn's application to the Texas Department of Housing and Community Affairs. The application contains serious inaccuracies. The District would like to point out that the proposed affordable rental housing is NOT currently in Harris County Municipal Utility District No. 287 ("MUD 287"), nor has Mr. Kahn petitioned MUD 287 for annexation. We have attached a copy of the MUD 287 boundary map, which shows that the proposed project at 3700 Elrod Road is not in fact, in MUD 287. We are also including a copy of a map included in Mr. Kahn's application, which shows the development tract clearly not in the boundaries of MUD 287.

Furthermore, the application indicates that Mr. Kahn has a utility capacity commitment letter from MUD 287, but in fact a Public Information Act records review confirms that MUD 287 has never issued a utility capacity commitment letter to Mr. Kahn. In fact, Mr. Kahn has neither requested a utility capacity letter nor has been to a Board meeting of MUD 287.

We wanted to advise of these serious discrepancies for your further evaluation. If you have any questions or concerns, please contact our attorney, Lynne Humphries at (713) 860-6406.

Sincerely,

A handwritten signature in black ink, appearing to read 'Toby Dagenhart', with a long horizontal flourish extending to the right.

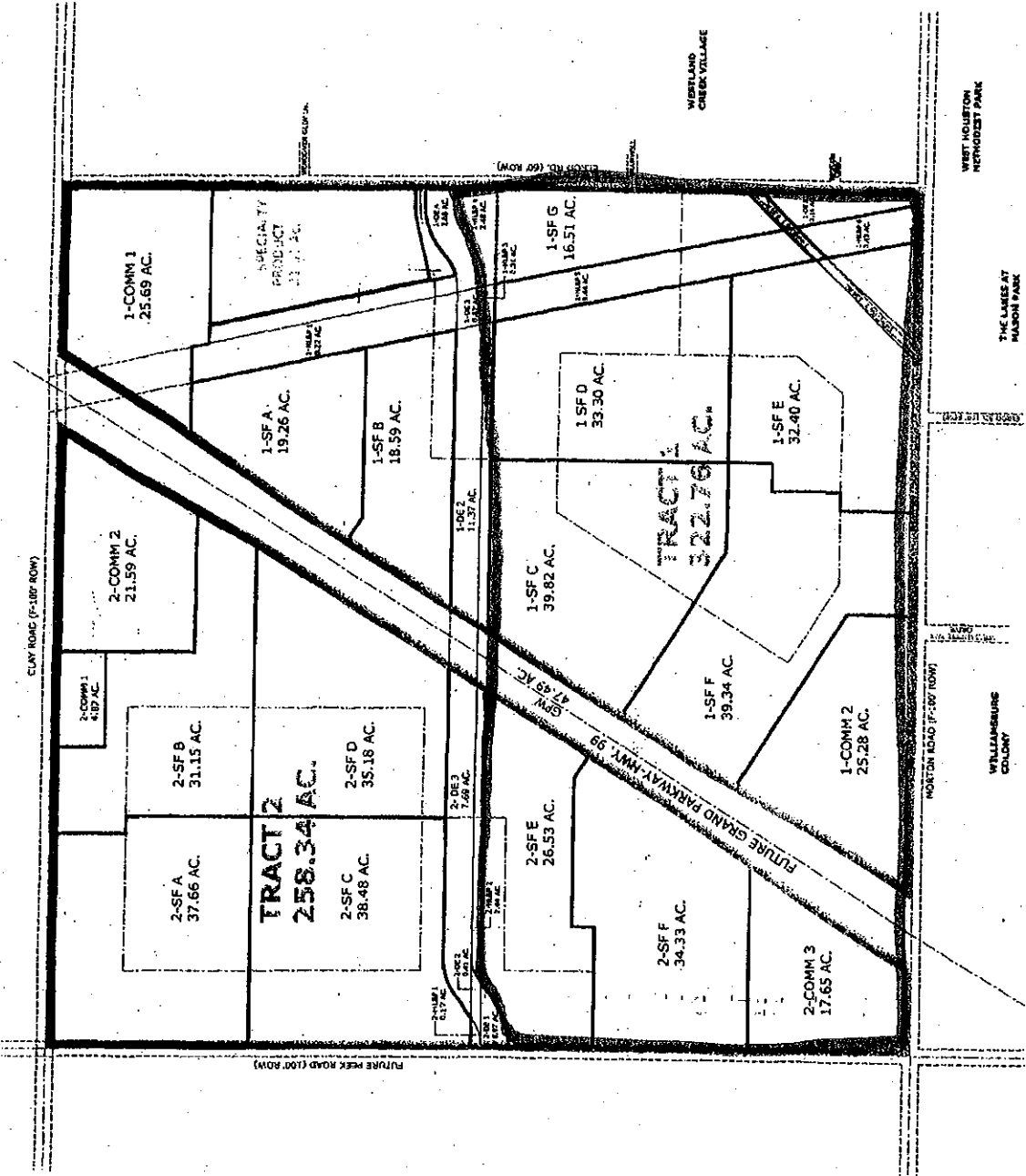
Toby Dagenhart  
President

Cc: The Honorable Bill Callegari  
The Honorable Dan Patrick

Flight "A"

3700  
ELP0020

MUD 287



LEGEND:  
COLLECTOR ROW CENTERLINE

628 ACRE CLAY ROAD TRACT  
PARCELIZATION PLAN

DEVELOPER:  
CITY OF HOUSTON, TEXAS  
DATE: 08/11/2009

PLANNING ARCHITECT:  
CIVIL ENGINEER  
DATE: 08/11/2009

SCALE: 1" = 100'



STATE

Z168288  
03/20/06 300799157

102  
10 ee \$36.00

INFORMATION FORM OF  
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 287

36  
X

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

We, the undersigned, constituting a majority of the members of the Board of Directors of HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 287 (the "District"), do hereby make, execute and affirm this Information Form in compliance with TEX. WATER CODE § 49.452 and § 49.455 and 30 TEXAS ADMIN. CODE § 293.92. We do hereby certify as follows:

1. The name of the District is Harris County Municipal Utility District No. 287.
2. The District consists of 321.7728 acres, more particularly described by metes and bounds and boundary map in Exhibit A attached hereto and incorporated herein for all purposes.
3. The District as of this date has not levied taxes on property within the District. The District's projected rate of debt service tax is \$1.50 on each \$100 of assessed valuation.
4. The total amount of new money bonds that have been approved by the voters and which may be (or have been) issued by the District (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity) is \$0.00.
5. The total amount of refunding bonds that have been approved by the voters and which may be (or have been) issued by the District is \$0.00.
6. The aggregate initial principal amount of all new money bonds of the District payable in whole or in part from taxes (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity) that have been previously issued by the District is \$0.00 and the principal amount of refunding bonds payable in whole or in part from taxes that have been previously issued by the District is \$0.00.
7. The District has not imposed any standby fees.
8. An election to confirm the creation of the District is required. The District was created pursuant to an order of the Texas Water Commission now known as the Texas Commission on Environmental Quality dated July 29, 1985. The District anticipates a confirmation election will be called for May 13, 2006.
9. The District is performing, or will perform, the following functions: the supply of water for municipal, domestic, commercial or other beneficial uses; the collection, transportation, treatment and disposal of waste; the gathering, conducting, diverting and controlling of local storm water or other harmful excesses of water in the District, the provision of parks and recreational facilities and fire protection.

11-11-06-11-06

10. The form Notice to Purchasers required by § 49.452, Texas Water Code, as amended, to be furnished by a seller to a purchaser of real property in the District is attached hereto as Exhibit B and incorporated herein for all purposes.

WITNESS OUR HANDS this 24th day of January, 2006.

David W. Meyer  
Name: David W. Meyer  
Title: President

Kevin Patrick Doody  
Name: Kevin Patrick Doody  
Title: ASST. VICE PRESIDENT

Jeffrey Lokey  
Name: Jeffrey Lokey  
Title: \_\_\_\_\_

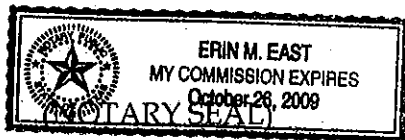
Frank Sheehy  
Name: Frank Sheehy  
Title: ASST. SECRETARY

Mabel Mahfouz  
Name: Mabel Mahfouz  
Title: secretary

THE STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS           §

BEFORE ME, the undersigned, a Notary Public, on this day personally appeared David W. Meyer, Kevin Patrick Doody, Jeffrey Lokey, Frank Sheehy and Mabel Mahfouz, known to me to be the persons and officers whose names are subscribed to the foregoing instrument and affirmed and acknowledged that said instrument is correct and accurate to the best of their knowledge and belief, and that they executed the same for the purposes and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24th day of January, 2006.



Erin M. East  
Notary Public, State of Texas

W

AFTER RECORDING, return to: Harris County Municipal Utility District No. 287, c/o Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027, Attn: Erin M. East.

EXHIBIT A

321.7728  
ACRES

JOB NO. 28760

DESCRIPTION OF A 321.7728 ACRE TRACT OF LAND  
SITUATED IN THE C. P. COLLIS  
SURVEY, ABSTRACT NO. 1332  
HARRIS COUNTY, TEXAS  
March 8, 2006

BEING 321.7728 acres of land situated in the C. P. Collis Survey, Abstract No. 1332, Harris County, Texas and being out of and a part of a tract described as 628.59 acres in a conveyance to 640 Clay, LTD and recorded under Harris County Clerk's File No. S728934, said 321.7728 acre tract being more particularly described by mates and bounds as follows;

BEGINNING at a the intersection of the North right-of-way line of Morton Road (based on a width of 60.00 feet per instruments recorded in Volume 303, Page 626 and Volume 303, Page 630, Harris County Deed Records) with the West right-of-way line of Elrod Road (based on a width of 60.00 feet), same being the southeast corner of said 628.59 acre tract;

THENCE S 87°57'56" W, along and with the North right-of-way of said Morton Road, a distance of 5260.45 feet to a point for the common Southeast corner of the H. & T. C. R. R. Survey, Abstract No. 439 and a tract described as 71.476 in a conveyance to 70 Grand Peek Partnership and recorded under Harris County Clerk's File No. M256445, same being the common Southwest corner of said C. P. Collis Survey, said 628.59 acre tract, and the herein described tract;

THENCE N 02°03'17"W, along and with the common East line of said H. & T. C. R. R. Survey, Abstract No. 439 and said 71.476 acre tract, same being the common West line of C. P. Collis Survey and said 628.59 acre tract, distance of 2659.09 feet to the Northwest corner of the herein described tract

THENCE, in an Easterly direction over and across said 628.59 acre tract the following 5 courses and distances:

N 88°07'06" E, a distance of 4629.25 feet to the Point of Curvature of a curve to the left;

In a Northeasterly direction, along and with said curve to the left having a Radius of 485.00 feet, a Central Angle of 37°08'39", a Long Chord which bears N 69°32'47" E, 308.94 feet, a total Arc Distance of 314.42 feet to the Point of Tangeny of said curve;

N 50°58'27" E, a distance of 58.48 feet to the Point of Curvature of a curve to the right;

In a In a Northeasterly direction, along and with said curve to the right having a Radius of 315.00 feet, a Central Angle of 36°55'41", a Long Chord which bears N 69°26'18" E, 199.53 feet, a total Arc Distance of 203.02 feet to the Point of Tangeny of said curve;

N 87°54'08" E, a distance of 100.00 feet to a point in the West right-of-way line of said Elrod Road, same being the East line of said 628.59 acre tract for the Northeast corner of the herein described tract;

THENCE S 02°05'52" E, along and with the West right-of-way line of said Elrod Road, same being the East line of said 628.59 acre tract, a distance of 2843.07 feet to the **POINT OF BEGINNING** and containing 321.7728 acres of land.

This metes and bounds description was prepared by the undersigned and all courses and distances cited herein are based upon a survey prepared by Putney, Moffatt & Easley Consulting Engineers, titled "H.C.M.U.D. NO. 287 DISTRICT BOUNDARY" and dated Feb., 1985.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



Glenn Fisher RPLS No. 4146  
Brown & Gay Engineers, Inc.  
11490 Westheimer Road, Suite 700  
Houston, Texas 77077  
Telephone: (281) 558-8700

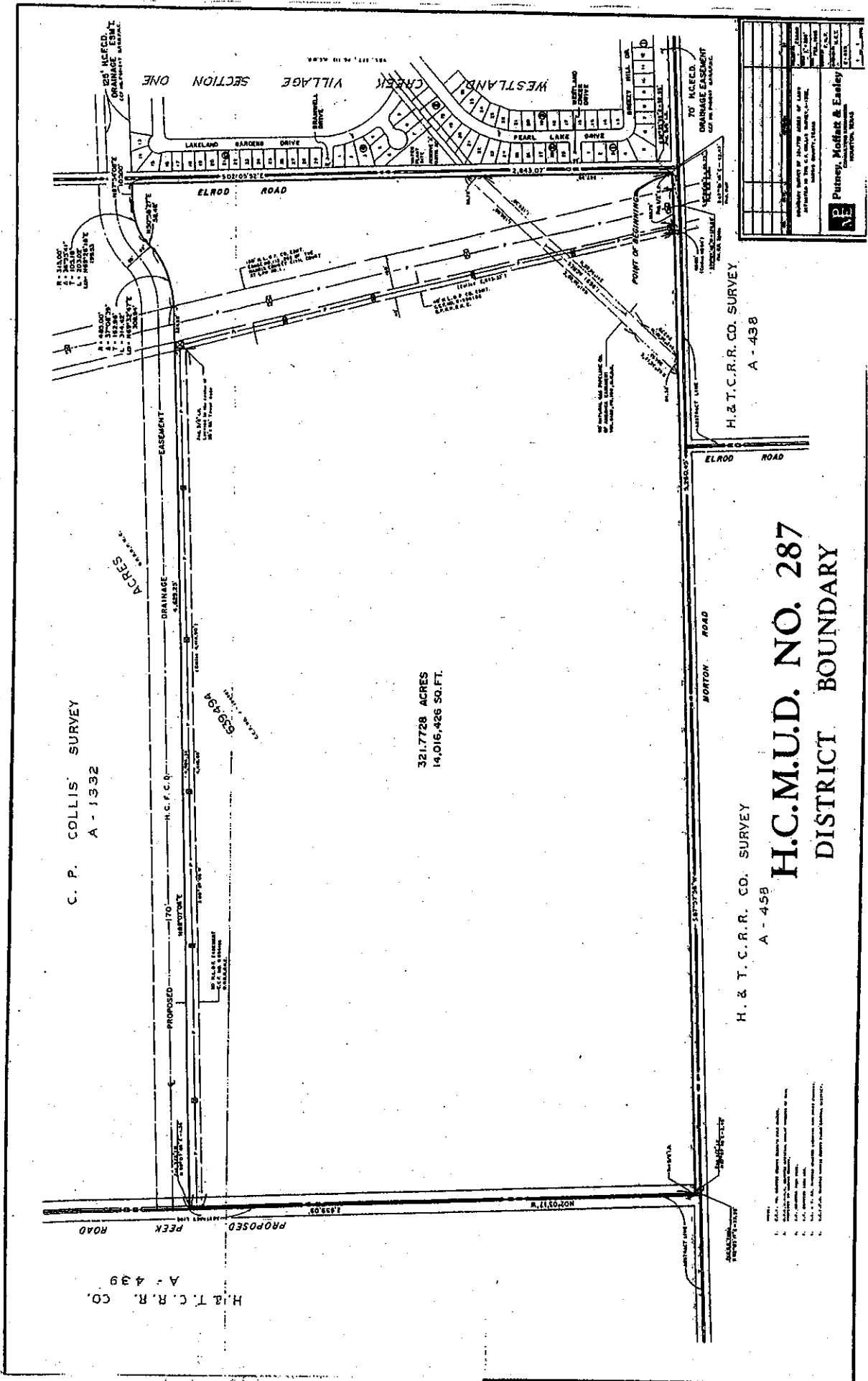
FILED

2006 MAR 20 PM 4:04

*Barbara R. Kaufman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS



RE 019-32-1327



C. P. COLLIS' SURVEY  
A - 1332

H. & T. C. R. R. CO.  
A - 438

321.7728 ACRES  
14,016,426 SQ. FT.

H. & T. C. R. R. CO. SURVEY  
A - 458

H. & T. C. R. R. CO. SURVEY  
A - 438

# H.C.M.U.D. NO. 287 DISTRICT BOUNDARY

- 1. SEE PLAN FOR PROPERTY OWNERS' NAMES.
- 2. SEE PLAN FOR PROPERTY OWNERS' ADDRESSES.
- 3. SEE PLAN FOR PROPERTY OWNERS' PHONE NUMBERS.
- 4. SEE PLAN FOR PROPERTY OWNERS' MAILING ADDRESSES.
- 5. SEE PLAN FOR PROPERTY OWNERS' TELEPHONE NUMBERS.

<b>P</b> <b>Putney, Modatt &amp; Easley</b> SURVEYORS 1000 N. 10th St. Lincoln, Nebraska	
DATE	1958
BY	J. W. PUTNEY, JR.
CHECKED BY	J. W. PUTNEY, JR.
APPROVED BY	J. W. PUTNEY, JR.
REVISIONS	
NO.	DESCRIPTION
1	AS SHOWN

EXHIBIT B

NOTICE TO PURCHASERS

The real property, described below, that you are about to purchase is located in the Harris County Municipal Utility District No. 287 (the "District"). The District has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. The District has not yet levied taxes but the most recent projected debt service tax, as of this date, is \$1.50 on each \$100 of assessed valuation. The total amount of bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and which have been or may, at this date, be issued is \$ 0, and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities of the District and payable in whole or in part from property taxes is \$ 0.

The District is located in whole or in part in the extraterritorial jurisdiction of the City of Houston. By law, a district located in the extraterritorial jurisdiction of a municipality may be annexed without the consent of the district or the voters of the district. When a district is annexed, the district is dissolved.

The purpose of this District is to provide water, sewer, drainage, or flood control facilities and services within the District through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the District. The legal description of the property you are acquiring is as follows:

(description of property)

SELLER:

(Date)

Signature of Seller

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

PURCHASER:

(Date)

Signature of Purchaser

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW THE STATE OF TEXAS

I hereby certify that this instrument was FILED in file number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED. In the Official Public Records of Real Property of Harris County Texas on

After recording, please return to:

RECORDER'S MEMORANDUM:

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

MAR 20 2006



*Dorely B. Kaufman*

COUNTY CLERK  
HARRIS COUNTY TEXAS

RR 019-32-1328

Applicant  
Response  
07109



## HETTIG/KAHN HOLDINGS, INC

April 27, 2007

Ms. Audrey M. Martin  
Competitive HTC Program Administrator  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Elrod Place, Ltd. ("Applicant")  
TDHCA #07109

Dear Ms. Martin:

We wish to respond to the two challenges forwarded by TDHCA to the Applicant. Please note that these challenges are from neighborhoods and entities outside the boundaries of the neighborhood organization and MUD that contain, or will contain, the development.

The land for Applicant is part of a new 628-acre master planned community, as indicated on the colored map included in the attached handout. As you will note, this is the same map attached to the MUD 71 letter used as a challenge. We are enclosing an email from the land seller that it is in the process of annexing the land on which Elrod Place will be developed into MUD 287. Since MUD 287 only serves the land seller's development, seller clearly will be able to control water and sewer and has represented in the land contract (see contract in application) that, by the time of closing and carryover, Applicant will have capacity letters. Further, seller has represented that prior to commencement of construction, Applicant will have connections for water and sewer. This meets all TDHCA requirements. This is also a typical manner of obtaining water and sewer connections in many developments. In fact, representatives of seller, Mr. Senn and Mr. Matthews, were present at a meeting called by MUD 71 and at the annual meeting of the homeowner's association for the association across the street from the development, two of the five meetings Applicant held. Ms. Zollinger and Mr. Dagenhart were present at both meetings. They did not raise any questions or challenges on the issue of which MUD would provide water and sewer.

The challenges allege that Applicant concealed information from the public, or that there were inaccuracies in its presentation. We believe nothing could be further from the truth. Applicant participated in five different public meetings and spent over eight hours

answering questions from the community. Applicant participated in all these meetings at the request of State Representative Callegari, despite the fact that Elrod Place is not within the boundaries of MUD 71 or any of the neighborhood organizations who participated in these meetings. (We believe MUD 71 was acting outside of its statutory authority by calling such a meeting in the first place.) At the public meetings, the various groups asked extensive questions, and Applicant answered them honestly. A copy of the handout provided is attached. As you know, it is impossible to communicate every single detail of a tax credit application in this kind of public forum. However, Applicant respectfully and thoroughly answered the questions presented. We were thanked by Ms Zollinger in her email of March 8 for being cooperative with providing information.

In addition to the five noted meetings, two additional meetings were personally held with the State Representative who stated in his rejection letter that the Applicant made an earnest attempt to meet with area residents and explain the project.

Besides the tax credits, Applicant expects to receive over \$1,725,000 of HOME funds, which will permit construction of a higher quality development than otherwise may be built on this site. The single family homes will actually be nicer than some of those in the surrounding subdivisions. Receipt of the HOME funds necessitates involvement by the Harris County Housing Authority ("HCHA"). HCHA and the developer of Elrod Place have successfully developed other affordable housing projects together, including another single family property. Although Applicant may not have referred directly to the MOU between HCHA and the developer during the public meetings, Applicant did reference the other projects that have been developed jointly by these parties and invited the audience to look into those developments.

Applicant fully intends for the homes of Elrod Place to be available for purchase to the tenants at the end of the tax credit compliance period. However, as you know, Section 42 does not permit the right of first refusal to be given directly to the tenants themselves. Rather, it must be given to a non-profit or tenant organization, which then implements the plan for sale to the tenants. Applicant does not think there is anything misleading or inconsistent about the statements made in the public meetings or the statements made in the tax credit application. Rather, the challenge simply reflects that the complainants are not familiar with every technical issue of Section 42.

We are not aware of any Negative Site features about chlorine gas that were required to be disclosed in the Application, nor did MUD 71, the complainant, previously disclose this information to Applicant.

As to the issue of the van, Applicant is planning to provide a van as an accommodation to its residents and operate that amenity in accordance with TDHCA requirements. TDHCA does not require its applicants to have additional vehicles on hand just in case disaster evacuations are required.

April 27, 2007

Page 3 of 3

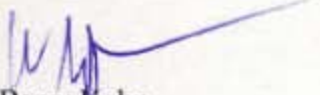
All community organizations that provided letters of support informed Applicant that they are area providers of their respective services. Nonetheless, per TDHCA request, Applicant is assembling additional evidence of their service in the area of Elrod Place.

Attached is a copy of the TDHCA required notice that the organizations Ms. Zollinger represents apparently took and modified to incite opposition to Elrod Place. We do not believe this is the intent of why the notices are required. Interestingly, this month is designated Fair Housing Month by the Governor of Texas. Earlier this month, the TDHCA Board unanimously adopted a resolution asserting that housing discrimination would not be allowed on any programs under their control and requesting that their affordable housing building partners commit to the same. Yet, the people who attended these public meetings to heckle and harass us used TDHCA's notification processes to effect the exact opposite of TDHCA's mandate.

As noted, an affiliate of Applicant is currently developing a similar development with single family homes in the north part of Houston. For the 118 similar houses, there are already over 200 families on the waiting list. Ms. Zollinger noted that 38-42% of the families in the Katy ISD fall into the definition of qualifying families for the proposed development. It is truly unfortunate that 76 of those families may not be able to live in beautiful, single family homes because of the opposition to Elrod Place that these complainants have generated.

Applicant firmly believes that Applicant honorably complied with, and even went beyond the requirements of, the rules for the application and any allegations are misplaced. Should you need any additional information, please do not hesitate to notify me.

Very truly yours,



W. Barry Kahn

WBK/ad

cc: Ms. Cynthia Bast  
Locke Liddell & Sapp  
100 Congress Ave., Suite 300  
Austin, Texas 78701-4042

-----Original Message-----

From: Perry Senn [mailto:p.senn@canterraclassics.com]

Sent: Tuesday, April 17, 2007 4:48 PM

To: Barry Kahn

Subject: RE: Emailing: 4704634.htm

Barry:

We purchased the 628 acres in October of 2005. When we purchased the property it had two MUD's, 287 and 288. MUD 287 had been organized, had a discharge permit from TCEQ and was ready to commence formal operation. All that was needed was the appointment or election of new directors and the resignation of the previous directors. We also engaged a new attorney, new financial advisor, tax consultant, engineer, etc. etc. We determined that we wanted a single MUD not two. Therefore, we agreed to annex the remaining, approx, 320 acres into MUD287. However, we do not formally annex the property through the City until such time as we actually need the property annexed. In doing so, we can keep a portion of the property on an agricultural basis at a lower tax rate. However, in all of our contracts, warrants and representations, we have assured you that the property would be annexed and that utilities (water, waste water and drainage) would be available by the time you needed them. The time needed was estimated at March of 2008. As of this date, we have 700 water taps, and will have over 500 sewer taps available by the end of the year. We are constructing our own wastewater treatment plant. It can be expanded at any time additional capacity is needed, as long as we are in good standing with the TCEQ and our permit. All off-site drainage is in place, allowing the site to be drained in accordance with our approved drainage plan.

I'm guessing here, but what I think the issue, is a very vague technicality.

We make representations in almost every land deal, that the property is being annexed into a particular MUD. I'm not aware of a single case, where a property has been turned down for annexation, especially, when it's owned by the developer. I have heard of cases whereby a property wasn't annexed into a MUD, because it lacked the financial ability to support the improvements needed to develop the site. These would of course, include, water plant, sewer plant and all trunkline facilities.

Perry

## Barry Kahn

---

**Fr m:** Kathi Zollinger [cre8zhavoc@gmail.com]  
**S nt:** Thursday, March 08, 2007 12:52 PM  
**T :** bkahn@hettig-kahn.com  
**Subject:** Thank you and Next Meeting Date

Dear Mr. Kahn,  
Sorry for the delay in getting this to you...I was ill for several days following the meeting and have been playing catch up.

A big thank you to you, Mr. Senn and Mr. Matthews and staff for making the presentation following the end of the Bridgewater Community Assn Annual Meeting last Monday evening. I apologize for the late start. I hope we conveyed to you the potential for such a delay due to all of the uncertainties associated with an annual meeting.

We were pleasantly surprised to see just how many people DID show up, especially since last year we were required to hold a second annual meeting due to the low turnout.

In addition, although we did have record attendance at our annual meeting, the attendance only accounted for a small percentage of our homeowners. (The quorum was reached as a result of obtaining a large number of builder proxies.) That plus the fact that we think it is important for the other four homeowner associations in the neighborhood to get the chance to see your presentation prior to the April hearing which has prompted us to schedule another public forum. This event, sponsored by MUD 71, will be held at Morton ranch High School cafeteria on Thursday, March 22 at 7pm. The room is significantly larger than the MUD building and is also equipped with a sound system. As you might recall we were having difficulties with people hearing even in our building. Hopefully you will be able to attend. Let us know if you need any kind of projector and we can work on getting that set-up for you. If you cannot or will not attend, if you would please loan us your boards so we can show the homeowners the project and explain the best we can so they can be as informed as possible.

Thanks again for your ongoing cooperation in providing information to and getting information from our neighborhoods. Continued open communication is key.

I was unable to obtain an email address for Mr. Senn and Mr. Matthews so if you would pass this on to them I would really appreciate it.

Sincerely,  
Kathi Zollinger  
Bridgewater Community Assn-VP  
Harris County MUD 71-Secretary  
(281) 615-8855

Kathi Zollinger

Real integrity is doing the right thing, knowing that nobody's going to know whether you did it or not.  
-Oprah-



The right to be heard does not automatically include the right to be taken seriously. – Hubert H. Humphrey

..... CONFIDENTIALITY NOTICE .....

The information in this email may be confidential and/or privileged. This email is intended to be reviewed by only the individual or organization named above. If you are not the intended recipient or an authorized representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this email and its attachment, if any, or the information contained herein is prohibited. If you received this email in error please immediately notify the sender by return email and delete this email from your system.

**SAY NO  
To Proposed Low Income Housing Development**

**Meeting Scheduled for March 22, 7:00 pm  
Morton Ranch High School**

Proposed Low Income Housing @ Elrod and Clay intersections. Don't miss the MUD 71 sponsored Community Meeting at the Morton Ranch High School Cafeteria at 7pm on Thursday, March 22 and the Public Hearing on this project on Tuesday, April 10 at the City Hall Annex Chambers, 900 Bagby, Houston, TX 77002 at 6pm.

**We cannot let this happen to our community!!**

## **ELROD PLACE, LTD.**

February 21, 2007

Elrod Place, Ltd. is making an application for the Housing Tax Credit program with the Texas Department of Housing and Community Affairs for Elrod Place, located on the west side of the approximately 3700 block of Elrod, Katy, Harris County, Texas. The development will be a new construction intergenerational housing community consisting of 76 single-family, four-bedroom houses for families, and 50 one and two-bedroom units for the elderly, of which approximately 11% will be for tenants with approximate incomes of less than 30%, and approximately 88% will be for tenants with approximate incomes of less than 60% of the area's median income. Those approximate income levels for a family of one (1) are \$12,800 (30% AMGI) and \$25,620 (60% AMGI) ; two(2) are \$14,650 (30% AMGI) and \$29,280 (60% AMGI); three (3) are \$16,450 (30% AMGI) and \$32,940 (60% AMGI), four (4) are \$18,300 (30% AMGI) and \$36,600 (60% AMGI); five (5) \$19,750 (30% AMGI) and \$39,540 (60% AMGI); six (6) are \$21,250 (30% AMGI) and \$42,480 (60% AMGI); and eight (8) are \$24,150 (30% AMGI) and \$48,300 (60% AMGI). Of the 126 units, 123, or 98%, of the units in the Development will be rent restricted. The one and two-bedroom units of the Development will serve the elderly, and the four-bedroom houses will serve family households. The number of units and proposed rents (less utility allowances) for the subject property's tax credit units are:

23 - 1 Bedroom Unit for \$606  
3 - 1 Bedroom Units for \$263  
20 - 2 Bedroom Units for \$733  
3 - 2 Bedroom Units for \$321  
67 - 4 Bedroom Units for \$896  
7 - 4 Bedroom Units for \$365

The development will also offer market rate units not restricted as to income. The number of units and proposed rents for the subject property's market rate (non-tax credit program) units are:

1 - 2 Bedroom Unit for \$750  
2 - 4 Bedroom Units for \$950



a schematic development plan for

# WATERSTONE

## ± 628 ACRES of LAND

prepared for

### CLAY ROAD 628 DEVELOPMENT, LP

**KERRY R. GILBERT & ASSOCIATES, INC.**

**Land Planning Consultants**

15810 Park Ten Place  
Suite 160  
Houston, Texas 77084

SCALE \_\_\_\_\_

FEBRUARY 15, 2007

# *Waterstone Community Association, Inc.*

February 20, 2007

To whom it may concern,

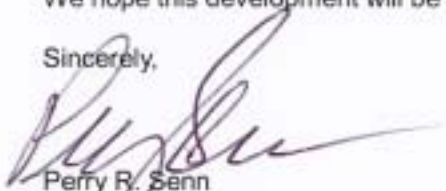
Our neighborhood organization supports and recommends the proposed development of Elrod Place. The developers have presented their site plan and proposed elevations and we are encouraged with this type of development that provides housing for the elderly as well as single family rentals. The single family rentals offer an opportunity to families to rent as a stepping stone to future home ownership in the area. The income levels allowed encourage firemen, policemen, school teachers, municipal employees and other working individuals to move to the area. Since this is a newer community, we welcome development attracting these types of individuals.

Many families are in need of their parents, the grandparents of their children, to live nearby and assist with the care of their children, particularly since both parents may be working. Since there is no nearby senior housing, this is welcomed and anticipated to assist with single family for sale growth of the area.

We have been working with the developer and are pleased with the attention to detail they have presented. An excellent amenity package is being offered. They welcomed our input and are sensitive to creating a low dense environment and providing an abundance of green space in the development. Security is of utmost importance and we are very pleased with their management approach to enhancing the area. Providing social services and transportation to the residents is a plus.

We hope this development will be approved and are available to answer any questions.

Sincerely,



Perry R. Senn  
Director  
Waterstone Community Association, Inc.



# Elrod Place

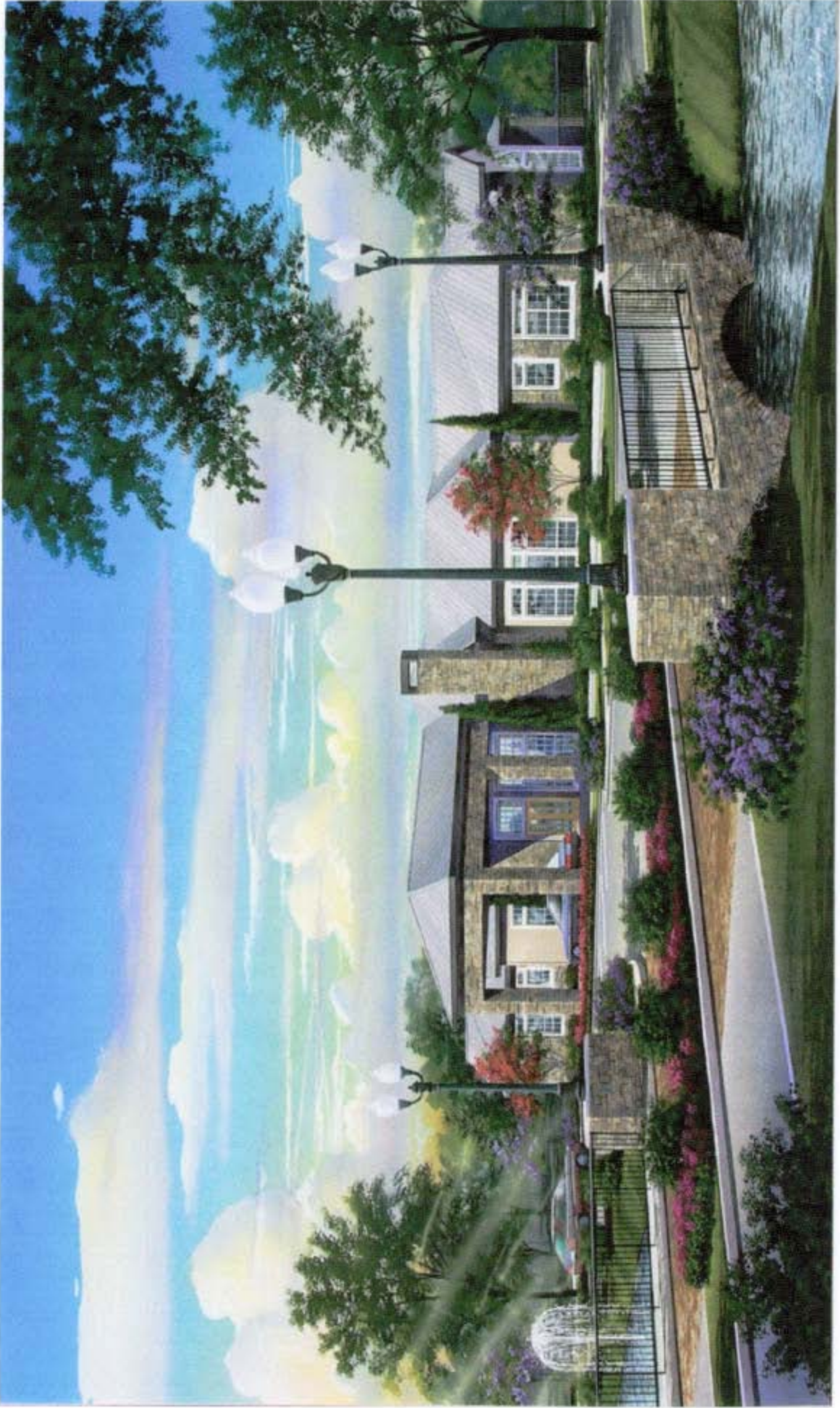
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Understanding the Project and  
Its Relationship with the  
Local Community



# ***ELROD PLACE***

**LEASING / CLUB CENTER**



**ELROD PLACE**  
**SENIOR CENTER**



# ELROD PLACE

SINGLE FAMILY HOMES





## DEVELOPMENT POSITIVES

- Single-family homes and elderly units promote more resident stability.
- Focus of rentals will be policemen, firemen, school teachers, municipal employees and other working families in the houses.
- With a shortage of safe and clean houses to rent in Harris County, this type of unit mix has much lower turnover than other rental developments.
- Single-family units offer more pride of occupancy with yards, more space, neighborhood atmosphere and overall higher quality of lifestyle.
- Elderly residents are generally stable and do not like to move.
- With elderly units, opportunity exists for grandparents to live near resident and neighborhood families and assist with grandchildren.
- Only three houses per acre which will be less burden on schools as compared to other single-family developments in subdivision which will have as many as over five houses per acre.
- Social services including after school tutoring and activities will be available in the social services building.
- On-site van will provide transportation.
- Rents are not subsidized, only restricted, for this development. Costs are subsidized allowing for a higher quality development.
- Residents may have opportunity to buy after 15 years, thus giving an extra incentive to maintain their residence.

## AMENITIES

- Houses will have neo-traditional elevations with large front porches and rear entry garages
- Elevations of the elderly cottages will complement the houses
- Eleven foot ceilings in the living rooms of the elderly units
- All others rooms nine foot ceilings in all units
- A community area with picnic tables and barbecue grills
- Covered barbeque pavilion
- Two designated playgrounds with equipment
- Covered bus depot for pick up of school children
- Furnished clubhouse for social services and other project related activities
- Computer room
- Furnished community area with kitchen
- Public 911 telephone
- Swimming pool
- Limited access entry with perimeter fencing
- Ceiling fans in the living rooms and bedrooms of all units
- Full kitchen appliance packages
- Numerous energy savings features

## SECURITY

- Perimeter fencing with limited access gates
- Will build a sheriff department substation on site
- All residents will have to be approved using a third part credit and criminal background firm
- A manager or assistant manager will have a separate house to live on site to minimize disturbances
- A unit is intended to be provided to a sheriff deputy who would patrol and respond to onsite issues
- Residents are provided rules and regulations that they must follow
- For minor infractions, residents are given a warning and then are subject to eviction
- For serious infractions including any arrests, residents are given an immediate notice vacate
- Development will be subject to covenants, conditions and restrictions for Waterstone Community Association, Inc.

## MAINTENANCE

- Full time maintenance staff to maintain property in high quality condition.
- Property will do all lawn care weekly to assure clean appearance and mowed lawns.
- A reserve account for replacement will be set up with the lender to ensure property maintenance of \$250/unit per year.
- The partnership will also have an initial operating account required by the investor of \$300,000.
- Large financial loss if not properly maintained.
- Third party supervision by a large financial institution investor and their designated representatives.
- Additional supervision by State of Texas and Internal Revenue Service to comply with program requirements.
- Benefits offered to residents monthly for best maintained yard to create community spirit.

## PROPERTIES MANAGED BY HETTIG MANAGEMENT CORP.

### OWNED:

- Almeda Park Apartments
- Baybrook Park Apartments (Elderly)
- The Enclave (Single-Family Homes)
- Fallbrook Ranch Apartments
- Fountains at Tidwell Apartments
- Sterling Green Village (Single-Family Homes)
- Tidwell Estates Apartments
- Uvalde Ranch Apartments
- Waterside Court (Single-Family Homes)
- 5325 Katy Freeway Office Building

### FEE MANAGED:

- Bent Tree Apartments
- Lake Jackson Manor Apartments
- Lovett Manor Apartments (Elderly)
- The Manor at Jersey Village Apartments (Elderly)
- Maryland Manor Apartments
- Oak Tree Manor Apartments (Elderly)
- Sun East 55 Plus Apartments (Elderly)
- Sun North 55 Plus Apartments (Elderly)

Hettig Management Corp. has been active in managing thousands of multifamily units in the Houston area since 1977. Darlene Guidry, President of Hettig Management Corp., is a past Houston Apartment Association President, on its Board of Directors and on the Texas Apartment Association Board.



# Baybrook Park

*100 units*

500 W. Texas Avenue  
Webster Texas 77598  
281.332.6262

A Hettig-Kahn Development 713/871-0063





# FALLBROOK RANCH

196 UNITS



TWO AND THREE BEDROOMS

**411 West Road  
Houston, Texas 77038  
281/260-8944**

A Hettig-Kahn Development 713/871-0063





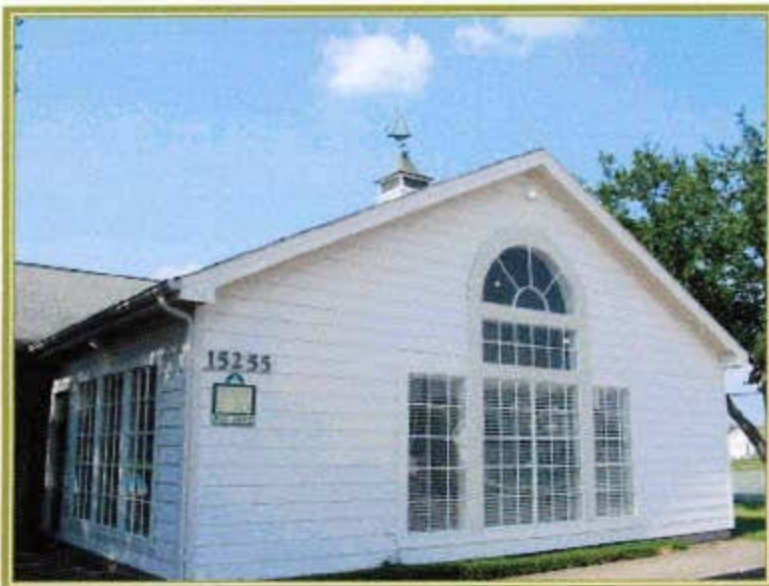
# Sterling Green Village



150 One and Two Story Home Rentals  
Four Bedroom Homes



15255 Ferness  
Channelview, Texas 77530  
281/457-2800



A Hettig-Kahn Development 713/871-0063



## **UVALDE RANCH**

**244 UNITS**

**5300 S. LAKE HOUSTON PARKWAY - HOUSTON - TEXAS - 77049**  
**713-450-1552**



**A Hettig-Kahn Development 713-871-0063**

# Challenge

## 07118



2201 Northland Drive  
Austin, Texas 78756

Voice (512) 450-0933  
Fax (512) 450-1097  
eric@betcodev.com

Sent via email to audrey.martin@tdhca.state.tx.us

May 2, 2007

Ms. Audrey Martin  
Competitive HTC Program Administrator  
Texas Department of Housing and Community Affairs  
PO Box 13941  
Austin, TX 78711-3941

**RE:** Challenge to TDHCA 9% Housing Tax Credit Application #07118, Lakeside Apartments  
(1 Block E. of S. Jefferson Street and Tennison Rd, Mt. Pleasant, Texas; Owner Contact:  
Justin Zimmerman)

Ms. Martin:

We respectfully ask that you consider the information provided below in your review of the above-referenced application. This challenge specifically relates to the one point requested for "Third-Party Funding Commitment Outside of Qualified Census Tracts" under §49.9(i)(26) of the QAP.

**Assumed Facts** (*obtained from application and attached documentation*):

- The applicant has secured a loan commitment for \$125,000 from a private source, Mr. Kenneth Schwab of Springfield, Missouri;
- Wilhoit Properties, Inc. is the Development Team Member Property Manager, as well as both an Affiliate of the Applicant and a Related Party to the Applicant;
- Wilhoit Properties has had direct involvement in the preparation of this application, to include reservations of entity names and the purchase/installation of site signage through employee Paul Holden
- Wilhoit Properties, Inc. is principally owned by Vaughn, Justin and D. Leah Zimmerman (see attached)
- The applicant's General Partner is also partially owned by Vaughn Zimmerman, Justin Zimmerman and Leah Zimmerman

**Points of Challenge:**

Funds for consideration under QAP §49.9(i)(26) must be provided by a third-party source. By definition a Third Party is a person who is not an:

- (A) Applicant, General Partner, Developer, or General Contractor, or
- (B) **An Affiliate** or a Related Party to the Applicant, General Partner, Developer or General Contractor, or
- (C) Person(s) receiving any portion of the contractor fee or developer fee  
(QAP §49.3(87))


**According to the company website, Mr. Schwab is a Commercial Real Estate Salesperson for Wilhoit Properties, Inc.** (see attached documentation). By definition (QAP §49.3(2), see below), Mr. Schwab is an affiliate of the applicant, and therefore excluded from the ability to provide third party funding:

**Affiliate--An individual**, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever **that directly, or indirectly through one or more intermediaries**, Controls, **is Controlled by, or is under common Control with any other Person**, and specifically shall include parents or subsidiaries. (QAP §49.3(2))

As Mr. Schwab is an affiliate to the Applicant, we respectfully ask that you do not award the one point requested under §49.9(i)(26) to application 07118.

Please feel free to contact me directly regarding the information submitted, or if additional information is required. Thank you for your assistance in this matter.

Sincerely,



Eric Hartzell

*Vice President*

BETCO Development

2201 Northland Dr.

Austin, TX 78756

(512) 450-0933 *voice*

(512) 450-1097 *fax*

[eric@betcodev.com](mailto:eric@betcodev.com)



Kenneth A. Schwab  
5228 Stoneridge Lane  
Springfield, Mo  
417-887-2721

February 23, 2007

Justin Zimmerman  
Zimmerman Properties, LLC  
1730 East Republic Road  
Springfield, MO 65804

RE: Lakeside Apartments, Mt Pleasant, Texas (the "Project")

Dear Justin:

Please be advised that pursuant to the terms and conditions outlined herein, this is a binding commitment to lend \$125,000 for the development of the Project, a to-be-built, 64-unit affordable housing development financed partially with low-income housing tax credits ("Tax Credits") as awarded by Texas Department of Housing and Community Affairs ("TDHCA"). Please note that this loan commitment will be null and void unless TDHCA allocates Tax Credits to the Project no later than December 31, 2007.

Borrower:	Mt Pleasant Lakeside Apartments, LP
General Partner:	Mt Pleasant Lakeside Housing, LLC
Developer:	Zimmerman Properties, LLC
<del>General Contractor:</del>	<del>Zimmerman Properties Construction, LLC</del>
Loan Amount:	\$125,000
Loan Purpose:	To provide bridge financing during construction of the Project
Term:	Six Month Note
Payments:	Interest Only Monthly with Principal at Maturity
Interest Rate:	Wall Street Journal published Prime Rate plus 200 Basis Points with an 8% minimum floor Interest Rate
Prepayment:	Loan cannot be prepaid for 90 days, thereafter it can be paid partially or in full without penalty
Collateral:	3 <sup>rd</sup> Deed of Trust on the Project. The 1 <sup>st</sup> Deed of Trust shall not exceed \$1,585,000 and the 2 <sup>nd</sup> Deed of Trust shall not exceed \$125,000
Appraisal:	Prior to closing, Borrower shall provide an MAI appraisal that indicates value of at least \$6,000,000 including the value of the Tax Credits

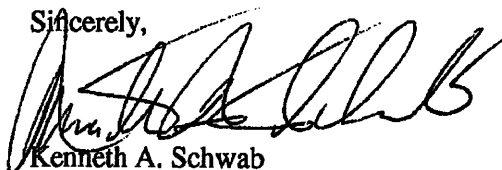
**Environmental:** Borrower shall provide a Phase I Environmental site assessment acceptable to lender  
**Title Insurance:** Borrower shall provide lender an acceptable title insurance policy  
**Closing Costs:** Borrower shall pay all of lender's closing costs including reasonable legal fees and recording fees

Kenneth A. Schwab hereby certifies and attests to TDHCA that he:

- (i) is not a commercial lender,
- (ii) that he is not the Applicant, Developer, Consultant or a Related Party (all as defined by TDHCA), and
- (iii) the loan funds have not been provided to lender by the Applicant, Developer, Consultant or a Related Party or any individual acting on their collective behalf (all as defined by TDHCA)

Best Wishes on your Project! Please contact me if there are questions on this matter.

Sincerely,



Kenneth A. Schwab



**PART A. DEVELOPMENT TEAM MEMBERS**

**!** The requested information on all known development team members must be provided. In addition to the categories listed below, the "Other" category should be used to list all known development team members that are included in the "Development Cost Schedule. If the team member that will be utilized is not yet known, indicate "TBD". If it is anticipated that the development team category will not be utilized, indicate "N/A".

Developer Name:		Contact Name:	Address:	City:	St.:	ZIP:
Zimmerman Properties, LLC		Justin Zimmerman	1730 E. Republic Road, Suite F	Springfield	MO	65804
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
417-883-1632	417-883-6343	jzimmerman@wilhoitproperties.com	\$ 291,000			
There is a direct or indirect, financial, or other interest with Applicant or other team members? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
Housing General Contractor Name:		Contact Name:	Address:	City:	St.:	ZIP:
Zimmerman Properties Construction, LLC		Matt Zimmerman	1730 E. Republic Road, Suite F	Springfield	MO	65804
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
417-883-1632	417-883-6343	mzimmerman@wilhoitproperties.com	\$ 269,750			
There is a direct or indirect, financial, or other interest with Applicant or other team members? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
Infrastructure General Contractor Name:		Contact Name:	Address:	City:	St.:	ZIP:
Zimmerman Properties Construction, LLC		Matt Zimmerman	1730 E. Republic Road, Suite F	Springfield	MO	65804
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
417-883-1632	417-883-6343	mzimmerman@wilhoitproperties.com	\$ 520,000			
There is a direct or indirect, financial, or other interest with Applicant or other team members? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
Cost Estimator Name:		Contact Name:	Address:	City:	St.:	ZIP:
N/A						
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input type="checkbox"/> No		
			\$			
There is a direct or indirect, financial, or other interest with Applicant or other team members? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						

<sup>7</sup> If there is a direct or indirect, financial, or other interest with Applicant or other team members, provide an attachment behind Volume 3, Tab 2 of the Application that explains the relationship(s).

**PART A. DEVELOPMENT TEAM MEMBERS**

<b>Architect Name:</b>	Contact Name:	Address:	City:	St.:	ZIP:
Parker & Associates	Jim Parker	2202 E. 49th Street, Suite 200	Tulsa	OK	74105
Phone:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
918-742-2485	jparker@parker-tulsa.com	\$ 60,000			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
<b>Engineer Name:</b>	Contact Name:	Address:	City:	St.:	ZIP:
KAW Valley Engineers	Mike Osburn	14700 West 114th Terrace	Lenexa	KS	66215
Phone:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
913-894-5150	mikeo@kveng.com	\$ 70,000			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
<b>Market Analyst Name:</b>	Contact Name:	Address:	City:	St.:	ZIP:
Apartment Market Data Research Services	Darrell Jack	45 NE Loop 410, Suite 200	San Antonio	TX	78216
Phone:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
210-530-0040	djack-amd@sax.rr.com	\$ 7,500			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
<b>Appraiser Name:</b>	Contact Name:	Address:	City:	St.:	ZIP:
Integra Realty Resources	Chip Ard	6940 S. Ulita Avenue, Suite 100	Tulsa	OK	74136
Phone:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
918-492-4844	card@jrr.com	\$ 6,000			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
<b>Attorney Name:</b>	Contact Name:	Address:	City:	St.:	ZIP:
Kendall R. McPhail, LLC	Kendall R. McPhail	1240 E. Independence, Suite 200	Springfield	MO	65804
Phone:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
417-864-4700	kmcphail@myexcel.com	\$ 25,000			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

**PART A. DEVELOPMENT TEAM MEMBERS**

<b>Accountant Name:</b>		Contact Name:	Address:	City:	St.:	ZIP:
Resnick Group		Kirk T. Rogers	7700 Old Georgetown Road, Suite 400	Bethesda	MD	20814
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
301-657-7715	301-657-77169	kirk.rogers@rfs.com	\$ 15,000			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
<b>Property Manager Name:</b>		Contact Name:	Address:	City:	St.:	ZIP:
Wilhoit Properties, Inc.		Robert Williams	1730 E. Republic Road, Suite F	Springfield	mo	65804
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
417-883-1632	417-883-6343	rwilliams@wilhoitproperties.com	\$ 5%			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
<b>Originator or Underwriter Name:</b>		Contact Name:	Address:	City:	St.:	ZIP:
N/A						
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input type="checkbox"/> No		
			\$			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
<b>Syndicator Name:</b>		Contact Name:	Address:	City:	St.:	ZIP:
CharterMac Capital		Justin Ginsberg	625 Madison Avenue	New York	NY	10022
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
212-588-2100	212-751-3550	jginsberg@relatedcapital.com	\$			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						
<b>Supportive Service Provider Name:</b>		Contact Name:	Address:	City:	St.:	ZIP:
Texas Interfaith Housing		Cynthia Boutineau	3131 W. Alabama, Suite 300	Houston	Tx	77098
Phone:	Fax:	Email:	Proposed Fee:	Entity is a certified Texas HUB? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
713-526-6634	713-526-7019	cboutineau@ii-f.org	\$			
There is a direct or indirect, financial, or other interest with Applicant or other team members' <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						



**Office of the Secretary of State**

**CERTIFICATE OF RESERVATION OF  
ENTITY NAME  
OF**

**Mt. Pleasant Lakeside Apartments LP**

The undersigned, as Secretary of State of Texas, hereby certifies that the above entity name has been reserved in this office pursuant to the provisions of Section 5.101 of the Texas Business Organizations Code for the exclusive use of

Paul Holden  
16188 Oak Grove Road, Buda, TX 78610

for a period of one hundred twenty days after the date hereof.

This name reservation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/05/2007



A handwritten signature in black ink that reads "Roger Williams".

Roger Williams  
Secretary of State



**Office of the Secretary of State**

**CERTIFICATE OF RESERVATION OF  
ENTITY NAME  
OF**

**Mt. Pleasant Lakeside Housing, LLC**

The undersigned, as Secretary of State of Texas, hereby certifies that the above entity name has been reserved in this office pursuant to the provisions of Section 5.101 of the Texas Business Organizations Code for the exclusive use of

Paul Holden  
16188 Oak Grove Road, Buda , TX 78610

for a period of one hundred twenty days after the date hereof.

This name reservation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 01/05/2007



A handwritten signature in black ink that reads "Roger Williams".

Roger Williams  
Secretary of State



6400 Brodie Lane Ste. 102  
 Austin, TX 78745  
 Phone: (512) 443-7446  
 Fax: (512) 326-6772

**Invoice Number 12548**  
 P.O. #: \_\_\_\_\_  
 Requested Date: \_\_\_\_\_ No Date Specified  
 Ship Via: \_\_\_\_\_  
 Clerk: \_\_\_\_\_  
 Order Date: \_\_\_\_\_  
 Due Date: \_\_\_\_\_  
 Printed Date: \_\_\_\_\_  
 External Customer #: \_\_\_\_\_

**Bill To:**  
**Witholt Properties, Inc.**  
 Attn: Paul Holden  
 16188 Oak Grove Road  
 Buda, TX 78610  
 Phone: 512-295-6052 Ext: / Fax: 512-295-6317

**Ship To:**  
**Witholt Properties, Inc.**  
 Attn: Paul Holden  
 16188 Oak Grove Road  
 Buda, TX 78610  
 Phone: 512-295-6052 Ext: / Fax: 512-295-6317

INVOICE DESCRIPTION							
MR. Pleasant							
PRODUCT CODE	SIDE	Color	Quantity	Vertical	Horizontal	PRICE @	Total
Coro 4mm-82	1	WHITE	1.00	4.00	8.00	\$145.00	\$145.00
CUSTOM SIGN				FOOT	FOOT		
PRODUCT CODE	SIDE	Color	Quantity	Vertical	Horizontal	PRICE @	Total
Coro 4mm-82	1	WHITE	1.00	1.00	8.00	\$35.00	\$35.00
CUSTOM SIGN				FOOT	FOOT		

96"

**NOTICE TO PUBLIC  
 PROPOSED MULTIFAMILY RESIDENTIAL  
 RENTAL COMMUNITY**

Mr. Pleasant Lakeside Apartments, LP has made application to the Texas Department of Housing and Community Affairs for Housing Tax Credits for the development of a proposed multifamily residential rental community Lakeside to be located on Tannison Road, approximately 1-block east of South Jefferson Avenue, Mr. Pleasant, Texas 75455. This development community will be comprised of 64 units on 8-acres.

For information on the proposed application, please contact Justin Zimmerman with Zimmerman Properties Development, LLC located at 1730 E. Republic Road, Suite F, Springfield, MO 65804 and telephone number is 417-883-1632.

To submit comment on this application or to inquire about the Housing Tax Credit Program, contact the Texas Department of Housing and Community Affairs, 221 E 11th Street, Austin, Texas 78701 or by telephone at 512-475-3388 or visit our website at www.tdhca.state.tx.us

48"

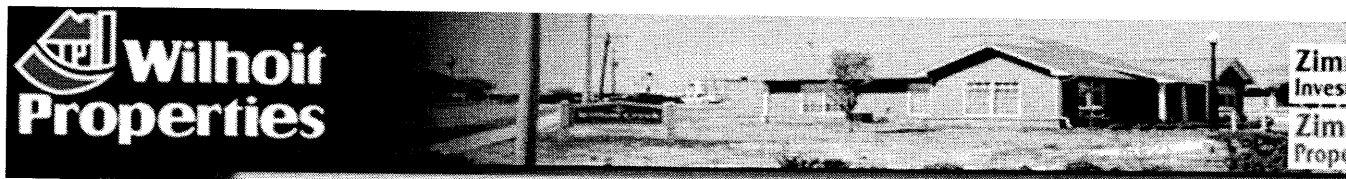
Notes/Ship to:

Sub-Total	\$180.00
Taxable	\$180.00
Non-Taxable	\$0.00
Sales Tax	\$14.85
Shipping	\$0.00
<b>TOTAL</b>	<b>\$194.85</b>
Deposits	
Payments	
Finance Charges	\$0.00
<b>Balance</b>	<b>\$194.85</b>

Customer #: 639  
 Customer Tax ID:  
 Terms: C.O.D.  
 Salesperson: Damon Landry  
 Date Picked Up: 2/27/2007

Clerk: \_\_\_\_\_ x \_\_\_\_\_  
 Customer Signature

Signs Express - Phone: (512) 443-7446 - Fax: (512) 326-6772 - E-Mail: signsexp@flash.net - Website: www.signs-express-austin.com



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- Texas
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*Welcome to your new home in a Wilhoit managed property.*

*It is our sincere desire to do everything possible to make your stay here a long and happy one*

Wilhoit Properties, Inc. ("WPI") was founded in 1967. Located in Springfield, Missouri, we are a family owned and operated property management company. With over 40 properties throughout the Midwest, we are dedicated to providing quality safe, clean, accessible and affordable housing opportunities to people of all ages.

Our communities are operated under Section 42 of the LIHTC Program of the Internal Revenue Code. This program is designed to facilitate the housing needs of moderate and middle-income families. Through this program we are able to bring you quality housing options with state-of-the-art amenities, while keeping the rents affordable. Just one more reason why we are the leading housing provider in the Midwest.

WPI, in conjunction with Zimmerman Properties Construction, develops superior apartments, independent communities and townhomes at affordable rates. Income limits apply to all households, and Section 8 vouchers are welcome.

The principals of WPI have developed in excess of 6,800 apartment units, and are as follows:

- **Vaughn C. Zimmerman** - Mr. Zimmerman has served as the principal developer and general partner on over 6,400 apartments since 1986.
- **Justin M. Zimmerman** - Mr. Zimmerman has been instrumental in the development of over 4,400 apartment units since 1986.
- **D. Leah Zimmerman** - Mrs. Zimmerman has been the internal design consultant for the various Wilhoit entities since 1986.

Other key employees include:

- **Robert C. Davidson** - Chief Financial Officer/ Chief Operating Officer
- **Tom Gordon, CPA** - V.P./ Chief Accounting Officer
- **Ben Mitchell** - V.P. of Finance/ Development
- **Bob Williams** - V.P. of Property Management
- **Matt Zimmerman** - Senior V.P. of Construction
- **Mark Michael** - V.P. of Construction

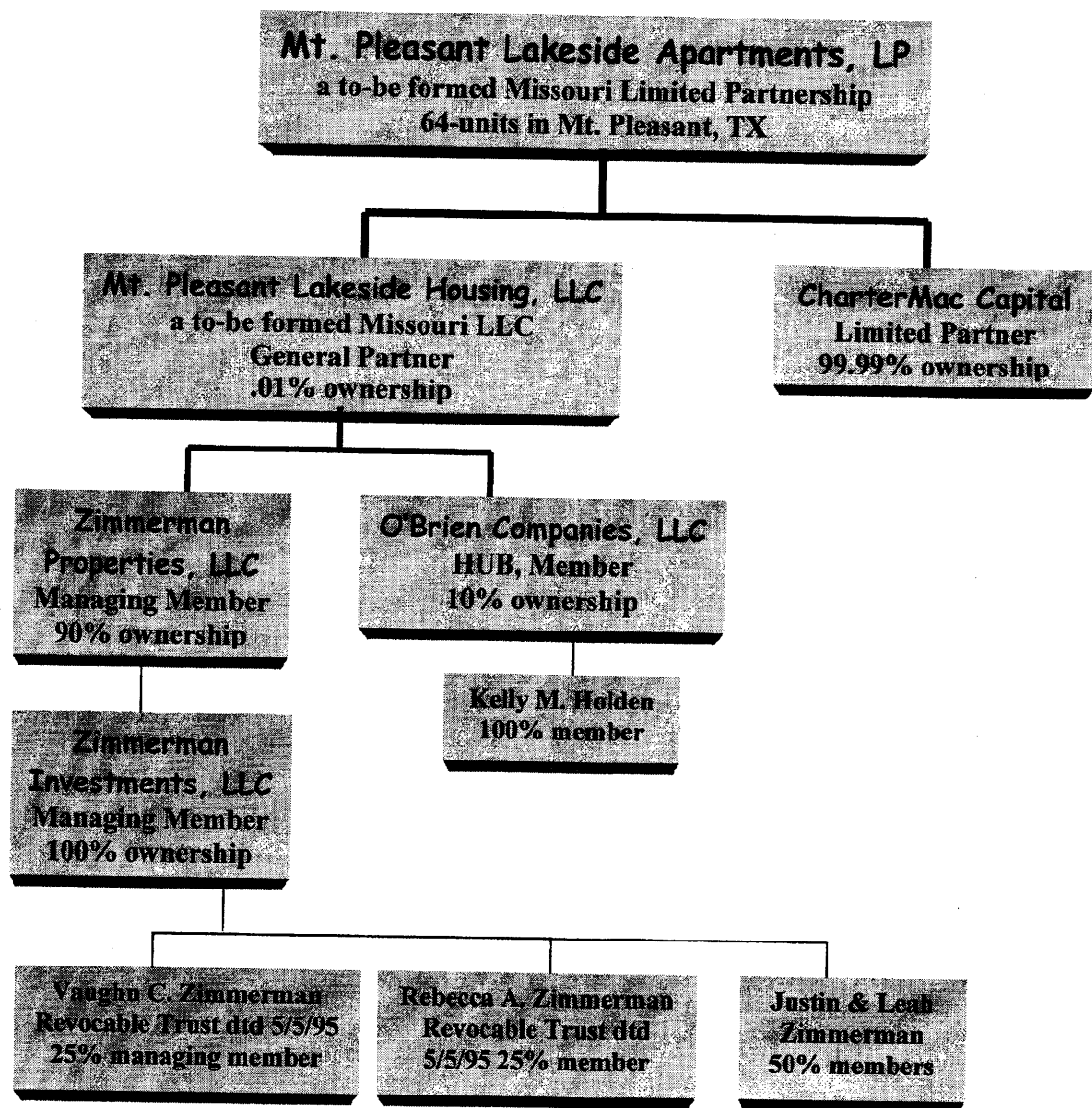
If you would like to make a difference in our company, please visit the **Employment** page.



All Rights Reserved © Wilhoit Properties  
 P O Box 3737 GS  
 1730 E. Republic Rd, Suite F  
 Springfield, MO 65808  
 Phone: 417-883-1632  
 Contact: Information



Last Updated: December 27, 2005  
 Website Development by Pin Oak Web Designs, Inc.



**Signature Block**

Mt. Pleasant Lakeside Apartments, LP, a to-be formed Missouri Limited Partnership  
 By: Mt. Pleasant Lakeside Housing, LLC, a to-be formed Missouri LLC, its general partner  
 By: Zimmerman Properties, LLC, a Missouri limited liability company, its managing member  
 By: Zimmerman Investments, LLC, a Missouri limited liability company, its managing member  
 By: Vaughn C. Zimmerman, trustee of the Vaughn C. Zimmerman RLT dtd 5/5/95, its managing member





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APARTMENTS

PROPER

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COMMERCIAL & INVESTMENT SALES & LEASING



PROPERTIES



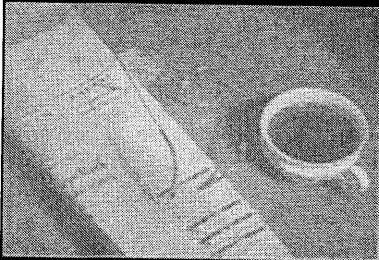
FOR RENT



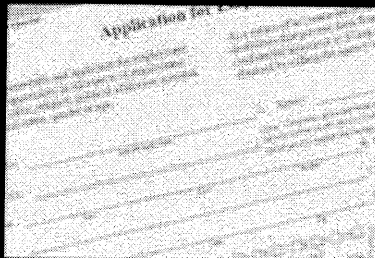
IN THE

EMPLOYMENT

ABO



NEWS



OPPORTUNITIES



Wilhoit Properties - Apartments, Rentals, Real Estate Management, Property Management, Section 8, Affordable Rent, Senior Apartments Senior Rental Homes, Tax Credit Management, Tax Credit Development, LIHTC Apartments, Apartment Developers, C Property Management, Commercial Leasing, Single Family Home Rental.

We have apartments in Oklahoma, Illinois, Missouri, Kansas, Texas, Arkansas and Nebraska.



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P O Box 3737 GS
1730 E. Republic Rd, Suite F
Springfield, MO 65808
Phone: 417-883-1632
Contact: Information



Last Updated: April 7, 2006->
Website Development by Pin Oak Web Designs, Inc.



**Ken Schwab.com**  
COMMERCIAL & INVESTMENT SALES & LEASING



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- [Home](#)

**Ken Schwab, Agent**

**Email:** [kschwab@kenschwab.com](mailto:kschwab@kenschwab.com)  
**Phone:** (417) 883-1632  
**Fax:** (417) 887-2881  
**Address:** 1730 E. Republic Road  
 Springfield, MO 65804



**Education:** Bachelor of Science Degree in Economics,  
 May 1978 SMSU, Springfield, MO

**Experience:** 1984-Present: Commercial Real Estate Salesperson - Wilhoit Properties  
 1979-1984: General Manager - Wilhoit Properties  
 1978-1979: Director of Loan Servicing - Great Southern Bank

**Community Involvement:** Land Clearance for Redevelopment Authority - Board Chairman  
 Springfield Public Building Corporation - Past Vice-President  
 Springfield Catholic Schools Development Board - President  
 Springfield Southeast Rotary - Member  
 Red Cross - Greater Ozarks Chapter - Past President  
 Dogwood Council - Girl Scouts, USA - Past Board Member  
 Immaculate Conception Church - Member

**Professional Associations:** Springfield Board of Realtors® - Board Member  
 National Association of Realtors®  
 Missouri Association of Realtors®

[next](#)

Applicant  
Response  
07118

# WILHOIT PROPERTIES, Inc.

May 10, 2007

Audrey Martin  
Texas Department of Housing & Community Affairs  
Housing Tax Credit Dept.  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

Re: BETCO Development Challenge  
TDHCA Number 07118, Lakeside Apts.

**SENT VIA E-MAIL (audrey.martin@tdhca.state.tx.us) and Hand Delivery**

Dear Audrey:

Pursuant to the Challenge to our application that was sent by BETCO Development is the following response:

- BETCO Development has challenged the third party loan commitment from Mr. Ken Schwab under the assumption that Mr. Schwab is an Affiliate or a Related Party to the Applicant, General Partner, Developer or General Contractor, or any other related party.

Ken Schwab is not an employee, nor is he involved as a principal or participant in any related party to the Applicant, General Partner, Developer or General Contractor, or any other related party. Mr. Schwab works as an independent contractor and receives a commission only for any real estate transaction in which he is involved, in a sales or brokerage capacity. Therefore, he cannot be classified as an Affiliate and I am requesting that this challenge be dismissed.

I have attached for your review, an opinion from Kendall R. McPhail, LLC, Attorney at Law.

Please contact me with any questions or comments.

Cordially,

  
Paul Holden

C: Justin Zimmerman

16188 Oak Grove Road  
Office: (512) 970-8250

Austin, TX 78610  
Fax: (512) 295-6317

e-mail: pholden@austin.rr.com

**KENDALL R. MCPHAIL, LLC**  
**ATTORNEY AT LAW**  
**1240 E. INDEPENDENCE, SUITE 200**  
**SPRINGFIELD, MISSOURI 65804**  
**kmcpvail@myexcel.com**

**(417)864-4700**  
**(417)864-4774 Facsimile**

May 4, 2007

Ms. Audrey Martin  
Competitive HTC Program Administrator  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin, TX 78711-3941  
Via electronic mail: [audrey.martin@tdhca.state.tx.us](mailto:audrey.martin@tdhca.state.tx.us)

Re: TDHCA 9% Housing Tax Credit Application #07118, Lakeside Apartments,  
Mt. Pleasant, Texas

Dear Ms. Martin:

I represent the Applicant, Mt. Pleasant Lakeside Apartments, LP, with respect to its above referenced Application, and my client has forwarded to me the correspondence dated May 2, 2007 from Betco Development, challenging the Third Party Funding Commitment Outside of Qualified Tracts point stated in my client's Application. This challenge is made on the allegation, assumption and conclusion that the Third Party Lender, Mr. Kenneth Schwab, is an Affiliate of the Applicant, General Partner, Developer or General Contractor. Please accept this letter as my client's response to this challenge.

Broken down to its essential points, Betco Development's argument is that Mr. Schwab is a Commercial Real Estate Salesperson for Wilhoit Properties, Inc., and therefore an Affiliate of Wilhoit Properties, Inc., as "Affiliate" is defined by §49.3(2) of the QAP. Betco Development further asserts that since Wilhoit Properties, Inc. is owned by Vaughn Zimmerman, Justin Zimmerman and D. Leah Zimmerman, who Betco Development asserts also partially owns the General Partner, then Wilhoit Properties, Inc. is an Affiliate of the General Partner and therefore Mr. Schwab is an Affiliate of the General Partner. The fallacy in Betco Development's argument is its mistaken assumption that Mr. Schwab is an "Affiliate" of Wilhoit Properties, Inc.

The term "Affiliate" is defined in the QAP as "...an individual,...that directly, indirectly through one or more intermediaries, Controls or is Controlled by, or is under

common Control with any other Person...” The term “Control” is defined in the QAP as “... the possession , directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person, whether through the ownership of voting securities, by contract or otherwise...” Applying these terms to the facts of Mr. Schwab’s relationship with Wilhoit Properties, Inc., the Zimmermans, the General Partner, the Applicant or the Developer under the subject application, certainly demonstrates that Mr. Schwab is not an Affiliate of any of these Persons or entities.

Mr. Schwab is a licensed real estate salesman under the laws of the State of Missouri. Under the applicable Missouri Real Estate Commission regulations, Mr. Schwab’s license has been placed with Wilhoit Properties, Inc., which is a real estate broker licensed under the laws of the State of Missouri. However, Mr. Schwab is not an employee of Wilhoit Properties, Inc., but is instead an independent contractor to Wilhoit Properties, Inc. Under their contractual arrangement, Mr. Schwab decides what work or projects he will undertake, sets his own commissions, decides what hours he chooses to work, and pays all of his own expenses, including office rent, advertising expense and the like. The only financial tie between Mr. Schwab and Wilhoit Properties, Inc. pertaining to the placement of his sales license with Wilhoit Properties, Inc. is that he remits to Wilhoit Properties, Inc. approximately 10% of the commissions he receives from transactions in which he elects to participate as a realtor. This payment to Wilhoit Properties, Inc. is reimbursement for office and overhead expense provided by Wilhoit Properties, Inc. This contractual relationship between Mr. Schwab and Wilhoit Properties, Inc. is terminable at will, and is an even more independent arrangement than is sometimes found in other broker/salesperson relationships.

Wilhoit Properties, Inc. certainly does not possess, directly or indirectly, the power to direct or cause the direction of the management and policies of Mr. Schwab in any of his endeavors.

Betco Development’s argument is also inconsistent with the clear terms of the QAP. Its argument is that Mr. Schwab is an Affiliate of a Development Team Member, Wilhoit Properties, Inc., which would serve as the property manager in the proposed project. Section 49.9(i)(26) of the QAP does require that the loan in question must be from a Third-Party source, however, §49.3(87) defines a Third-Party as an entity or Person who is not an Affiliate or Related Party to “...the Applicant, General Partner, Developer or General Contractor”. Notably, this section does not mention Development Team Member. In order for Mr. Schwab to be excluded as a qualified Third-Party lender, §49.3(87) one would have to conclude: (1) that Wilhoit Properties, Inc. possesses the power to direct or cause the direction of the management and policies of Mr. Schwab’s real estate practice and he is thereby an Affiliate of Wilhoit Properties, Inc., and (2) that §49.3(87) precludes from the a qualified Third-Party lender not only an Affiliate of an Applicant, General Partner, Developer or General Contractor, but also an Affiliate of a Development Team Member.

Mr. Schwab has been very successful in his endeavors as a realtor and over the years I have represented Zimmerman Properties, LLC, Zimmerman Investments, LLC

and Vaughn Zimmerman in various loan transactions with Mr. Schwab or some of his entities, in which Mr. Schwab has been a lender, on both a secured and unsecured basis, and in which I have prepared the loan documents. These transactions have always involved arm's length negotiations and have been documented and closed under terms consistent with current market conditions.

I hope the foregoing dispels any questions you may have concerning the qualifications of Mr. Schwab as a qualified Third-Party lender under the applicable provisions of the QAP. Should you have any further questions concerning this matter, please let me know at your earliest opportunity.

Very truly yours,

A handwritten signature in black ink, reading "Kendall R. McPhail". The signature is written in a cursive style with a large, stylized initial "K".

Kendall R. McPhail



# Challenge

## 07133

**OPIELA | BOOTH, PLLC**  
ATTORNEYS AT LAW  
11673 JOLLYVILLE RD., STE 202 • AUSTIN, TEXAS 78759  
PHONE 512.879.6555 • FAX 512.250.3102

July 12, 2007

Re: File No.: 07133; Stoneleaf at Tye, Taylor County, Texas

---

**VIA HAND DELIVERY**

The Honorable Elizabeth A. Anderson  
Chair, Governing Board  
Texas Department of Housing & Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Chairwoman Anderson:

I am writing you to notify you that above referenced proposed development violates the Department of Housing and Urban Development's ("HUD") Environmental Criteria and Standards, as well as poses a threat to the safety of proposed tenants. The Governing Board of Texas Department of Housing and Community Affairs ("TDHCA") should investigate whether this project is viable, so as to avoid unnecessary waste of State resources on a project that will likely not be built.

There are four principal reasons that TDHCA should not proceed with this 118-unit apartment complex. First, the project site is located within the Accident Potential Zone 1 ("APZ 1") of Dyess Air Force Base in Abilene, Texas. HUD Environmental Criteria and Standards specifically discourage residential developments in APZ 1 to protect public health and safety. Second, given the development's close proximity to the airbase, the location violates HUD's Noise Abatement and Control standards. TDHCA should not possess inventory which forces residents to endure internal and external noise levels above acceptable standards. Third, the proposed building and site plans demonstrate that the apartments would be a potential hazard to navigable airspace under 14 CFR Part 77 and would likely require reconfiguration to a single story only configuration. Fourth, the development puts at risk the continued operations of Dyess Air Force Base, because the Base Realignment and Closure Commission ("BRAC") has required bases eligible for realignment to have no residential development in APZ 1 areas. This would represent a significant economic loss to the State of Texas, because Dyess Air Force Base represents approximately \$1.2 million a day in economic activity for the State.

**The Development's Location in APZ 1**

According to the Underwriting Report for 07133 issued July 9, 2007, TDHCA received a letter from the 7<sup>th</sup> Civil Engineering Squadron of Dyess Air Force Base ("AFB"). The purpose of this letter was to inform TDHCA that Stoneleaf at Tye is located within the Accident Potential Zone 1 ("APZ 1") of Dyess Air Force Base, is within the 75-80 db noise zone of the base, and to object to the siting of the apartment development at its proposed site. The letter states that APZ 1 is "an area...that possesses a significant potential for accident."

The United States Air Force recommends that "...land use planning and controls are strongly encouraged in these areas for the protection of the public." Suggested compatible land uses *specifically exclude residential developments.*

In laypersons' terms, the site is located very close to the end of a very active military runway. The Dyess AFB runway, located approximately 3000 feet from the proposed apartment complex, has over 2,300 annual takeoffs and landings of the B1-B Lancer Supersonic Bomber. In addition, a substantial number of C-130 cargo aircraft and numerous small training aircraft operate from this runway. Attached as Exhibit A is a satellite image of the proposed development site. The picture depicts the end of the AFB runway, and the location of the development. Please note that the site location is just north of the end of the runway.

Attached as Exhibit B, is the Underwriting Report, issued by the Real Estate Analysis Division of TDHCA. Page four of this report makes specific reference to a letter of opposition received by TDHCA from the 7<sup>th</sup> Civil Engineering Squadron of Dyess Air Force Base. Although, the Underwriting Report addresses HUD's Environmental Criteria with respect to noise abatement and control, it does not address HUD's guidelines discouraging developments within APZ 1 zoned property.

Although TDHCA's Qualified Allocation Plan does not address residential developments in APZ 1, HUD's general policy is "to apply standards to prevent incompatible development around civil airports and military airfields." 24 CFR §51.303 attached herein as Exhibit D. Furthermore, 24 CFR §51.303(b) states:

HUD policy for actions in Accident Potential Zones at Military Airfields. HUD policy is to discourage the provision of any assistance, subsidy or insurance for projects and actions in the Accident Potential Zones. To be approved, projects must be generally consistent with the recommendations in the *Land Use Compatibility Guidelines For Accident Potential Zones* chart contained in DOD Instruction 4165.57, 32 CFR part 256.

Additionally, the list of suggested compatible land uses, contained in 32 CFR part 256.8, specifically excludes residential development.

In total, HUD's policy is to discourage the provision of assistance and funding for residential projects within APZ 1. The reason for this discouragement is to protect life and safety of individuals residing in these developments.

Furthermore, Dyess Air Force Base is home to more than thirty B1-B bombers. The B1-B bomber is a massive supersonic long range bomber. This plane is big, loud and carries an unusually large number of ordinance. These large planes operate daily in and out of the air base. Being near the operation of these aircraft is inherently dangerous. As an example of the potential for disaster at the proposed StoneLeaf at Tye development, as recently as May 2006, a Dyess B1-B bomber crashed and caught fire on the runway when the plane landed without landing gear extended, causing over \$8 million in damage.

TDHCA should not support the construction of 118 apartment units in the APZ 1 of Dyess Air Force Base because it will be unnecessarily dangerous for residents to live in proximity to this very active air military field. Moreover, it sets a bad public policy precedent to locate affordable housing in inherently dangerous areas and put low-income residents' lives at risk.

### **HUD's Noise Abatement and Control Rule**

The subject development also lies in the 75-80 dB contour surrounding Dyess Air Force Base. This range of noise is *per se* unacceptable under the HUD guidelines. 24 CFR 512.103, attached herein as Exhibit D.

Although the Underwriting Report recommends the installation of noise attenuation materials during construction, it is not the proper corrective measure specified by HUD's guidelines, and is merely the use of corrective measures designed for development in noise contours *below* 75dB. *see* 24 CFR 512.104(a)(2). Indeed, HUD rules do not allow developments receiving HUD assistance to be constructed in areas above 75 dB without a specific waiver from the Assistant Secretary of HUD. This policy recognizes that it is unlikely that the installation of *any* noise attenuation materials will provide anywhere near a comfortable living environment for the residents of this development, if it is ever built. Any interior attenuation measures will also not affect the exterior sound levels of the development, which will remain far above the 65 dB exterior sound limit specified by HUD. Regardless of the discomfort and health issues to residents, the noise levels at the proposed site will have negative structural impacts on the buildings made part of the development, as structures already existing near the site are known to regularly have sound-induced window damage.

Furthermore, TDHCA should not support a development, nor possess a development in its inventory that allows low-income senior citizens to live in a noisy environment, like that which surrounds Dyess Air Force Base. The seniors of Taylor County deserve a complex that is free from constant noisy interruptions.

### **Hazard to Air Navigation**

The subject development also lies within the Approach Clearance Surface of the Dyess AFB main runway. The proposed site plan and building configuration include two-story buildings of greater than 30 feet in height. Federal Aviation Administration (FAA) regulations, 14 CFR Part 77, require that structures exceeding a 100:1 height ratio (that is, higher than 1 foot for every 100 feet of linear distance), measured from the nearest edge of the runway) be submitted to the FAA for approval. The proposed site plan would fall within this guideline as a potential hazard to air navigation. It is likely that the FAA will require reconfiguration of the site plan to single-story only construction, as the proposed buildings would protrude through the Approach Clearance Surface plane designated for military airfields in 14 CFR 77.28 (Exhibit E).

Beside the possibility of denial for construction permission by the FAA, and associated waste of tax credit authority, a reconfiguration of the site plan would substantially increase costs to the development not anticipated in the application. It is highly improbable that a prudent purchaser of tax credits, after performing due diligence on this project, would close on the

transaction, considering the risk associated with a location within a designated Accident Potential Zone 1 (the highest crash risk potential designated by the Air Force), a location with higher than 75 dB day-night noise, and a site plan that requires FAA approval prior to construction. These factors alone places the StoneLeaf at Tye development as one of the riskiest transactions TDHCA has undertaken in recent memory, and the Board and Staff should give great pause prior to approval, if any.

### **Base Realignment and Closure Commission Liabilities**

Finally, building this development will put at risk the sustained operations of Dyess Air Force Base, when faced with a review by the Base Realignment and Closure Commission.

One of the standards that BRAC uses in determining which air bases receive additional allocations of Air Force assets is whether there are residential developments in the APZ 1 of the base. If this development proceeds, it is possible that for the State of Texas could lose Dyess Air Force Base, or as a condition of continued operations, the Air Force could require the buyout and the demolition of all residential developments in the APZ 1 of Dyess Air Force Base, including StoneLeaf at Tye. This scenario could amount to a complete loss of the public benefit of TDHCA's tax credit commitment.

This is not an uncommon occurrence. Just last year, the City of Virginia Beach, VA had to spend in excess of \$15 million to acquire and condemn similar residential property within the APZ of Oceana Naval Air Station as a condition of BRAC realignment, or face closure of the station.

### **Conclusion**

For the reasons stated above, TDHCA should not approve this development because it is located within the Accident Potential Zone 1 of Dyess AFB, has noise levels well in excess of acceptable HUD standards, would constitute a hazard to air navigation, and would jeopardize the continued viability of Dyess. I have brought these issues to the attention of Tom Gouris, Director of Real Estate Analysis, and would appreciate an adequate review by staff of these barriers to the successful completion of StoneLeaf at Tye or, if such action is not taken, an opportunity to present these issues before the Board, and I make myself available to you and TDHCA staff to discuss these issues further.

Sincerely,



Eric C. Opiela

512.879.6492

eopiela@opielaboath.com

CC:

**VIA HAND DELIVERY**

Michael Gerber  
Executive Director  
Texas Department of Housing & Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

**VIA HAND DELIVERY**

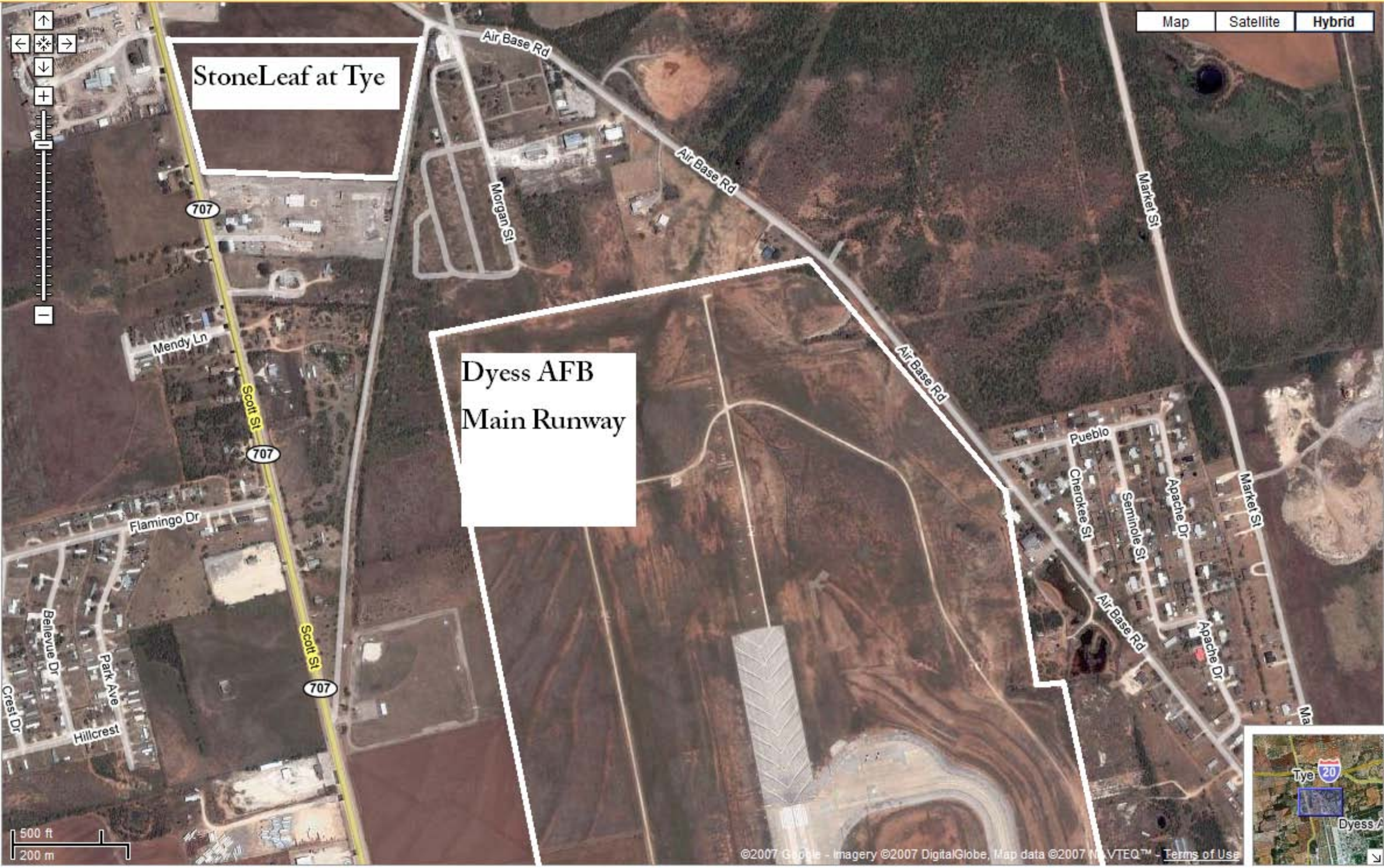
Tom Gouris  
Director of Real Estate Analysis  
Texas Department of Housing & Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

# **Exhibit A**



StoneLeaf at Tye

Dyess AFB  
Main Runway



500 ft  
200 m





# **Exhibit B**



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
 Real Estate Analysis Division  
 Underwriting Report

REPORT DATE: 07/08/07

PROGRAM: 9% HTC

FILE NUMBER: 07133

DEVELOPMENT						
StoneLeaf at Tye						
Location: <u>649 Scott Street</u>				Region: <u>2</u>		
City: <u>Tye</u>		County: <u>Taylor</u>		Zip: <u>79563</u>		<input type="checkbox"/> QCT <input type="checkbox"/> DDA
Key Attributes: <u>Multifamily, Intergenerational, New Construction, Urban/Exurban</u>						
ALLOCATION						
	REQUEST			RECOMMENDATION		
TDHCA Program	Amount	Interest	Amort/Term	Amount	Interest	Amort/Term
Housing Tax Credit (Annual)	\$799,605			<b>\$787,592</b>		
CONDITIONS						
<ol style="list-style-type: none"> <li>1 Confirmation that StoneLeaf at Tye continues to have a higher score than 07285 Anson Park Seniors and that only one of these two developments is approved for funding. Should StoneLeaf at Tye not be the higher scoring application, it would not be recommended.</li> <li>2 Receipt review and acceptance by carryover of a revised site plan reflecting the separate buildings for leasing, separate and specific security measures for seniors and any other documentation necessary to reflect that the subject meets the definition of an intergenerational housing development.</li> <li>3 Receipt, review and acceptance by commitment of final approval of a change in zoning to allow for the development as proposed.</li> <li>4 Receipt, review and acceptance of a noise assessment specific to the development site, indicating the acceptability of noise levels based on HUD guidelines for housing developments. Any recommendations of the report with regards to mitigating potential noise issues must be incorporated into a development plan also submitted by carryover. Regardless of the findings of the noise assessment, at minimum, installation of sound attenuation materials as recommended by the Air Force Civil Engineering study is required and evidence of plans to include such in construction of the proposed development must be received by carryover.</li> <li>5 Receipt, review and acceptance of proof of abandonment of the two (2) pipeline easements, or proof that no structures or buildings will be constructed on the easements.</li> <li>6 The entire 20.17 acres must be included in and restricted to all of the normal terms and conditions in the Land Use Restriction Agreement for this development.</li> <li>7 Should the terms and rates of the proposed debt or syndication change, the transaction should be re-evaluated and an adjustment to the credit/allocation amount may be warranted.</li> </ol>						

**SALIENT ISSUES**

TDHCA SET-ASIDES for LURA			
Income Limit	Rent Limit	Target Population	Number of Units
30% of AMI	30% of AMI	Elderly	6
30% of AMI	30% of AMI	Family	6
60% of AMI	60% of AMI	Elderly	48
60% of AMI	60% of AMI	Family	58

**PROS**

- The subject represents the first intergenerational development in Abilene that will put seniors units and family units in close proximity to each other.

**CONS**

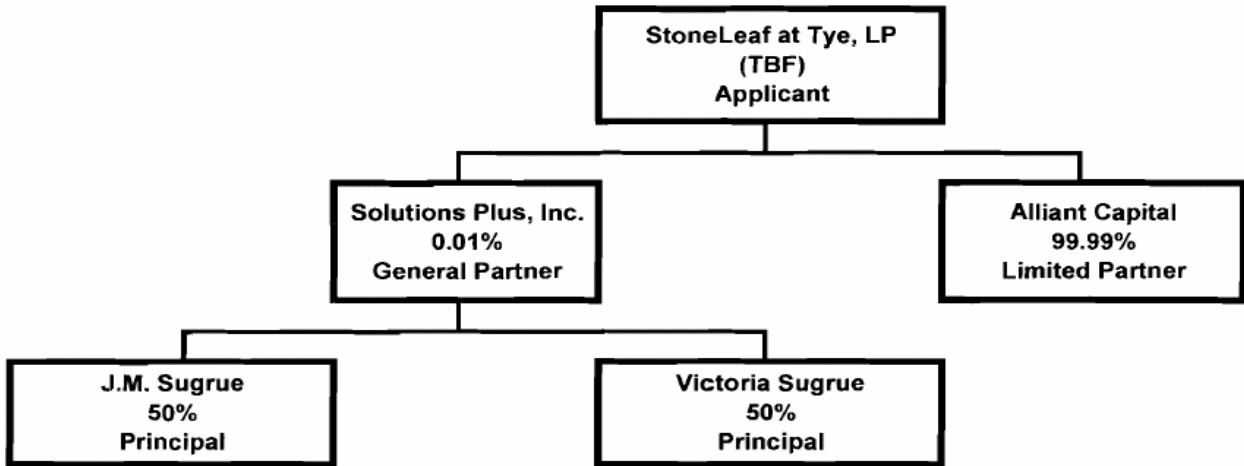
- The market for 2 bedroom seniors units at 60% AMI is somewhat saturated with a capture rate of 76%.

**PREVIOUS UNDERWRITING REPORTS**

No previous reports.

**DEVELOPMENT TEAM**

**OWNERSHIP STRUCTURE**



**CONTACT**

Contact: Mike Sugrue Phone: (903) 887-4344 Fax: (903) 887-4355  
 Email: MSurgue@Hotmail.com

**KEY PARTICIPANTS**

Name	Net Assets	Liquidity <sup>1</sup>	# of Complete Developments
Solutions Plus, Inc.	\$103K	\$42K	0
J.M. Sugrue	Confidential	N/A	7
Victoria Sugrue	Confidential	N/A	0

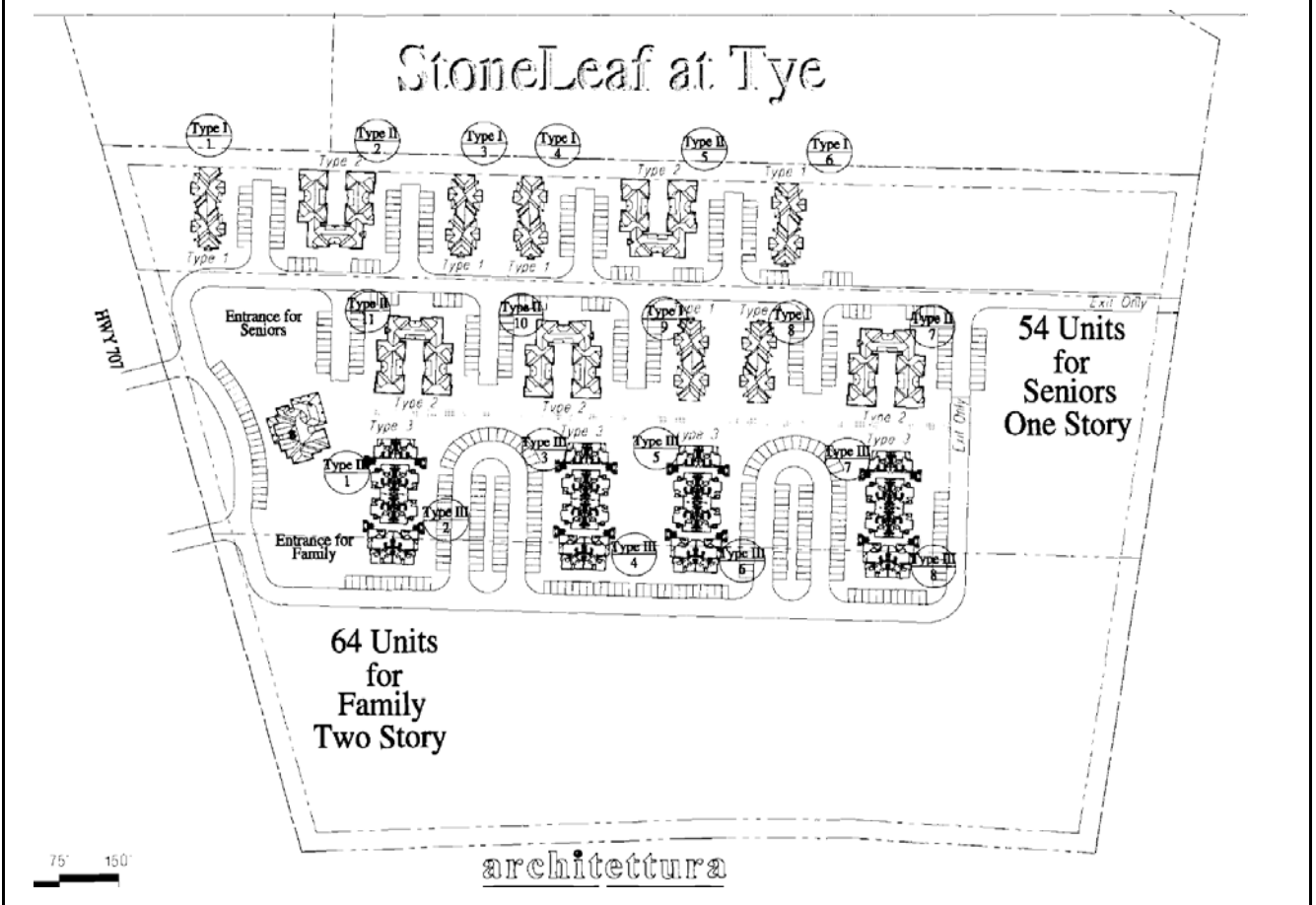
<sup>1</sup> Liquidity = Current Assets - Current Liabilities

**IDENTITIES of INTEREST**

The Applicant, Developer and General Contractor are related entities. These are common relationships for HTC-funded developments.

PROPOSED SITE

SITE PLAN



BUILDING CONFIGURATION

Building Type	A	B	C	D															Total Buildings
Floors/Stories	1	1	2	2															
Number	6	5	4	4															<b>19</b>

BR/BA	SF	Units												Total Units	Total SF		
1/1	700	4														24	16,800
1/1	700				4											16	11,200
2/1	924		6													30	27,720
2/2	900			4	4											32	28,800
3/2	1,065			4												16	17,040
Units per Building		4	6	8	8											<b>118</b>	<b>101,560</b>

The site plan reflects one common area building and no additional or unique security to set off the age restricted units from the family units to meet the definition of Intergenerational housing in the QAP 10 TAC §49.3 (53). The building plans reflect that the single leasing building will be split into two parts with a seniors leasing office and a family leasing office. Receipt, review and acceptance of a revised site plan reflecting separate buildings for leasing, separate and specific security measures for seniors and any other documentation necessary to reflect that the subject meets the definition of an intergenerational housing development is a condition of this report that must be met by carryover.

**SITE ISSUES**

Total Size:	<u>20.17 acres</u>	Scattered site?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No	
Flood Zone:	<u>X</u>	Within 100-yr floodplain?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No	
Zoning:	<u>Ag/Industrial</u>	Needs to be re-zoned?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/> N/A

**Comments:**

The Department received a letter from the 7th Civil Engineering Squadron of Dyess Air Force Base (AFB) stating, "The site for the proposed development lies within the 75-80 dB DNL noise contours associated with the flying mission of Dyess Air Force Base. The eastern edge of the property lies within Accident Potential Zone I...we cannot support the proposed project." Dyess AFB Air Installation Compatible Use Zone summary brochure dated November 2000 defines APZ I as "an area...that possesses a significant potential for accidents." and further states, "While aircraft accident potential in APZs I...does not warrant acquisition by the Air Force, land use planning and controls are strongly encouraged in these areas for the protection of the public." Suggested compatible land uses specifically exclude residential development.

The proposed site is not zoned for residential use and it is not known if the zoning commission takes into account the recommendations of Dyess Air Force Base in accepting or refusing zoning changes. Therefore, receipt, review and acceptance by commitment of final approval of a change in zoning to allow for the development as proposed is a condition of this report.

Receipt, review and acceptance of a noise assessment specific to the development site, indicating the acceptability of noise levels based on HUD guidelines for housing developments is also a condition of this report. Any recommendations of the report with regards to mitigating potential noise issues must be incorporated into the development plan. Regardless of the findings of the noise assessment, however, the recommendations of this report is conditioned on, at minimum, installation of sound attenuation materials as recommended by the Air Force Civil Engineering study for 70-75 dB contours (NOTE: the subject lies in the 75-80 dB contour) and evidence of plans to include such in construction of the proposed development must be received by carryover.

**TDHCA SITE INSPECTION**

Inspector: Manufactured Housing Staff Date: 5/3/2007

**Overall Assessment:**

Excellent     Acceptable     Questionable     Poor     Unacceptable

**Surrounding Uses:**

North: City of Tye, residential, commercial & retail  
 East: Mobile home park & abandoned railroad spur  
 South: Commercial properties  
 West: Commercial properties

**HIGHLIGHTS of ENVIRONMENTAL REPORTS**

Provider: Enprotec/Hibbs & Todd Date: 3/1/2007

**Recognized Environmental Concerns (RECs) and Other Concerns:**

- The subject property has been used as cropland. In support of crop production, herbicides, pesticides, fertilizers, and other agricultural chemicals may have been applied to the Site soils and to the soils of neighboring properties. The historical use of such chemicals represents "conditions that indicate... a past release." The extent to which some residual contamination-if any may have resulted from the use of agricultural chemicals would be difficult to ascertain and could only be approximated by soil sampling and analysis. While use of agricultural chemicals may have taken place, similar land in the Taylor County area is routinely developed without posing health hazards.

- The Site is located in a commercial area. Adjacent properties do have the potential to impact the Subject Property if a release of hazardous or regulated material occurs. However, it is considered unlikely that the subject property would be held liable for groundwater contamination migrating from other properties. In such a case, the subject property owner/occupant will most likely be protected by current federal and state policies (Landowner Liability Protection (LLP) qualification) that exonerate contiguous property owners.

Comments:

It should be noted that the potential RECs identified by this assessment are based on the unconfirmed use of pesticides or herbicides at the Site or probability of a release occurring on adjacent property. A decision to conduct further investigation or research to confirm or eliminate the potential RECs must be based on several factors including the user's risk tolerance and the proposed future uses of the subject property.

No evidence was noted to suggest that deliberate, illegal, or environmentally unsound activities involving chemicals, petroleum products, or wastes were ever conducted on the subject property. This assessment did not disclose any conspicuous evidence of environmental liability or culpability on the part of the current or previous Site owners/occupants. This assessment did not disclose any findings or concerns that would preclude the development of the subject property." (p. 10)

**MARKET HIGHLIGHTS**

Provider: Apartment MarketData, LLC Date: 3/20/2007  
 Contact: Darrell Jack Phone: (210) 530-0040 Fax: (210) 340-5830  
 Number of Revisions: 1 Date of Last Applicant Revision: 6/1/2007

Two separate Market Studies were submitted to address each of the target populations (elderly households and family households) of an intergenerational development. Therefore, this section also presents two separate demand, inclusive capture rate and market rent analyses and conclusions.

INCOME LIMITS						
Taylor						
% AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons
30	\$10,000	\$11,400	\$12,850	\$14,250	\$15,400	\$16,550
60	\$19,980	\$22,800	\$25,680	\$28,500	\$30,780	\$33,060

**UNITS PROPOSED for ELDERLY HOUSEHOLDS**

Primary Market Area (PMA): 180.58 square miles (≈7.5 mile radius)  
 North: Taylor County Line  
 East: Taylor County Line  
 South: FM 707 South  
 West: FM 707 West

PROPOSED, UNDER CONSTRUCTION & UNSTABILIZED COMPARABLE DEVELOPMENTS							
PMA				SMA			
Name	File #	Total Units	Comp Units	Name	File #	Total Units	Comp Units
Anson Park	03066	64	0	N/A			
Anson Park II	04241	80	0				
Arbors-Rose Park	05141	80	77				
Anson Park Seniors	07285	80	80				

# **Exhibit C**

§ 51.300

24 CFR Subtitle A (4-1-07 Edition)

**Subpart D—Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields**

are established by FAA regulation 14 CFR part 152. The standards for Clear Zones for military airfields are established by DOD Instruction 4165.57, 32 CFR part 256.

**AUTHORITY:** Sec. 2, Housing Act of 1949, as amended, 42 U.S.C. 1441, affirmed by sec. 2, HUD Act of 1969, Pub. L. 90-448; sec. 7(d), HUD Act of 1965, 42 U.S.C. 3535(d); OMB, Fed'l Mgmt. Cir. 75-2: Compatible Land Uses At Federal Airfields.

**SOURCE:** 49 FR 880, Jan. 6, 1984, unless otherwise noted.

**§ 51.300 Purpose.**

It is the purpose of this subpart to promote compatible land uses around civil airports and military airfields by identifying suitable land uses for Runway Clear Zones at civil airports and Clear Zones and Accident Potential Zones at military airfields and by establishing them as standards for providing HUD assistance, subsidy or insurance.

[49 FR 880, Jan. 6, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

**§ 51.301 Definitions.**

For the purposes of this regulation, the following definitions apply:

(a) *Accident Potential Zone.* An area at military airfields which is beyond the Clear Zone. The standards for the Accident Potential Zones are set out in Department of Defense Instruction 4165.57, "Air Installations Compatible Use Zones," November 8, 1977, 32 CFR part 256. There are no Accident Potential Zones at civil airports.

(b) *Airport Operator.* The civilian or military agency, group or individual which exercises control over the operations of the civil airport or military airfield.

(c) *Civil Airport.* An existing commercial service airport as designated in the National Plan of Integrated Airport Systems prepared by the Federal Aviation Administration in accordance with section 504 of the Airport and Airway Improvement Act of 1982.

(d) *Runway Clear Zones and Clear Zones.* Areas immediately beyond the ends of a runway. The standards for Runway Clear Zones for civil airports

**§ 51.302 Coverage.**

(a) These policies apply to HUD programs which provide assistance, subsidy or insurance for construction, land development, community development or redevelopment or any other provision of facilities and services which are designed to make land available for construction. When the HUD assistance, subsidy or insurance is used to make land available for construction rather than for the actual construction, the provision of the HUD assistance, subsidy or insurance shall be dependent upon whether the facility to be built is itself acceptable in accordance with the standards in § 51.303.

(b) These policies apply not only to new construction but also to substantial or major modernization and rehabilitation and to any other program which significantly prolongs the physical or economic life of existing facilities or which, in the case of Accident Potential Zones:

(1) Changes the use of the facility so that it becomes one which is no longer acceptable in accordance with the standards contained in § 51.303(b);

(2) Significantly increases the density or number of people at the site; or

(3) Introduces explosive, flammable or toxic materials to the area.

(c) Except as noted in § 51.303(a)(3), these policies do not apply to HUD programs where the action only involves the purchase, sale or rental of an existing property without significantly prolonging the physical or economic life of the property.

(d) The policies do not apply to research or demonstration projects which do not result in new construction or reconstruction, to interstate land sales registration, or to any action or emergency assistance which is provided to save lives, protect property, protect public health and safety, or remove debris and wreckage.

[49 FR 880, Jan. 6, 1984, as amended at 61 FR 13334, Mar. 26, 1996]



**§ 51.303 General policy.**

It is HUD's general policy to apply standards to prevent incompatible development around civil airports and military airfields.

(a) HUD policy for actions in Runway Clear Zones and Clear Zones.

(1) HUD policy is not to provide any assistance, subsidy or insurance for projects and actions covered by this part except as stated in § 51.303(a)(2) below.

(2) If a project proposed for HUD assistance, subsidy or insurance is one which will not be frequently used or occupied by people, HUD policy is to provide assistance, subsidy or insurance only when written assurances are provided to HUD by the airport operator to the effect that there are no plans to purchase the land involved with such facilities as part of a Runway Clear Zone or Clear Zone acquisition program.

(3) Special notification requirements for Runway Clear Zones and Clear Zones. In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, HUD (or the responsible entity or recipient under 24 CFR part 58) shall advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

(b) HUD policy for actions in Accident Potential Zones at Military Airfields. HUD policy is to discourage the provision of any assistance, subsidy or insurance for projects and actions in the Accident Potential Zones. To be approved, projects must be generally consistent with the recommendations in the *Land Use Compatibility Guidelines For Accident Potential Zones* chart contained in DOD Instruction 4165.57, 32 CFR part 256.

[49 FR 880, Jan. 6, 1984, as amended at 61 FR 13334, Mar. 26, 1996]

**§ 51.304 Responsibilities.**

(a) The following persons have the authority to approve actions in Accident Potential Zones:

(1) For programs subject to environmental review under 24 CFR part 58: the Certifying Officer of the responsible entity as defined in 24 CFR part 58.

(2) For all other HUD programs: the HUD approving official having approval authority for the project.

(b) The following persons have the authority to approve actions in Runway Clear Zones and Clear Zones:

(1) For programs subject to environmental review under 24 CFR part 58: The Certifying Officer of the responsible entity as defined in 24 CFR part 58.

(2) For all other HUD programs: the Program Assistant Secretary.

[61 FR 13335, Mar. 26, 1996]

**§ 51.305 Implementation.**

(a) Projects already approved for assistance. This regulation does not apply to any project approved for assistance prior to the effective date of the regulation whether the project was actually under construction at that date or not.

(b) Acceptable data on Runway Clear Zones, Clear Zones and Accident Potential Zones. The only Runway Clear Zones, Clear Zones and Accident Potential Zones which will be recognized in applying this part are those provided by the airport operators and which for civil airports are defined in accordance with FAA regulations 14 CFR part 152 or for military airfields, DOD Instruction 4165.57, 32 CFR part 256. All data, including changes, related to the dimensions of Runway Clear Zones for civil airports shall be verified with the nearest FAA Airports District Office before use by HUD.

(c) Changes in Runway Clear Zones, Clear Zones, and Accident Potential Zones. If changes in the Runway Clear Zones, Clear Zones or Accident Potential Zones are made, the field offices shall immediately adopt these revised zones for use in reviewing proposed projects.

(d) The decision to approve projects in the Runway Clear Zones, Clear

Zones and Accident Potential Zones must be documented as part of the environmental assessment or, when no assessment is required, as part of the project file.

**PART 52—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS AND ACTIVITIES**

Sec.

- 52.1 What is the purpose of these regulations?
- 52.2 What definitions apply to these regulations?
- 52.3 What programs and activities of the Department are subject to these regulations?
- 52.4 What are the Secretary's general responsibilities under the Order?
- 52.5 What is the Secretary's obligation with respect to Federal interagency coordination?
- 52.6 What procedures apply to the selection of programs and activities under these regulations?
- 52.7 How does the Secretary communicate with state and local officials concerning the Department's programs and activities?
- 52.8 How does the Secretary provide states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
- 52.9 How does the Secretary receive and respond to comments?
- 52.10 How does the Secretary make efforts to accommodate intergovernmental concerns?
- 52.11 What are the Secretary's obligations in interstate situations?
- 52.12 [Reserved]

AUTHORITY: 31 U.S.C. 6506; 42 U.S.C. 3334, 3535(d).

SOURCE: 48 FR 29216, June 24, 1983, unless otherwise noted.

**§ 52.1 What is the purpose of these regulations?**

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982 and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state processes and on state, areawide, regional and local coordination for review of proposed Federal financial assistance and direct Federal development.

(c) These regulations are intended to aid the internal management of the Department, and are not intended to create any right or benefit enforceable at law by a party against the Department or its officers.

**§ 52.2 What definitions apply to these regulations?**

*Order* means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983 and titled "Intergovernmental Review of Federal Programs."

*Secretary* means the Secretary of the U.S. Department of Housing and Urban Development or an official or employee of the Department acting for the Secretary under a delegation of authority.

*State* means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

[48 FR 29216, June 24, 1983, as amended at 61 FR 5205, Feb. 9, 1996]

**§ 52.3 What programs and activities of the Department are subject to these regulations?**

The Secretary publishes in the FEDERAL REGISTER a list of the Department's programs and activities that are subject to these regulations and identifies which of these are subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act.

**§ 52.4 What are the Secretary's general responsibilities under the Order?**

(a) The Secretary provides opportunities for consultation by elected officials of those state and local governments that would provide the non-federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Department.

# **Exhibit D**

**Office of the Secretary, HUD**

**§ 51.2**

**§ 50.42 Cases when an EIS is required.**

(a) An EIS is required if the proposal is determined to have a significant impact on the human environment pursuant to subpart E.

(b) An EIS will normally be required if the proposal:

(1) Would provide a site or sites for hospitals or nursing homes containing a total of 2,500 or more beds; or

(2) Would remove, demolish, convert, or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 50.20), or which would result in the construction or installation of 2,500 or more housing units, or which would provide sites for 2,500 or more housing units.

(c) When the environmental concerns of one or more Federal authorities cited in § 50.4 will be affected by the proposal, the cumulative impact of all such effects should be assessed to determine whether an EIS is required. Where all of the affected authorities provide alternative procedures for resolution, those procedures should be used in lieu of an EIS.

**§ 50.43 Emergencies.**

In cases of national emergency and disasters or cases of imminent threat to health and safety or other emergency which require the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 and of any applicable § 50.4 authorities which provide for emergencies shall apply.

**PART 51—ENVIRONMENTAL CRITERIA AND STANDARDS**

**Subpart A—General Provisions**

- Sec. fl
- 51.1 Purpose. fl
- 51.2 Authority. fl
- 51.3 Responsibilities. fl
- 51.4 Program coverage. fl

**Subpart B—Noise Abatement and Control**

- 51.100 Purpose and authority.
- 51.101 General policy.
- 51.102 Responsibilities.
- 51.103 Criteria and standards.
- 51.104 Special requirements.
- 51.105 Exceptions.
- 51.106 Implementation.

APPENDIX I TO SUBPART B TO PART 51—DEFINITION OF ACOUSTICAL QUANTITIES

**Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature**

- 51.200 Purpose. fl
- 51.201 Definitions. fl
- 51.202 Approval of HUD-assisted projects. fl
- 51.203 Safety standards. fl
- 51.204 HUD-assisted hazardous facilities. fl
- 51.205 Mitigating measures. fl
- 51.206 Implementation. fl
- 51.207 Special circumstances. fl
- 51.208 Reservation of administrative and legal rights. fl

APPENDIX I TO SUBPART C TO PART 51—SPECIFIC HAZARDOUS SUBSTANCES

APPENDIX II TO SUBPART C TO PART 51—DEVELOPMENT OF STANDARDS; CALCULATION METHODS

**Subpart D—Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields**

- 51.300 Purpose.
- 51.301 Definitions.
- 51.302 Coverage.
- 51.303 General policy.
- 51.304 Responsibilities.
- 51.305 Implementation.

AUTHORITY: 42 U.S.C. 3535(d), unless otherwise noted.

SOURCE: 44 FR 40861, July 12, 1979, unless otherwise noted.

**Subpart A—General Provisions**

**§ 51.1 Purpose.**

The Department of Housing and Urban Development is providing program Assistant Secretaries and administrators and field offices with environmental standards, criteria and guidelines for determining project acceptability and necessary mitigating measures to insure that activities assisted by the Department achieve the goal of a suitable living environment.

**§ 51.2 Authority.**

This part implements the Department's responsibilities under: The National Housing Act (12 U.S.C. 1701 *et seq.*); sec. 2 of the Housing Act of 1949 (42 U.S.C. 1441); secs. 2 and 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3531 and

### § 51.3

3535(d)); the National Environmental Policy Act of 1969 (42 U.S.C. 4321); and the other statutes that are referred to in this part.

[61 FR 13333, Mar. 26, 1996]

#### § 51.3 Responsibilities.

The Assistant Secretary for Community Planning and Development is responsible for administering HUD's environmental criteria and standards as set forth in this part. The Assistant Secretary for Community Planning and Development may be assisted by HUD officials in implementing the responsibilities established by this part. HUD will identify these HUD officials and their specific responsibilities through FEDERAL REGISTER notice.

[61 FR 13333, Mar. 26, 1996]

#### § 51.4 Program coverage.

Environmental standards shall apply to all HUD actions except where special provisions and exemptions are contained in each subpart.

## Subpart B—Noise Abatement and Control

#### § 51.100 Purpose and authority.

(a) It is the purpose of this subpart B to:

(1) Call attention to the threat of noise pollution;

(2) Encourage the control of noise at its source in cooperation with other Federal departments and agencies;

(3) Encourage land use patterns for housing and other noise sensitive urban needs that will provide a suitable separation between them and major noise sources;

(4) Generally prohibit HUD support for new construction of noise sensitive uses on sites having unacceptable noise exposure;

(5) Provide policy on the use of structural and other noise attenuation measures where needed; and

(6) Provide policy to guide implementation of various HUD programs.

(b) *Authority.* Specific authorities for noise abatement and control are contained in the Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*); and the General Services Administration, Federal Management Circular 75-2;

### 24 CFR Subtitle A (4-1-07 Edition)

*Compatible Land Uses at Federal Airfields.*

[44 FR 40861, July 12, 1979, as amended at 61 FR 13333, Mar. 26, 1996]

#### § 51.101 General policy.

(a) It is HUD's general policy to provide minimum national standards applicable to HUD programs to protect citizens against excessive noise in their communities and places of residence.

(1) *Planning assistance.* HUD requires that grantees give adequate consideration to noise exposures and sources of noise as an integral part of the urban environment when HUD assistance is provided for planning purposes, as follows:

(i) Particular emphasis shall be placed on the importance of compatible land use planning in relation to airports, highways and other sources of high noise.

(ii) Applicants shall take into consideration HUD environmental standards impacting the use of land.

(2) *Activities subject to 24 CFR part 58.*

(i) Responsible entities under 24 CFR part 58 must take into consideration the noise criteria and standards in the environmental review process and consider ameliorative actions when noise sensitive land development is proposed in noise exposed areas. Responsible entities shall address deviations from the standards in their environmental reviews as required in 24 CFR part 58.

(ii) Where activities are planned in a noisy area, and HUD assistance is contemplated later for housing and/or other noise sensitive activities, the responsible entity risks denial of the HUD assistance unless the HUD standards are met.

(3) *HUD support for new construction.* HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. (Standards of acceptability are contained in § 51.103(c).) This policy applies to all HUD programs providing assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, and all programs providing assistance or insurance for land development, redevelopment or any other provision of

facilities and services which are directed to making land available for housing or noise sensitive development. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales registration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.

(4) *HUD support for existing construction.* Noise exposure by itself will not result in the denial of HUD support for the resale and purchase of otherwise acceptable existing buildings. However, environmental noise is a marketability factor which HUD will consider in determining the amount of insurance or other assistance that may be given.

(5) *HUD support of modernization and rehabilitation.* For modernization projects located in all noise exposed areas, HUD shall encourage noise attenuation features in alterations. For major or substantial rehabilitation projects in the Normally Unacceptable and Unacceptable noise zones, HUD actively shall seek to have project sponsors incorporate noise attenuation features, given the extent and nature of the rehabilitation being undertaken and the level or exterior noise exposure. In Unacceptable noise zones, HUD shall strongly encourage conversion of noise-exposed sites to land uses compatible with the high noise levels.

(6) *Research, guidance and publications.* HUD shall maintain a continuing program designed to provide new knowledge of noise abatement and control to public and private bodies, to develop improved methods for anticipating noise encroachment, to develop noise abatement measures through land use and building construction practices, and to foster better understanding of the consequences of noise. It shall be HUD's policy to issue guidance documents periodically to assist HUD personnel in assigning an acceptability category to projects in accordance with noise exposure standards, in evaluating noise attenuation measures,

and in advising local agencies about noise abatement strategies. The guidance documents shall be updated periodically in accordance with advances in the state-of-the-art.

(7) *Construction equipment, building equipment and appliances.* HUD shall encourage the use of quieter construction equipment and methods in population centers, the use of quieter equipment and appliances in buildings, and the use of appropriate noise abatement techniques in the design of residential structures with potential noise problems.

(8) *Exterior noise goals.* It is a HUD goal that exterior noise levels do not exceed a day-night average sound level of 55 decibels. This level is recommended by the Environmental Protection Agency as a goal for outdoors in residential areas. The levels recommended by EPA are not standards and do not take into account cost or feasibility. For the purposes of this regulation and to meet other program objectives, sites with a day-night average sound level of 65 and below are acceptable and are allowable (see Standards in § 51.103(c)).

(9) *Interior noise goals.* It is a HUD goal that the interior auditory environment shall not exceed a day-night average sound level of 45 decibels. Attenuation measures to meet these interior goals shall be employed where feasible. Emphasis shall be given to noise sensitive interior spaces such as bedrooms. Minimum attenuation requirements are prescribed in § 51.104(a).

(10) *Acoustical privacy in multifamily buildings.* HUD shall require the use of building design and acoustical treatment to afford acoustical privacy in multifamily buildings pursuant to requirements of the Minimum Property Standards.

[44 FR 40861, July 12, 1979, as amended at 50 FR 9268, Mar. 7, 1985; 61 FR 13333, Mar. 26, 1996]

#### § 51.102 Responsibilities.

(a) *Surveillance of noise problem areas.* Appropriate field staff shall maintain surveillance of potential noise problem areas and advise local officials, developers, and planning groups of the unacceptability of sites because of noise exposure at the earliest possible

§ 51.103

24 CFR Subtitle A (4-1-07 Edition)

time in the decision process. Every attempt shall be made to insure that applicants' site choices are consistent with the policy and standards contained herein.

(b) *Notice to applicants.* At the earliest possible stage, HUD program staff shall:

(1) Determine the suitability of the acoustical environment of proposed projects;

(2) Notify applicants of any adverse or questionable situations; and

(3) Assure that prospective applicants are apprised of the standards contained herein so that future site choices will be consistent with these standards.

(c) *Interdepartmental coordination.* HUD shall foster appropriate coordination between field offices and other departments and agencies, particularly the Environmental Protection Agency, the Department of Transportation, the Department of Defense representatives, and the Department of Veterans Affairs. HUD staff shall utilize the acceptability standards in commenting on the prospective impacts of transportation facilities and other noise generators in the Environmental Impact Statement review process.

[44 FR 40861, July 12, 1979, as amended at 54 FR 39525, Sept. 27, 1989; 61 FR 13333, Mar. 26, 1996]

§ 51.103 **Criteria and standards.**

These standards apply to all programs as indicated in § 51.101.

(a) *Measure of external noise environments.* The magnitude of the external noise environment at a site is determined by the value of the day-night average sound level produced as the result of the accumulation of noise from all sources contributing to the external noise environment at the site. Day-night average sound level, abbreviated as DNL and symbolized as  $L_{dn}$ , is the 24-hour average sound level, in decibels, obtained after addition of 10 decibels to sound levels in the night from 10 p.m. to 7 a.m. Mathematical expressions for

average sound level and day-night average sound level are stated in the Appendix I to this subpart.

(b) *Loud impulsive sounds.* On an interim basis, when loud impulsive sounds, such as explosions or sonic booms, are experienced at a site, the day-night average sound level produced by the loud impulsive sounds alone shall have 8 decibels added to it in assessing the acceptability of the site (see Appendix I to this subpart). Alternatively, the C-weighted day-night average sound level ( $L_{Cdn}$ ) may be used without the 8 decibel addition, as indicated in § 51.106(a)(3). Methods for assessing the contribution of loud impulsive sounds to day-night average sound level at a site and mathematical expressions for determining whether a sound is classed as "loud impulsive" are provided in the Appendix I to this subpart.

(c) *Exterior standards.* (1) The degree of acceptability of the noise environment at a site is determined by the sound levels external to buildings or other facilities containing noise sensitive uses. The standards shall usually apply at a location 2 meters (6.5 feet) from the building housing noise sensitive activities in the direction of the predominant noise source. Where the building location is undetermined, the standards shall apply 2 meters (6.5 feet) from the building setback line nearest to the predominant noise source. The standards shall also apply at other locations where it is determined that quiet outdoor space is required in an area ancillary to the principal use on the site.

(2) The noise environment inside a building is considered acceptable if: (i) The noise environment external to the building complies with these standards, and (ii) the building is constructed in a manner common to the area or, if of uncommon construction, has at least the equivalent noise attenuation characteristics.

SITE ACCEPTABILITY STANDARDS

	Day-night average sound level (in decibels)	Special approvals and requirements
Acceptable .....	Not exceeding 65 dB(1) .....	None.
Normally Unacceptable .....	Above 65 dB but not exceeding 75 dB .....	Special Approvals (2) Environmental Review (3).

SITE ACCEPTABILITY STANDARDS—Continued

	Day-night average sound level (in decibels)	Special approvals and requirements
Unacceptable .....	Above 75 dB .....	Attenuation (4). Special Approvals (2). Environmental Review (3). Attenuation (5).

Notes: (1) Acceptable threshold may be shifted to 70 dB in special circumstances pursuant to § 51.105(a).  
 (2) See § 51.104(b) for requirements.  
 (3) See § 51.104(b) for requirements.  
 (4) 5 dB additional attenuation required for sites above 65 dB but not exceeding 70 dB and 10 dB additional attenuation required for sites above 70 dB but not exceeding 75 dB. (See § 51.104(a).)  
 (5) Attenuation measures to be submitted to the Assistant Secretary for CPD for approval on a case-by-case basis.

[44 FR 40861, July 12, 1979, as amended at 49 FR 12214, Mar. 29, 1984]

**§ 51.104 Special requirements.**

(a)(1) *Noise attenuation.* Noise attenuation measures are those required in addition to attenuation provided by buildings as commonly constructed in the area, and requiring open windows for ventilation. Measures that reduce external noise at a site shall be used wherever practicable in preference to the incorporation of additional noise attenuation in buildings. Building designs and construction techniques that provide more noise attenuation than typical construction may be employed also to meet the noise attenuation requirements.

(2) *Normally unacceptable noise zones and unacceptable noise zones.* Approvals in Normally Unacceptable Noise Zones require a minimum of 5 decibels additional sound attenuation for buildings having noise-sensitive uses if the day-night average sound level is greater than 65 decibels but does not exceed 70 decibels, or a minimum of 10 decibels of additional sound attenuation if the day-night average sound level is greater than 70 decibels but does not exceed 75 decibels. Noise attenuation measures in Unacceptable Noise Zones require the approval of the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58. (See § 51.104(b)(2).)

(b) *Environmental review requirements.* Environmental reviews shall be conducted pursuant to the requirements of 24 CFR parts 50 and 58, as applicable, or other environmental regulations issued by the Department. These requirements are hereby modified for all projects proposed in the Normally Un-

acceptable and Unacceptable noise exposure zones as follows:

(1) *Normally unacceptable noise zone.*

(i) All projects located in the Normally Unacceptable Noise Zone require a Special Environmental Clearance except an EIS is required for a proposed project located in a largely undeveloped area, or where the HUD action is likely to encourage the establishment of incompatible land use in this noise zone.

(ii) When an EIS is required, the concurrence of the Program Assistant Secretary is also required before a project can be approved. For the purposes of this paragraph, an area will be considered as largely undeveloped unless the area within a 2-mile radius of the project boundary is more than 50 percent developed for urban uses and infrastructure (particularly water and sewers) is available and has capacity to serve the project.

(iii) All other projects in the Normally Unacceptable zone require a Special Environmental Clearance, except where an EIS is required for other reasons pursuant to HUD environmental policies.

(2) *Unacceptable noise zone.* An EIS is required prior to the approval of projects with unacceptable noise exposure. Projects in or partially in an Unacceptable Noise Zone shall be submitted to the Assistant Secretary for Community Planning and Development, or the Certifying Officer for activities subject to 24 CFR part 58, for approval. The Assistant Secretary or the Certifying Officer may waive the EIS requirement in cases where noise is the only environmental issue and no outdoor noise sensitive activity will



# **Exhibit E**

(3) For other than utility runways the width is:

(i) 500 feet for visual runways having only visual approaches.

(ii) 500 feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile.

(iii) 1,000 feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.

The width of the primary surface of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.

(d) *Approach surface.* A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

(1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

(i) 1,250 feet for that end of a utility runway with only visual approaches;

(ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

(iii) 2,000 feet for that end of a utility runway with a nonprecision instrument approach;

(iv) 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;

(v) 4,000 feet for that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile; and

(vi) 16,000 feet for precision instrument runways.

(2) The approach surface extends for a horizontal distance of:

(i) 5,000 feet at a slope of 20 to 1 for all utility and visual runways;

(ii) 10,000 feet at a slope of 34 to 1 for all nonprecision instrument runways other than utility; and,

(iii) 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 for all precision instrument runways.

(3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

(e) *Transitional surface.* These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

[Doc. No. 10183, 36 FR 5970, Apr. 1, 1971; 36 FR 6741, Apr. 8, 1971]

#### § 77.27 [Reserved]

#### § 77.28 Military airport imaginary surfaces.

(a) *Related to airport reference points.* These surfaces apply to all military airports. For the purposes of this section a military airport is any airport operated by an armed force of the United States.

(1) *Inner horizontal surface.* A plane is oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.

(2) *Conical surface.* A surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.

(3) *Outer horizontal surface.* A plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.

§ 77.29

14 CFR Ch. I (1-1-07 Edition)

(b) *Related to runways.* These surfaces apply to all military airports.

(1) *Primary surface.* A surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet. However, at established bases where substantial construction has taken place in accordance with previous lateral clearance criteria, the 2,000-foot width may be reduced to the former criteria.

(2) *Clear zone surface.* A surface located on the ground or water at each end of the primary surface, with a length of 1,000 feet and the same width as the primary surface.

(3) *Approach clearance surface.* An inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach clearance surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width at 50,000 is 16,000 feet.

(4) *Transitional surfaces.* These surfaces connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

[Doc. No. 1882, 30 FR 1839, Feb. 10, 1965, as amended by Amdt. 77-1, 30 FR 6713, May 18, 1965; Amdt. 77-9, 36 FR 5971, Apr. 1, 1971]

§ 77.29 **Airport imaginary surfaces for heliports.**

(a) *Heliport primary surface.* The area of the primary surface coincides in size and shape with the designated take-off and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

(b) *Heliport approach surface.* The approach surface begins at each end of the heliport primary surface with the same width as the primary surface, and extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.

(c) *Heliport transitional surfaces* These surfaces extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

[Doc. No. 1882, 30 FR 1839, Feb. 10, 1965, as amended by Amdt. 77-9, 36 FR 5971, Apr. 1, 1971; 36 FR 6741, Apr. 8, 1971]

**Subpart D—Aeronautical Studies of Effect of Proposed Construction on Navigable Airspace**

§ 77.31 **Scope.**

(a) This subpart applies to the conduct of aeronautical studies of the effect of proposed construction or alteration on the use of air navigation facilities or navigable airspace by aircraft. In the aeronautical studies, present and future IFR and VFR aeronautical operations and procedures are reviewed and any possible changes in those operations and procedures and in the construction proposal that would eliminate or alleviate the conflicting demands are ascertained.

(b) The conclusion of a study made under this subpart is normally a determination as to whether the specific proposal studied would be a hazard to air navigation.

[Doc. No. 1882, 30 FR 1839, Feb. 10, 1965, as amended by Amdt. 77-6, 33 FR 10843, July 31, 1968]

§ 77.33 **Initiation of studies.**

(a) An aeronautical study is conducted by the FAA:

(1) Upon the request of the sponsor or any construction or alteration for

Applicant  
Response  
07133

# SolutionsPlus! Inc.

July 18, 2007

Audrey M. Martin  
Competitive HTC Program Administrator  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

Ms. Martin:

We are submitting our response to the challenge in an effort to meet your timeline as requested, although the actual deadline for a response would be 6 days later. We request the opportunity to clear any addition hurdles, if raised, since we are giving the opposition time to trump up something else.

## Summary:

**Solutions Plus! Inc. and the City of Tye, TX request that TDHCA disregard the Challenge to Application #07-133 StoneLeaf at Tye because the stated reasons, 1, 3, and 4 of said challenge are factually incorrect. Reason 2 will be mitigated by the use of sound attenuation materials.**

## The Development's Location in APZ 1:

Even before receiving the letter from Dyess AFB dated 28 March, 2007 the site plan never included any housing in APZ I, APZ II (Accident Potential Zones) or the CZ (Clear Zone) and has since been modified to provide considerable buffers from APZ I, APZ II, and the CZ.

Please see attached map provided by the Air Force and the attached most recent site plan from the architect, architettura, which shows APZ I to impact a very small portion of the land not being used for housing.

## Item #2: HUD's Noise Abatement and Control Rule:

Noise attenuation construction materials to be provided by Quiet Solutions, Inc. including Quiet Rock on walls and ceilings, and Quiet Wood flooring in 2 story buildings in addition to Quiet Home Windows, or equal, which will reduce sound levels to or below the HUD and USAF guidelines of 45 dB. This has been tested and meets ASTM E, IBC and UL codes as shown on the Quiet Solution website, [www.QuietSolution.com](http://www.QuietSolution.com).

It should also be noted that the proposed site is within the same noise contours as 85% of the population of Tye, including the elementary school. None of these residences, nor the school, have any special noise attenuation features. The

HUD guidelines for sound are indeed just guidelines and not intended to redline or eliminate residential construction in Tye, TX or any other town.

Please also note, that the maps provided by USAF are not specifically related to Dyess AFB. The contours are based upon tests made in 2000 at Edwards AFB in California and interpolated for Dyess AFB. These contours may not represent actual noise levels, and most likely exaggerate the actual noise level to cover the greatest potential noise, since they have been recalculated and manipulated by the USAF. However, we use these as a guideline.

### Item #3: Hazard to Air Navigation

The proposed site is not within the Clear Zone (CZ) of the Dyess AFB main runway. The site is approximately 3500 feet from the runway on a parallel line and the proposed 2 story buildings will be approximately an additional 600 feet to the west. The height of the 2 story buildings are planned to be less than 35 feet at the ridge. Even if the proposed site were to be within the Approach Clearance Surface of Dyess AFB, the height would be conforming.

### Item #4: Base Realignment and Closure Commission Liabilities:

Since the site containing housing is not within APZ I, APZ II, or Clear Zone, as shown on the available maps. This is a cheap scare tactic.

### Supplemental Information for TDHCA:

#### Number of Flight Operations

Dyess AFB provided flight information to us for the year 2000. In the year 2000, Dyess was home to 40 B-1 aircraft. Today, there are 36, a 10% reduction.

Speeds: Takeoffs = 175 knots = 201 MPH...Touch and Go speed = 220 knots = 253 MPH

V-2 (when aircraft leaves the ground and achieves altitude of 50 feet).

Runway = 15,000 feet. Assuming it is a balanced runway, aircraft will reach V-2 approximately midway down the runway. Therefore, a B-1 will be at approximately 2-4,000 feet altitude when passing the site, which is about 2/3 mile west of the runway.

The report includes the following averages:

Note: Dyess AFB intentionally directs flights to take off to the south to provide as few noise intrusions as possible in the City of Tye.

Average Northbound B-1 Flights per day M-F = 2.88

Average Northbound B-1 Touch & Go Flights per day M-F = 11.81

There were an average of 2.05 night time flights per day = with approximately 1 minute of (total) intrusive time.

If one projects 30 seconds of intrusive time for takeoffs, and 25 seconds for touch & go operations, there would be fewer than 7.5 minutes per day M-F with none on Saturday-Sunday). The above information was received from the Air Force .

Also, please see "**how stuff is made**" info. The noise at this property would be greater on the days when the lawn service is working. While we don't suggest that any particular noise is acceptable, we feel that with sound attenuation, StoneLeaf at Tye will be a very comfortable community.

In conclusion, while the developers of Anson Park Seniors have hired a very aggressive law firm to represent them, I am very disappointed in the manner they chose. In addition, the lawyer should have checked his facts a little closer, since he is off base, other than hoping to raise enough suppositions to question the Agency's decision.

Thank you for your time and consideration.

Sincerely,



J. Michael Sugrue

# Proposed Locations for New Development in Tye



Stoneleaf at Tye

Dyess AFB

### Accident Potential Zones

Clear Zone

APZ I

APZ II

### Noise Contours

### Level dB DNL

65

70

75

80





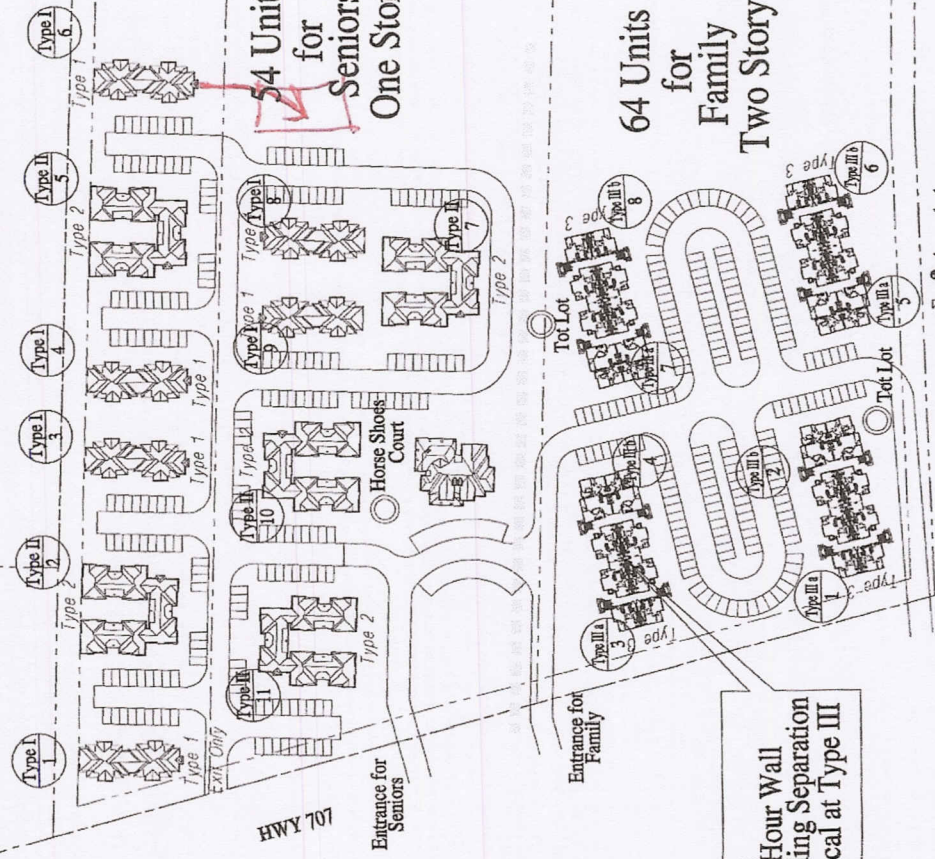
APZ II ↑  
APPROX 2/3 MILE

# StoneLeaf at Tye

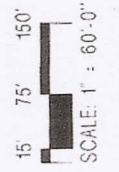
Estimated APZ1

54 Units for Seniors One Story

64 Units for Family Two Story



Note:  
Two Hour Wall Building Separation Typical at Type III



## Building Matrix

Building Type	Building Count	A1	A2	B1	B2	C2	Building Unit Totals
Type I	6	4					24 Seniors
Type II	5			6			30 Seniors
Type III Part A	4		4		4		32 Family
Type III Part B	4				4	4	32 Family
TOTAL	16	24	16	30	32	16	116 Total Units

**architettura**  
 architettura inc.  
 609 west 1st street, suite 140  
 plano, texas 75075  
 t. 972.509.0088 f. 972.509.0022  
 pollacia@architettura-inc.com

01 Site Plan  
SCALE: 1" = 60'-0"

CZ 15  
2000' +- BACK ↓

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## What is a decibel, and what is the loudest sound I can listen to before it hurts my ears?

The **decibel** (abbreviated **dB**) is the unit used to measure the intensity of a sound. The decibel scale is a little odd because the **human ear** is incredibly sensitive. Your ears can hear everything from your fingertip brushing lightly over your skin to a loud **jet engine**. In terms of power, the sound of the jet engine is about 1,000,000,000,000 times more powerful than the smallest audible sound. That's a big difference!

On the **decibel scale**, the smallest audible sound (near total silence) is 0 dB. A sound 10 times more powerful is 10 dB. A sound 100 times more powerful than near total silence is 20 dB. A sound 1,000 times more powerful than near total silence is 30 dB. Here are some common sounds and their decibel ratings:

- Near total silence - 0 dB
- A whisper - 15 dB
- Normal conversation - 60 dB
- A lawnmower - 90 dB
- A car horn - 110 dB
- A rock concert or a jet engine - 120 dB
- A gunshot or firecracker - 140 dB

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You know from your own experience that distance affects the intensity of sound -- if you are far away, the power is greatly diminished. All of the ratings above are taken while standing near the sound.

Any sound above 85 dB can cause **hearing loss**, and the loss is related both to the power of the sound as well as the length of exposure. You know that you are listening to an 85-dB sound if you have to raise your voice to be heard by somebody else. Eight hours of 90-dB sound can cause damage to your ears; any exposure to 140-dB sound causes immediate damage (and causes actual pain). See [this page](#) for an exposure "ruler."

### Here are some interesting links:

- [How Hearing Works](#)
- [What is white noise?](#)
- [Why can you hear the ocean when holding a seashell to your ear?](#)

# Challenge

## 07175



2201 Northland Drive  
Austin, Texas 78756

Voice (512) 450-0933  
Fax (512) 450-1097  
eric@betcodev.com

Sent via email to audrey.martin@tdhca.state.tx.us

April 26, 2007

Ms. Audrey Martin  
Competitive HTC Program Administrator  
Texas Department of Housing and Community Affairs  
PO Box 13941  
Austin, TX 78711-3941

**RE:** Challenge to TDHCA 9% Housing Tax Credit Application #07175, Austin Place  
(Plat 2, 2200 Block of N. Edwards Ave., Mt. Pleasant, Texas; Owner Contact: Bonita  
Williams)

Ms. Martin:

We respectfully ask that you consider the information provided below in your review of the above-referenced application.

Seven points have been requested for QAP §49.9(i)(17) Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits. According to the application, the development site is located within Census Tract 9503, which is indeed a tract with no prior development.

**However, the development site referenced within the application appears to be within Tract 9506.**

The attached supporting documentation indicates that the site is located southeast of the intersection of N. Edwards Drive and US Highway 271. The northern and western boundaries of Tract 9506 are N. Edwards Drive and US Highway 271, respectively.

Directions to the site (as defined within the application itself) show that the site is within the boundaries of Tract 9506:

From Interstate 30 in Mount Pleasant  
Turn north on N. Edwards Avenue (FM 1734)  
Proceed on N. Edwards Avenue for approximately 1.5 miles.  
Site will be on your left. Public Notice Sign is in place.  
*(2007 Multifamily 9% HTC Application 07175;  
Volume 2, Tab 6; page 83)*

The site location is further defined by the included City of Mt. Pleasant Zoning Classification response:

According to the City of Mount Pleasant's zoning map, the above referenced property, located on the south side of North Edwards Avenue (FM 1734) approximately 1500 feet east of US Highway 271, is zoned "C-Commercial."  
*(2007 Multifamily 9% HTC Application 07175;  
Volume 3, Tab 2; page 110)*

Unfortunately, according to the 2007 Housing Tax Credit Site Demographic Characteristics as of

December 14, 2006 Board Meeting, Census Tract 9506 is not eligible for §49.9(i)(17) points.

Tract ID	County	2000 Tract Median Family Income	2000 County Median Family Income	Eligible for §49.9(i)(14)(D) Tract MFI > County MFI Points (1)	2000 Tract Population	2000 Tract Poverty Population	Eligible for Poverty < 10% Points? (2)	Eligible for §49.9(i)(17)? (3)	Ineligible Tract? (4)	Ineligible For 130% Basis Boost? (5)
48449950600	Titus	25551	37390	No	4264	1301	No	No	no	no

We respectfully ask that you do not award the seven points requested under §49.9(i)(17) to application 07175.

Please feel free to contact me directly regarding the information submitted, or if additional information is required. Thank you for your assistance in this matter.

Sincerely,



Eric Hartzell  
Vice President  
BETCO Development  
2201 Northland Dr.  
Austin, TX 78756  
(512) 450-0933 voice  
(512) 450-1097 fax  
[eric@betcodev.com](mailto:eric@betcodev.com)

# U.S. Census Bureau Reference Map Titus County Tract 9506.00



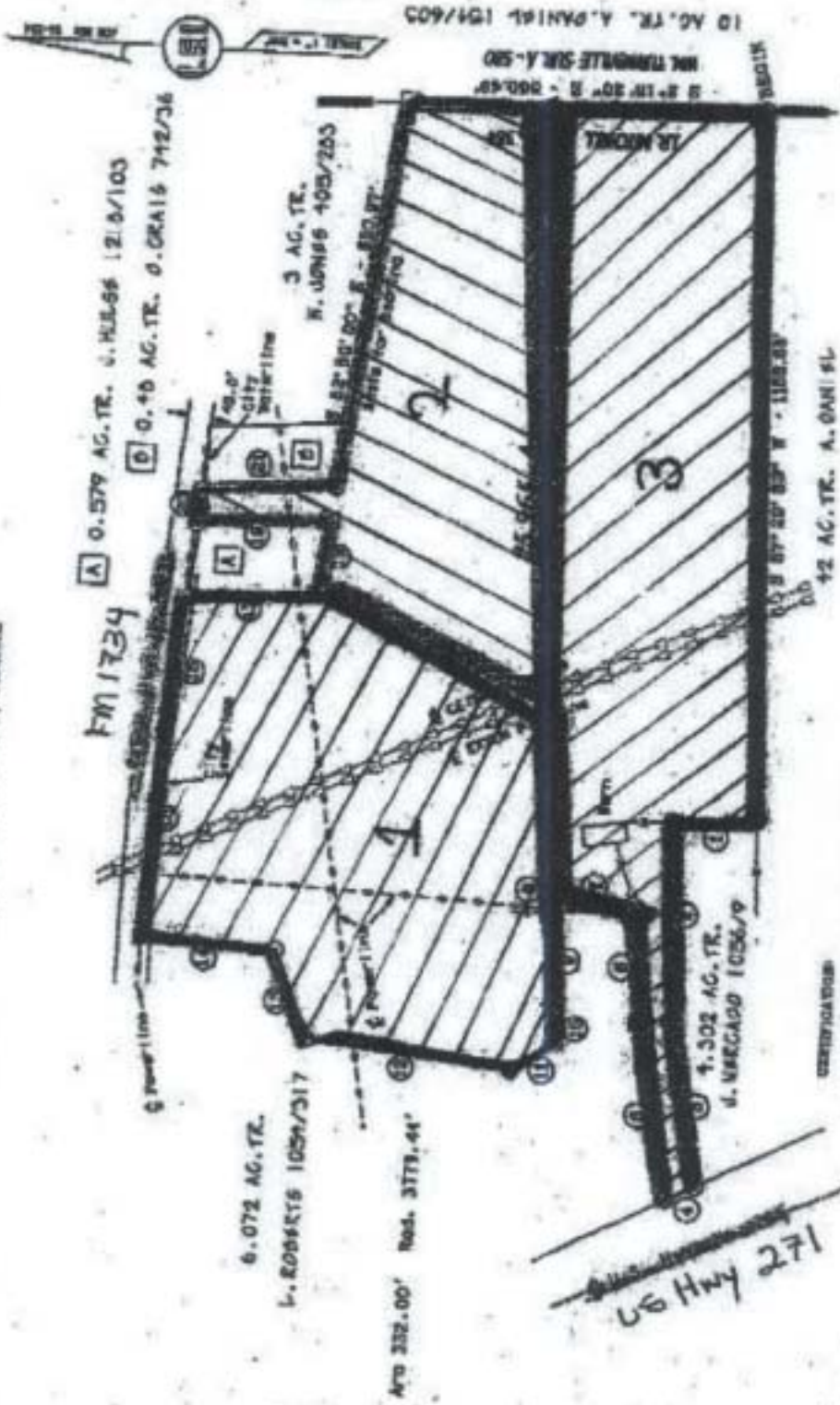
- Boundaries**
- '00 Census Tract
  - '00 Place
  - '00 Place
  - '00 Urban Area
  - '00 Urban Area
- Features**
- Major Road
  - Street
  - Stream/Waterbody
  - Stream/Waterbody

Source: American Factfinder, 2000 Census, US Census Bureau, [http://factfinder.census.gov/home/saff/main.html?\\_lang=en](http://factfinder.census.gov/home/saff/main.html?_lang=en)

8+ ACS AT \$24,000 PER AC.  
(not to scale)

SURVEY PLAT FOR 26.965 ACRES  
IN THE J.R. MITCHELL SURVEY, ABST. NO. 384,  
CITY OF MT. PLEASANT, TITUS COUNTY, TEXAS

- 36° W - 137.56'
- 25° N - 222.35'
- 59° W - 271.35'
- 25° W - 51.05'
- 43° E - 288.83'
- 58° E - 174.23'
- 48° E - 144.00'
- 23° W - 32.33'
- 51° E - 180.55'
- 50° W - 51.57'
- 56° W - 85.50'
- 14° E - 323.48'
- 6° E - 152.54'
- 4° E - 220.34'
- 3° 45' E - 331.89'
- 7° E - 224.43'
- 1° E - 213.54'
- 3° E - 20.13'
- 1° W - 218.24'
- 1° E - 80.85'
- 1° E - 220.08'



CERTIFICATION

L. L. STEVENS, Registered Professional Land Surveyor,  
do hereby certify that this plat represents a survey  
made in the presence of my associates, the names  
of which are listed on the reverse side of this  
writing. My commission expires on 12/31/06.

MADE THIS 29th DAY OF AUGUST, 2005.  
L. L. STEVENS, Registered Professional Land Surveyor,  
12722 N. Loop West, Suite 100, Houston, Texas 77040



reads that alluded  
to this plat

08/29/05

08/29/05

ATTN - Brad.



PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

02-13-06

UNIMPROVED PROPERTY CONTRACT

NOTICE: Not For Use For Condominium Transactions

1. PARTIES: Vera Sue Roberts Steed, Marie Luce, Deborah Easley, Yvonne Mizell (Seller) agrees to sell and convey to Mount Pleasant Charger Properties (Buyer) and Buyer agrees to buy from Seller the Property described below.

2. PROPERTY: Lot Block FM 1734 and Hwy 271 O.A.C.S. Additional City of Mount Pleasant Texas, known as NB 384, JR Mitchell Survey Plat # 2 (address/zip code), or as described on attached exhibit together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships (the Property). Lot #2 on attachment A.

3. SALES PRICE: A. Cash portion of Sales Price payable by Buyer at closing \$ B. Sum of all financing described below (excluding any loan funding fee or mortgage insurance premium) \$192,000.00 C. Sales Price (Sum of A and B) \$192,000.00

4. FINANCING: The portion of Sales Price not payable in cash will be paid as follows: (Check applicable boxes below)

- A. THIRD PARTY FINANCING: One or more third party mortgage loans in the total amount of \$192,000.00 (excluding any loan funding fee or mortgage insurance premium). (1) Property Approval: If the Property does not satisfy the lenders' underwriting requirements for the loan(s), this contract will terminate and the earnest money will be refunded to Buyer. (2) Financing Approval: (Check one box only) (a) This contract is subject to Buyer being approved for the financing described in the attached Third Party Financing Condition Addendum. (b) This contract is not subject to Buyer being approved for financing and does not involve FHA or VA financing. B. ASSUMPTION: The assumption of the unpaid principal balance of one or more promissory notes described in the attached TREC Loan Assumption Addendum. C. SELLER FINANCING: A promissory note from Buyer to Seller of \$ secured by vendor's and deed of trust liens, and containing the terms and conditions described in the attached TREC Seller Financing Addendum. If an owner policy of title insurance is furnished, Buyer shall furnish Seller with a mortgagee policy of title insurance.

5. EARNEST MONEY: Upon execution of this contract by both parties, Buyer shall deposit \$500.00 as earnest money with Heritage Title Services GREENE LLC as escrow agent, at 575 North St. Warrington, VA 22091 MOUNT PLEASANT, TX (address). Buyer shall deposit additional earnest money of \$2500.00 with escrow agent within 75 days after the effective date of this contract. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.

6. TITLE POLICY AND SURVEY: A. TITLE POLICY: Seller shall furnish to Buyer at Seller's expense an owner policy of title insurance (Title Policy) issued by Approved title underwriter in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions: (1) Restrictive covenants common to the platted subdivision in which the Property is located. (2) The standard printed exception for standby fees, taxes and assessments. (3) Liens created as part of the financing described in Paragraph 4. (4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located. (5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing. (6) The standard printed exception as to marital rights. (7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters. (8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements. Buyer, at Buyer's expense, may have the exception amended to read, "shortages in area". B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's



Initialed for identification by Buyer and Seller TREC NO. 9-6

903-577-1860



**VOLUME 2 TAB 6**

Written Directions

From Interstate 30 in Mount Pleasant

Turn north on N. Edwards Avenue (FM 1734)

Proceed on N. Edwards Avenue for approximately 1.5 miles.

Site will be on your left. Public Notice Sign is in place.



February 19, 2007

Mrs. Bonita Williams  
Louis Williams & Associates Inc.  
410 County Road 198  
Nacogdoches, TX 75965

Re: Zoning Classification and Permitted Uses for Tract 800, a 25.965 acre tract in the J.R. Mitchell Survey, Abstract No. 384, in the City of Mount Pleasant, Titus County, Texas

Dear Mrs. Williams:

According to the City of Mount Pleasant's zoning map, the above referenced property, located on the south side of North Edwards Avenue (FM 1734) approximately 1500 feet east of US Highway 271, is zoned "C-Commercial."

Multifamily dwellings are a permitted use in a "C-Commercial" zoning district according to the City's Zoning Code (Chapter 155 of the City Code). Development of the above referenced property for multifamily housing use does not require any change in zoning for the property.

Please feel free to call me at 903-575-4137 with any questions you may have regarding this matter.

Sincerely,

Nita May  
City Planner

Enclosures

Applicant  
Response  
07175

**Louis Williams & Associates Inc.**

410 County Road 198  
Nacogdoches, TX 75965  
936-560-5702  
936-560-2838 fax  
louisw@suddenlink.net

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May 7, 2007

Audrey Martin  
Program Administrator, 9% Housing Tax Credits  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin, TX 78711

RE: 07175 Austin Place Challenge received April 26, 2007

Dear Audrey,

An error was made at pre-application and application regarding the Census Tract of the proposed development. The proposed site is located on the south side of N. Edwards Avenue (FM 1734). The north side of Edwards Avenue is located in Census Tract 9503. The south side of the street is located in 9306 as stated in the challenge. The correct Census Tract for the proposed development is 9306, therefore the application is not eligible for 7 points under §49.9(i)17. We regret the error.



Bonita Williams

# Challenge

## 07177

*Challenge*

ANDY J. McMULLEN  
LAWYER  
100 West Main  
P.O. Box 706  
Hamilton, TX 76531  
(254) 386-8191  
Telecopier: (254) 386-8511

**Received**

**MAR - 5 2007**

Andy J. McMullen  
Mark C. Henkes

February 26, 2007

Texas Department of Housing  
and Community Affairs  
Multifamily Finance Production Division  
P.O. Box 13941  
Austin, Texas 78711-3491

Cert. Mail No.: 70060810000370360225

RE: Comment Concerning Hamilton-Charger Senior Properties L.P.'s  
Application for Housing Tax Credit Program Financing

Dear Governing Board:

I am submitting this comment to give the Board notice that Hamilton-Charger Senior Properties L.P. has not complied with §49.9 of the Housing Tax Credit Program Qualified Allocation Plan and Rules.

On or before January 8, 2007, Hamilton-Charger Senior Properties L.P. submitted an application for Housing Tax Credit Program Financing. The development name for Hamilton-Charger Senior Properties L.P. is Hamilton Senior Village and the owner contact is Bonita Williams. The subject property is eleven (11) acres located at the southernmost end of Williams Street, just outside of the city limits of the City of Hamilton, in Hamilton County, Texas.


§49.9(h)(8)(B) of the Housing Tax Credit Program Qualified Allocation Plan and Rules states that it is a mandatory requirement for the Applicant to erect a four (4) foot by eight (8) foot sign within twenty (20) feet of and facing the main road adjacent to the site. Hamilton-Charger Senior Properties L.P. has not erected such a sign. The main road adjacent to the site is Williams street, and the sign they have erected is placed at a location that much further than (20) feet from Williams Street, nor is it facing Williams Street. Rather, the sign is located on a gravel drive that connects Williams Street to Jones Street. There are no signs posted to give notice that the gravel drive is a public roadway. Jones Street, the street the gravel drive leads to, is posted as a "Dead End Street," which would be inappropriate if the gravel drive were a public roadway. This issue is not laid to rest by simply determining if the gravel drive is a public roadway. Even if the gravel drive is a public roadway, §49.9(h)(8)(B) requires the sign to be within twenty (20) feet for the nearest main road adjacent to the site. In light of the fact that there is no posted road signs on the gravel drive and the presence of a posted "Dead End Street" sign on Jones Street, the gravel drive is clearly not a main road adjacent to the site. Please see the

enclosed seven (7) photographs and reference map.

It is also clear that the intent of §49.9(h)(8)(B) is to provide neighboring property owners notice of the filing of an Application, notice of the date and location of the public hearing, and notice of the methods by which they may submit comments. A close examination of the photos that have been provided reveals that the sign was erected at a location that is hidden from public view. Hiding the sign from view is the most likely purpose for erecting the sign at that particular location. The sign is bracketed by two large cedar trees that obstruct any viewing of the sign from a distance greater than ten (10) paces. Further, if it is determined that the gravel drive is not a public roadway, then by erecting the sign at its current location the Applicant is requiring any interested party to trespass on another person's private property to actually read the sign. This act clearly defeats the purpose of §49.9(h)(8)(B), and I argue that such was the goal of the Applicant all along.

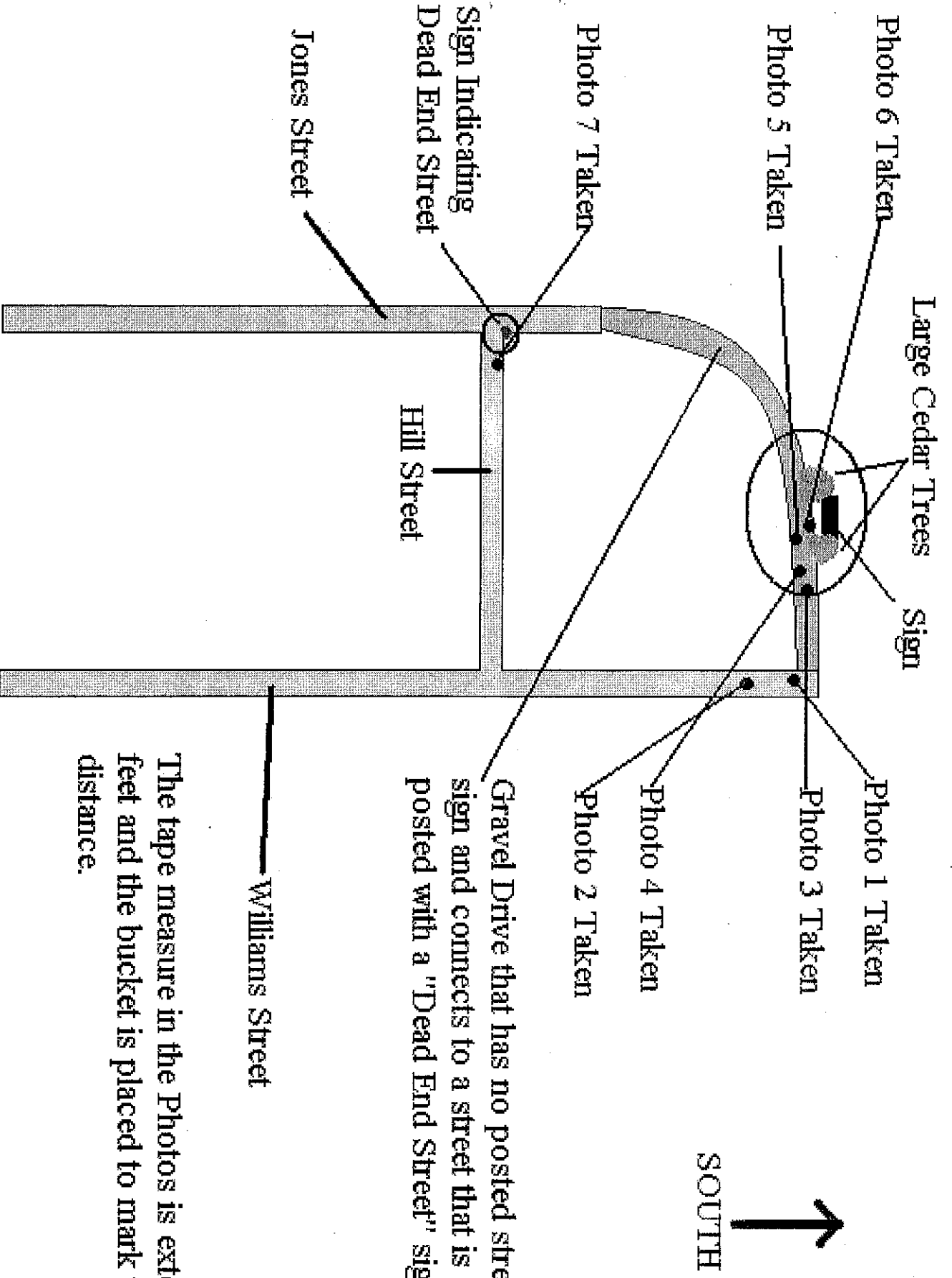
In light of the above facts and the photographs that have been provided to the board, I urge the Board to withhold approval of Hamilton-Charger Senior Properties L.P.'s Application for Housing Tax Credit Program Financing at this time, due to the applicants failure to comply with §49.9(h)(8)(B) of the Housing Tax Credit Program Qualified Allocation Plan and Rules.

Respectfully,



Mark C. Henkes

State Bar I.D.: 24055653



The tape measure in the Photos is extended 20 feet and the bucket is placed to mark this distance.













*Lola Christopher*  
507 South Williams Street  
Hamilton, Texas 76531-2418  
(254) 386-5209

#07177

Opposition



March 15, 2007

Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
P. O. Box 13941  
Austin, TX 78711-3491

Subject: Hamilton-Charger Senior Properties L.P.

Dear Gentlefolk's:

Louis and Bonita Williams of Nacogdoches are proposing to build a 36-unit low income apartment complex on 11 acres of land for "senior residents" at the end of Williams Street, Hamilton, Texas. The only access to the units (1 and 2 bedroom units) would be William Street. Although the units are for low income, senior residents, they would be for profit and would be built by Mr. & Mrs. Williams under the name of **Hamilton-Charger Senior Properties L. P.** This letter is our petition against this proposed project. Our reasons being;

*Williams Street is the only entrance or exit, it is a dead end street. It is a narrow street in a single family dwelling residential area. We feel it is insufficient to handle the increased traffic. It will be dangerous for the children of the neighborhood who often run across the street.*

*Under the Mandatory Requirement of Rule 4939(h)(8)(B) that all applicants erect a 4 foot by 8 foot sign no more than 20 feet from and Facing the main road adjacent to the site:*

*Hamilton-Charger Senior Properties L. P. 's sign is more than 20 feet from Williams Street, which Is the main road adjacent to the proposed building site.*

*The sign is not facing Williams Street, which is the main road adjacent to the proposed building site.*

*The sign has been intentionally placed between two large cedar trees to hide it from public view and deny local property owners an opportunity to voice their concerns.*

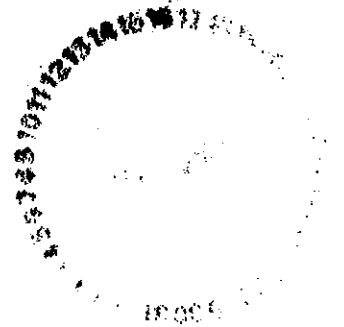
*We as property owners of the single family dwelling along Williams Street (known as the Williams Addition to the City of Hamilton, Texas and has been set up with the city as a restrictive single family residential dwellings only) feel that a 36 unit apartment complex at the end of our Street will decrease our property values, but will probably not decrease our city taxes.*

*We would appreciate your consideration in this matter.*

*Sincerely,*

*Jesse T. Christopher*  
Jesse T. Christopher

*Lola Christopher*  
Lola Christopher  
507 Williams Street  
Hamilton, Texas 76531



March 15, 2007

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

RECEIVED

MAR 16 REC'D

Re: Request for denial of Hamilton-Charger Senior Properties L.P. s (d/b/a Louis and Bonita Williams from Nacogdoches) Application for Housing Tax Credit Program financing at the end of Williams Street (a dead-in-street) in Hamilton, Texas for a 36-unit "low income for profit" apartment complex on 11 acres of land.

Gentlemen:

Louis and Bonita Williams were granted a vote of approval by the City Council of Hamilton, Texas, to build the above referenced complex. The City Council agreed to send a letter of recommendation, along with said approval. This approval was given without prior notice to the public or anyone on Williams Street, a quiet area composed of some large and some small homes, older people, younger couples with children who ride their bicycles and play near the street, crossing it numerous times to each other's homes. Many walk in this area and enjoy the orderly yards and homes, as everyone attempts to keep their properties neat and attractive.

Williams is the ONLY through street to the highway and is used by many people who live blocks away to come down a small cross street (Hill Street) and turn onto Williams to get to the highway. At one point Williams narrows at a curve so only one car can pass at a time; when it rains this area also floods. Can you even imagine what this "low income for profit" complex would cause in higher traffic usage of the street, the lower water pressure, the higher sewer usage, and the danger to young and old, much less the value of homes on this, and neighboring streets where many have lived for years, hoping to retire in these same homes (if they haven't already done so)?

&49.9(h)(8)(B) of the Housing Tax Credit Program Qualified Allocation Plan and Rules requires Hamilton-Charger Senior Properties L.P. to erect a sign within 20 feet of and facing the main road near the site announcing the plans for this complex. Instead they hid it around the corner on an unmarked, dirt road, between and behind two large cedar trees! Williams Street is the main marked, paved road which gives the only public access to the site and the sign cannot even be seen from Williams Street! They have clearly thwarted the purpose of this rule but have the audacity to expect Multifamily Finance Division to grant their request!

Hamilton, Texas is a small community (2A high school). On Thursday, March 8, at least 30 people attended the City Council Meeting (after we had to request to be on the Agenda). We had about 80 petitions signed and respectfully asked them to rescind their approval to this project. As a result of this meeting, the Hamilton City Council is now fully aware of the massive resistance to this proposed low income apartment complex and the many, many expenses and difficulties it will create for the city of Hamilton.

PLEASE DENY THEIR REQUEST!

Very truly yours,

*Paula Patrick*

Paula Patrick  
501 Jones Street  
Hamilton, Texas 76531

Telephone: 254-386-4523  
E-Mail: plp@htcomp.net  
FAX: 254-386-4523 (manual)

Applicant  
Response  
07177



**Louis Williams & Associates Inc.**

410 County Road 198  
Nacogdoches, TX 75965  
936-560-5702  
936-560-2636 fax  
louisw@suddenlink.net

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April 2, 2007

Audrey Martin  
Program Administrator, 9% Housing Tax Credits  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin, TX 78711

**Received**

APR - 5 2007

RE: 07/17/07 Hamilton Senior Village Challenge received April 2, 2007 .....

Dear Audrey,

We are in receipt of the "challenge" documents emailed. We will address the items mentioned:

1. Sign Location: The required Public Notification Sign faces Elm Street. Elm Street, although graveled, is a public city street. Elm Street is the only street that has frontage on the 11 acre tract that is optioned. Elm Street is the main road adjacent to the site, therefore the sign is properly placed according to Section 49.9(h)(8)(B) of the 2007 QAP. I have enclosed a fold up map of Hamilton that is distributed by the Hamilton Chamber of Commerce. Elm Street is shown on the map and the proposed development site is marked on this map. Enclosed is a Certified Copy of the Williams Addition Plat that was filed with the County Clerks office of Hamilton County. The recorded plat and recorded notes specifically identify Elm Street. Also included are a Site Sketch and Location Map that show the proposed development site. Note that each indicates the location of Elm Street, Williams Street and Jones Street. Also enclosed is an Aerial Photograph (2004). This photo shows the 11 acre tract that is optioned. This shows the Elm Street frontage. The Site Sketch, Location Map and Aerial Photograph were made by Phase Engineering as part of their Phase 1 ESA.

The letters indicate that the authors think the sign should have been placed at the very end of Williams Street where it intersects with Elm Street. The property optioned is fenced. The only gap in the fencing is at the very end of Williams Street exactly where the authors of the letters think the sign should be located. Mr. Martin Wenzel, the current property owner, uses this gap as the access to his property. He asked that we not place the sign in the middle of his access, so the sign was placed just east of this spot and facing Elm Street, the only city street with frontage on the property optioned. Monday, April 2, 2007 we telephoned Mr. Wenzel and informed him of this "challenge". He gave his

permission to relocate the sign if the Department thinks this is necessary. He will have to create another gap in the fencing along the frontage on Elm Street to gain access to his property. He is willing to do this if necessary.

2. Sign Visibility: The entire frontage of the property is brushy. There are cedars and brush on either side of the sign, but the sign is completely visible and legible. We had no permission from Mr. Wenzel to do any clearing along the frontage of his property.

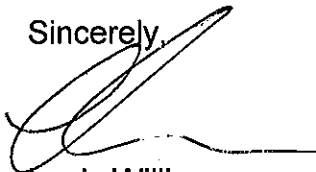
3. The Developer trying to conceal the fact that a development was proposed on that site: Louis Williams & Associates Inc. (Louis Williams and Bonita Williams) appeared before the Hamilton City Council on February 8, 2007 to ask for a Resolution of Support for Hamilton Senior Village. Enclosed are copies of the February 8, 2007 Council Agenda that was properly posted and the minutes from that meeting. We received unanimous support from all members of the council. Also enclosed is the February 15, 2007 edition of the Hamilton Herald News. On the front page is an article with the headline "Senior Apartment Complex Proposed in East Hamilton". Paragraph five states very specifically where the development will be located. The Public Notification Sign was placed on the proposed site on February 13, 2007. This is two weeks earlier than what is required in the 2007 QAP.

Before the application due date of March 1, 2007 Louis Williams and Bonita Williams met with the Hamilton Economic Development Corporation, Hamilton Senior Citizens Center, Friends for Life-Neighbor to Neighbor, the Hamilton Chamber of Commerce and the Hamilton Unit of the Salvation Army. We asked for and received letters of support from these community organizations for Hamilton Senior Village. These letters are enclosed and were also bound as part of our application.

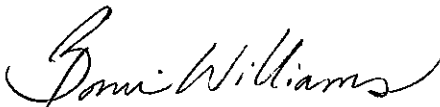
We assure you, the Department and the Board that we were not and are not trying to conceal anything to do with Hamilton Senior Village. We think that the problem here is NIMBY!

Please let us know if this clears up the concerns addressed in this "challenge".

Sincerely,

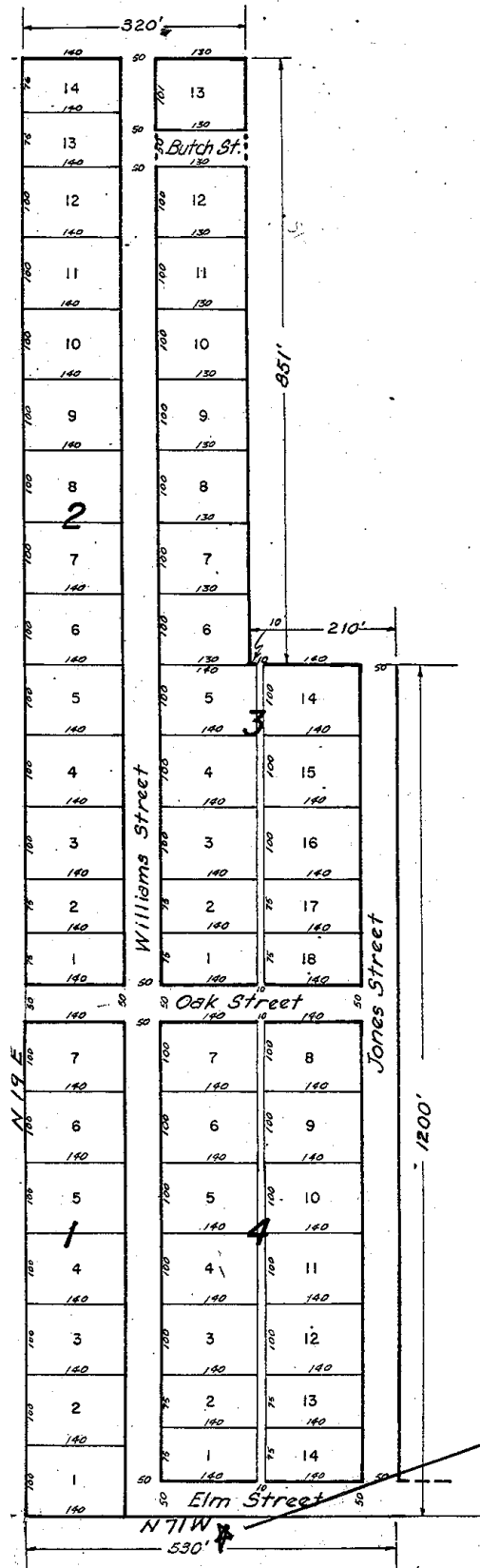


Louis Williams



Bonita Williams

Hamilton-Charger Senior Properties LP



Scale: 1" = 150'

All corners marked with iron pipe & square (90°)  
 Streets - 50' wide : Alley - 10' wide  
 Block 1: All lots - 100' X 140'  
 Block 2: Lots 1, 2 & 13 - 75' X 140'  
 Lots 3 to 12 - 100' X 140'  
 Lot 14 - 76' X 140'  
 Block 3: Lots 1, 2, 17 & 18 - 75' X 140'  
 Lots 3, 4, 5, 14, 15 & 16 - 100' X 140'  
 Lots 6 to 12 - 100' X 130'  
 Lot 13 - 101' X 130'  
 Block 4: Lots 1, 2, 13 & 14 - 75' X 140'  
 Lots 3 to 12 - 100' X 140'

WILLIAMS ADDITION  
 TO THE TOWN OF  
 HAMILTON, TEXAS

*Location of sign*

STATE OF TEXAS  
 COUNTY OF HAMILTON  
 I, Debbie Rudolph, Clerk of the County, Texas, do hereby  
 certify that the above and annexed is a true and correct copy of an  
 instrument appearing of record in the \_\_\_\_\_ records of said  
 county.  
 \_\_\_\_\_ City of  
 \_\_\_\_\_  
 \_\_\_\_\_  
 COUNTY CLERK, HAMILTON COUNTY, TEXAS  
 BY \_\_\_\_\_ DEPUTY

I, R.W. Durham, Registered Public  
 Surveyor No. 171 of the State of  
 Texas, hereby certify that this  
 is a true and correct plat of the  
 Williams Addition to the town of  
 Hamilton, Texas.

THE STATE OF TEXAS  
NOTICE OF FRANCHISE TAX LIEN

Notice is hereby given that The De Leon Brick Company, a Domestic Corporation, doing business in the State of Texas and having an office at c/o L.W. Gardner, Jr., P. O. Box 106 in the City of Hamilton, Hamilton County, Texas, is indebted to the State of Texas for franchise taxes and penalties as provided in Chapter 3 of Title 122, Vernon's Annotated Civil Statutes of Texas, of 1925, as amended, in an amount not ascertainable by reason of the failure of said corporation to file a franchise tax report with the Secretary of State of the State of Texas, as provided by law; that the minimum tax provided in said chapter is \$25.00 per year and that said corporation is indebted to the State of Texas in at least said minimum amount for each of the years 1959 to 1960 inclusive, and such further sums as might be shown to be due if such reports were filed, together with penalties as provided in said chapter and title; that possible additional taxes and penalties are accruing and might accrue in the future under the terms of said Chapter 3 of Title 122 of Vernon's Annotated Civil Statutes of Texas, of 1925, as amended, in amounts not yet ascertained or ascertainable; that all franchise taxes and penalties due and owing by the said The De Leon Brick Company, a corporation, for the years above shown are unpaid; and the State of Texas hereby claims a prior lien in the amount of such taxes and penalties together with all additional franchise taxes and penalties that might hereafter accrue against all property, real, personal and mixed, situated in Hamilton County, Texas, and belonging to said The De Leon Brick Company, a corporation.

In Witness Whereof, the State of Texas has caused this instrument to be executed by its Comptroller of Public Accounts this 21st day of October 1960.

(SEAL OF STATE)

Robert S. Calvert Comptroller of  
Public Accounts

Filed for record October 25, 1960 at 10:00 A. M.

Recorded October 28, 1960 at 4:30 P. M.

Vada Williams County Clerk  
Hamilton County, Texas

By: Emily McClendon, Deputy

.....  
.....  
.....

THE STATE OF TEXAS:

COUNTY OF HAMILTON: KNOW ALL MEN BY THESE PRESENTS:

That I, Willie Pearl Williams, of the County of Hamilton, State of Texas, acting herein individually and as Independent Executrix of the Estate of Grady O. Williams, deceased, in consideration of the general benefit that may accrue to me and in order that in future conveyances the land included herein may be more conveniently described, do hereby place of record the following and attached map or plat, showing a subdivision of a portion of the James Hamilton Survey No. 16 in Hamilton County, Texas, which subdivides said land into blocks, lots, streets and alleys and which land is designated as Williams Addition, a subdivision of a part of the said James Hamilton Survey No. 16, adjoining and adjacent to the Town of Hamilton, Hamilton County, Texas, it being understood that the figures in the lines of said lots designate the deminsions of the said lots in feet, with all streets being 50 feet in width and all alleys being 10 feet in width.

Said land included by the outside line of said map or plat being described by metes and bounds



TRUE AND CORRECT  
COPY OF ORIGINAL  
FILED IN HAMILTON  
COUNTY CLERK'S OFFICE

as follows:

Field notes of the Williams Addition to the Town of Hamilton, Hamilton County, Texas, being a part of the James Hamilton Survey No. 16, described as follows:

BEGINNING at a 6 X 8 Railroad tie for the S.E. corner of a tract of land described in deed from O. M. Little to T.A. Emmett, recorded Vol. 134, Page 357, of the Deed Records of Hamilton County, Texas, and for the S.W. corner of that 100 acre tract described in deed from J. S. White et ux to Grady O. Williams et ux recorded in Vol. 143, Page 571, of the Deed Records of Hamilton County, Texas, in the South line of James Hamilton Survey No. 16 and in the North line of the B. R. Eldson 90 acre tract in the James Hamilton Survey No. 15, for the S. W. corner of this Addition and the S. W. corner of Lot No. One (1) of Block No. One (1) of this Addition;

THENCE S. 71 E., with the south line of said Block No. 1, at 140 feet pass the S.E. corner of said Block No. 1, and Lot No. 1, continuing same course and count with the South line of Elm Street 530 feet to the intersection of the South line of said Elm Street and the East line of Jones Street for the S.E. corner of this Addition;

THENCE N. 19 E. at 50 feet cross the north line, continuing same course and count with the East line of said Jones Street 1200 feet to the southernmost N.E. corner of this Addition;

THENCE N. 71 W. at 50 feet pass the N.E. corner of Lot No. Fourteen (14) of Block No. Three (3) in the West line of said Jones Street, continuing same course and count, with north line of said Block No. 3, at 190 feet pass the N.W. corner of said Lot No. 14 in the east line of a ten foot alley, at 200 feet pass the N.E. corner of Lot No. Five (5) of said Block No. 3, at 210 feet the S.E. corner of Lot No. Six (6) of said Block No. 3 for an inside corner of this Addition;

THENCE N. 19 E., with east line of said Block No. 3, at 700 feet pass the N.E. corner of Lot No. Twelve (12) of said Block No. 3 in South line of Butch Street, at 750 feet pass the S.E. corner of Lot No. Thirteen (13) of said Block No. 3 in the north line of Butch Street, at 851 feet the N.E. corner of said Lot No. 13 for the Northernmost N.E. corner of said Block No. 3 and of this Addition;

THENCE N. 71 W., with the north line of Blocks Three (3) and Two (2), at 130 feet pass the N.W. corner of said Lot No. 13 in the East line of Williams Street, at 180 feet pass the N.E. corner of Lot No. Fourteen (14) of Block No. Two (2), at 320 feet the N.W. corner of said Lot No. 14 for the N.W. corner of said Block No. 2 and of this Addition;

THENCE S. 19 W., with west line of Blocks Two (2) and One (1) at 1301 feet pass the S W corner of Lot No. One (1) of Block No. 2 and S.W. corner of Block No. 2 in the north line of Oak Street, at 1351 feet pass the N.W. corner of Lot No. Seven (7) of Block No. One (1) and N. W. corner of Block No. One (1) in the south line of said Oak Street, at 2051 feet the S.W. corner of Lot No. 1 of Block No. 1, the place of beginning. This Addition being out of the West side of the above mentioned Grady Williams 100 acre tract.

All corners marked with iron pipe and square (90 degrees).

All Streets are fifty (50') feet wide, alley ten (10') feet wide. Block No. One (1): all lots are 100 feet by 140 feet. Block No. Two (2): Lots 1, 2 & 13, 75 feet by 140 feet, Lots 3 to 12, 100 feet by 140 feet, Lot 14, 75 feet by 140 feet. Block No. Three (3): Lots 1, 2, 17 & 18, 75 feet by 140 feet, Lots 3, 4, 5, 14, 15, & 16, 100 feet by 140 feet, Lots 6 to 12, 100 feet by 130 feet, Lot 13, 101 feet by 130 feet. Block No. 4: Lots 1, 2, 13 & 14, 75 feet by 140 feet, Lots 3 to 12, 100 feet by 140 feet.

It is provided that said ,and, and the use of the lots and blocks therein, shall be subject to the following covenants and restrictions:



TRUE AND CORRECT  
COPY OF ORIGINAL  
FILED IN HAMILTON  
COUNTY CLERK'S OFFICE

1. Said property shall be used for residential purposes only. However, this restriction shall not prevent the construction of the usual appurtenances, including private garage and bona fide servant's house. No building shall be constructed closer to a sideline than 10% of the width of the front of the lot.
2. All residences erected on said lots shall be located not less than 30 feet from the front line of the lot. The ground floor area of said residences as may be constructed, exclusive of open porches and garages, shall not be less than 1,000 square feet.
3. No trailer, tent, garage, barn or other building erected on said property shall be at any time used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. No existing structure or portion thereof shall be moved upon said property; but any and all improvements placed thereon shall be new construction; however this restriction shall not prevent the use of used materials in the construction of new improvements.
4. No noxious or offensive activity shall be carried on upon said property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
5. No livestock or poultry shall be maintained upon said property. If the purchaser or their heirs or assigns shall violate or attempt to violate any of the covenants or restrictions herein contained, it shall then be lawful for any other person or persons owning lots in the blocks hereinabove referred to, to prosecute any proceedings at law or equity against the person or persons violating or attempting to violate any such covenant or restrictions, and either to prevent him or them from doing so, or to recover damages or other dues for such violation, all without prejudice to the rights of any bona fide lien holder.

Invalidation of any of these covenants or restrictions by judgment or court order shall in no wise effect any of the other provisions which shall remain in full force and effect. These covenants and restrictions shall run with the land and shall be binding on all grantees of any of said land, and all persons claiming under them.

All cesspools, sewer lines and water lines shall be installed in accordance with all sanitary regulations promulgated the sanitary commission and the Department of Health of the State of Texas and all applicable laws or statutes of the State of Texas.

I do declare that all of the streets and alleys shown upon the plat or map are dedicated, and I do hereby dedicate the same to the public forever, to be used as streets and alleyways.

Witness my hand this 14th day of October 1960.

Willie Pearl Williams

THE STATE OF TEXAS:

COUNTY OF HAMILTON: Before me, the undersigned authority, on this day personally appeared Willie Pearl Williams, individually and as Independent Executrix of the Estate of Grady O. Williams, deceased, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office this the 24th day of October, 1960.

(SEAL)

Andrew Campbell Notary Public  
Hamilton County, Texas

Filed for record October 14, 1960 at 3:30 P. M.

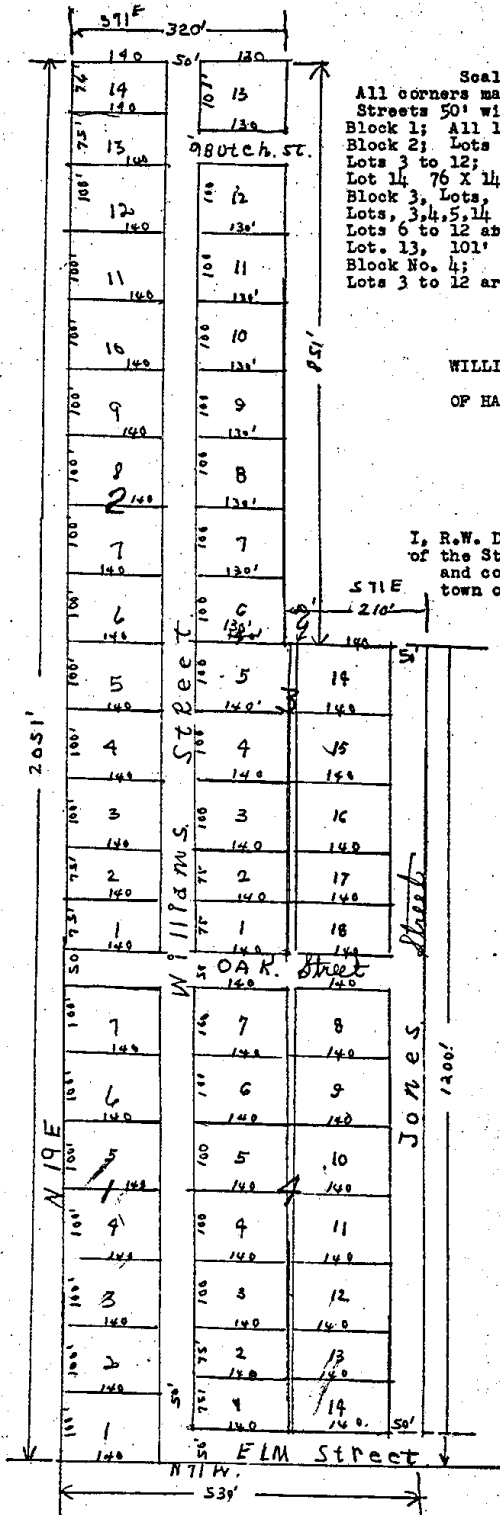
Recorded October 31, 1960 at 1:15 P. M.

Vada Williams County Clerk  
Hamilton County, Texas

By: Emily McClendon, Deputy



TRUE AND CORRECT  
COPY OF ORIGINAL  
FILED IN HAMILTON  
COUNTY CLERK'S OFFICE



Scale 1" = 150'  
 All corners marked with iron pipe and square (90°)  
 Streets 50' wide, ; Alley 10' wide;  
 Block 1; All lots 100' X 140'  
 Block 2; Lots 1,2, and 13 75' X 140'  
 Lots 3 to 12; 190' X 140'  
 Lot 14, 76 X 140'.  
 Block 3, Lots, 1,2,17, and 18 75' X 140'.  
 Lots, 3,4,5,14, 15, and 16 are 100' X 140'.  
 Lots 6 to 12 are 100' X 130'.  
 Lot 13, 101' X 130'.  
 Block No. 4; Lots, 1,2, 13 and 14, are 75' X 140'  
 Lots 3 to 12 are 100' X 140 feet.

WILLIAMS ADDITION TO THE TOWN  
 OF HAMILTON, TEXAS.

I, R.W. Durham, Registered Public Surveyor No. 171,  
 of the State of Texas, hereby certify that this is a true  
 and correct plat of the Williams Addition to the  
 town of Hamilton, Texas.

(Seal)

R.W. Durham, Registered Public  
 Surveyor. No. 171.



TRUE AND CORRECT  
 COPY OF ORIGINAL  
 FILED IN HAMILTON  
 COUNTY CLERK'S OFFICE

THE STATE OF TEXAS:

COUNTY OF HAMILTON: Whereas, by Deed dated Sept. 8, 1960, recorded in the County Clerk's office of Hamilton County, Texas, in Book 183 Page 81, Mrs. Annie Zeptner, a widow, et al conveyed to Walter Stinson 1 acres of land out of the A. Parks 640 acre survey fully described in said deed, to which reference is hereby made retaining therein a Vendor's Lien, securing payment of One Hundred and No/100 Dollars for which said Walter Stinson executed one promissory note as follows: One note for the principal sum of \$100.00 dated Sept. 8 1960, and payable to the order of Mrs. Annie Zeptner, on or before Jan. 1, 1961, with interest from date at rate of 6% per annum;

And Whereas said Walter Stinson has paid the said note in full satisfaction of said incumbrance;

Now, Therefore, I, Mrs. Annie Zeptner, a widow being the legal owner and holder of the above described note at the time of its payment, do hereby release the above described property from the Vendor's Lien aforesaid.

In Witness Whereof I have hereunto set my name at Hamilton, Texas this 26th day of October 1960.

Mrs. Annie Zeptner

THE STATE OF TEXAS:

COUNTY OF HAMILTON: Before me, the undersigned authority in and for Hamilton County, Texas, on this day personally appeared Mrs. Annie Zeptner, a widow, known to me to be the person whose name is subscribed to the foregoing instrument and she acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 26th day of October A.D. 1960.

(SEAL)

T.A. Emmet, Public in and for Hamilton County, Texas

Filed for record October 26, 1960 at 11:50 A. M.

Recorded October 31, 1960 at 1:40 P. M.

Vada Williams County, Texas Hamilton County, Texas

By: Emily McClendon, Deputy

AFFIDAVIT OF HEIRSHIP

THE STATE OF TEXAS:

COUNTY OF HAMILTON: Before me, the undersigned authority, on this day personally appeared Monroe Schrank and Robert Angermann, each known to me to be credible persons, each being by me duly sworn, upon his oath says that he was personally and well acquainted with J.L.M. Angermann and his wife Freida R. Angermann, during their lifetime; that they lived together as husband and wife until the death of Freida R. Angermann; that neither of said parties were ever married before they were married to each other; that the following children, only were born to said marriage, to-wit: Bernard Angerman, Charlie Angermann, Robert Angermann, Willie Angermann, Fritz Angermann, Lillian Schrank, wife of Monroe Schrank, Annie Zeptner, a widow, Minnie Braun, wife of A.C. Braun, Winnie Renkin a widow, and Edna Grayson wife of Roy Grayson all of whom are now living except Fritz Angermann, who departed this life in February 1960; that the said Freida Angermann, who departed this life in February 1960; that the said Freida R. Angermann departed this life in Hamilton County, Texas, on or about September A.D. 1921, intestate, leaving her husband, J. M. L. Angermann, and the following



TRUE AND CORRECT COPY OF ORIGINAL FILED IN HAMILTON COUNTY CLERKS OFFICE



Barkley Drive  
Single Family Residential Property  
Williams St. 1 V  
Elm Street < 2

Power Lines

SIGN LOCATION

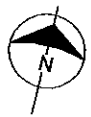
Vacant Land

Vacant Land

Subject Property  
Undeveloped Land

67  
Limestone, Gravel, Rock

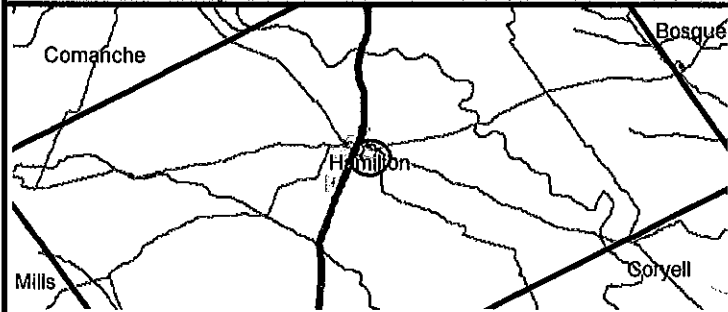
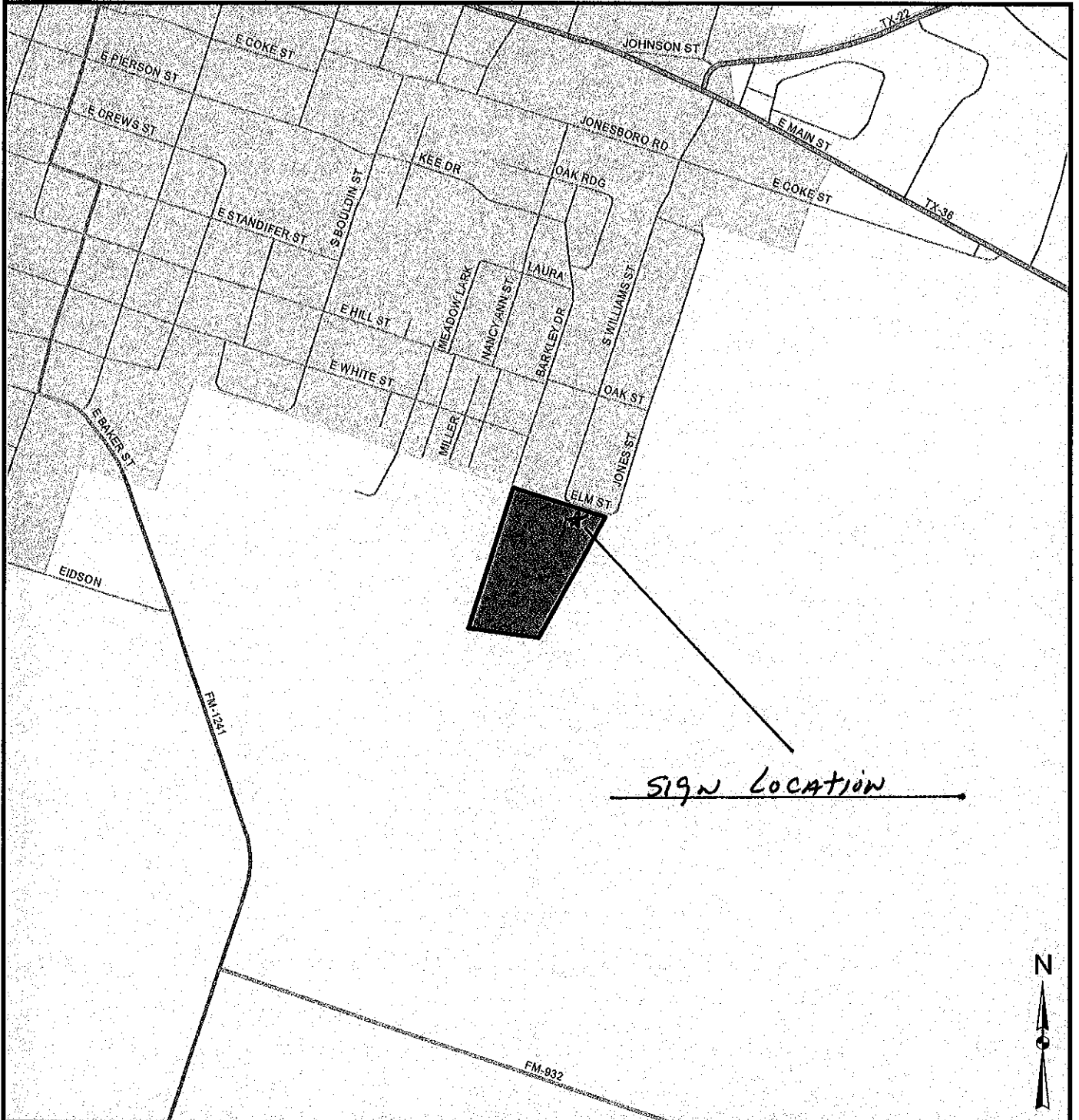
< 4



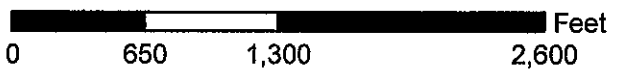
Agricultural Land

**SITE SKETCH**  
11+ acres Barkley Drive  
Hamilton, TX 76531  
**Phase Engineering, Inc.**  
335 West 21st Street  
Houston, TX (713) 476-9844  
PEI#2702031 Not to Scale 03/13/07 Dwn: KP

# Location Map



**Site Location:** 11 Acres Barkley St  
Hamilton, TX 76531  
**Job Number:** 2702031



**Note: Property location and boundaries are representative only and may not be to scale.**

# Aerial Photograph



Year: 2004

ELM STREET  
SIGN LOCATION

Site Location: 11 Acres Barkley St  
Hamilton, TX 76531

Job Number: 2702031

0 280 560 1,120 Feet

Note: Property location and boundaries are representative only and may not be to scale.

**NOTICE OF REGULAR MEETING  
OF THE  
GOVERNING BODY  
CITY OF HAMILTON  
February 8, 2007**

Notice is hereby given that a Regular Council Meeting of the Governing Body of the City of Hamilton, Texas will be held, on the 8th of February, 2007 at 5:30 PM in The City Hall, Hamilton, Texas, concerning the following matters:

Item No. I. Meeting called to order.

Item No. II. Comments from the General Public.

Item No. III. Public Hearing regarding New Condemnations:

- (1) 307 Park Rd. – Lot 14 & 16 of Block 4 of the Smith & Williams Addition (126' x 150').
- (2) NW Corner of E. Baker & S. Dempster – E 60' & S ½ of Lot 3 of Block 3 of the Eidson & Pierson Addition (60' x 75')

Item No. IV. The City Council may discuss and/or take actions on the following agenda items.

1. Consideration and/or action on minutes of January 11<sup>th</sup>, 2007 Regular Meeting.
2. Consideration and/or action to accept the January Financial Statement.
3. Consideration and/or action on Resolution appointing Hamilton-Charger Senior Properties LP to act on The City's behalf in applying for TDHCA Funds for Hamilton Senior Village.
4. Consideration and/or action on Resolution supporting Hamilton Senior Village.
5. Consideration and/or action on Condemnation of Structures.
  - (1) 307 Park Rd. – Lot 14 & 16 of Block 4 of the Smith & Williams Addition (126' x 150').
  - (2) NW Corner of E. Baker & S. Dempster – E 60' & S ½ of Lot 3 of Block 3 of the Eidson & Pierson Addition (60' x 75')
6. Consideration and or action to remove and/or demolish condemned structures and advertise for bids:
  - (1) 801 E. White - Lot 9 & 10 Of Block 4 of O. M. Little Addn.
  - (2) 407/409 E. Main - 75'x140' of W ½ of Lot 3 of Block 11 of Wagner Addn. Of Hamilton, Texas
  - (3) 407 ½ E. Main - 75'x140' of W ½ of Lot 3 of Block 11 of Wagner Addn. Of Hamilton, Texas (407 ½ E. Main)
  - (4) 827 N. Thompson - 826 R. Trainer; 124'x125' (Mobile Home)
7. Consideration and/or action of Resolution to hold a joint election with Hamilton Independent School District.

8. Consideration and/or action to approve a Resolution to call Municipal General Election for May 12, 2007, and appoint Election Judges.
9. Consideration and/or action of Resolution selecting two twelve hour days for Early Voting.
10. Consideration and/or action on Resolution authorizing Hamilton Economic Development Corporation to Loan Funds for Pecan Creek Park.
11. Consideration and/or action of Ordinance Prohibiting Drilling of Disposal Wells Inside the City Limits and Extra Territorial Jurisdiction.
12. Consideration and/or action on Resolution to participate in the Texas Building and Procurement Commission Cooperative Purchasing Program.
13. Consideration and/or action on Ordinance authorizing appointment of Deputy Municipal Clerk.
14. Consideration and/or action to purchase Trailer Mounted Sewer Cleaning Machine.
15. Consideration and/or action on Sanitary Sewer Overflow Final Plan.
16. Discussion of Truck Traffic within the City Limits.
17. Consideration and/or action on Ordinance for Rate Increase with Waste Management.
18. Consideration and/or action of Resolution amending Personnel Policy.
19. Consideration and/or action on Resolution Granting Easement for Access at Hamilton Manor Apartments.
20. Consideration and/or action on Fuqua Addition Preliminary Subdivision Plat.
21. City Administrator Report:
  - a. Sheriff's Report
  - b. Lake Proctor Report
  - c. Park Project
  - d. Wastewater Project, USDA Loan
  - e. Planning & Zoning Commission Update

Item No. V. Adjourn.

The City reserves the right to go into Executive Session in accordance with the following provisions of the Government Code Section 551.071 (1) (A) pending or contemplated litigation; Section 551.071 (1) (B) a settlement offer; Section 551.071 (2) an attorney client privilege and relationship; Section 551.072 the purchase, exchange, lease or value of real property; Section 551.074 Personnel matters; Section 551.076 Deliberations about Security Devices.

I, the undersigned authority, do hereby certify that the above notice of meeting of The Governing Body of the City of Hamilton, Texas is a true and correct copy of said notice posted in The City Hall of said City of Hamilton, Texas a place convenient and readily accessible to the General Public at all times, and said notice was posted February 5th, 2007 at 4:30 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of meeting. The City Hall is accessible to the disabled. Disabled individuals requiring a reasonable accommodation must submit a request 48 hours prior to the meeting to the City Administrator. The City encourages all citizens to attend.

---

Jane Dodson, City Secretary

**MINUTES OF REGULAR MEETING  
OF THE  
GOVERNING BODY  
CITY OF HAMILTON  
Feb. 8, 2007**

The City of Hamilton held a Regular Council Meeting at City Hall, Hamilton, Texas, on the 8th day of February, 2007 at 5:30 PM.

Present for the meeting:

Mayor	Roy Rumsey	Councilmember	Betty Jenkins
Mayor Pro Tem	Helen Townsend	City Attorney	Connie White
Councilmember	Mike Collett	City Administrator	Bill Funderburk
Councilmember	Bradley Haile	City Secretary	Jane Dodson

Others Present: Bldg. Inspector John Ratliff, Public Works Director Ronnie Harris, Deputy Sheriff Johnny Slough, Kenneth Miller, Sam Bell, Louis and Bonita Williams, Toni Taylor, Charles Beaty and Sam Bell.

Item No. I. Mayor Rumsey called the meeting to order at 5:30 PM.

Item No. II. Mayor Rumsey called for public comments. There were none.

Item No. III. Mayor Rumsey called the Public Hearing regarding New Condemnations to order:

(1) 307 Park Rd. – Lot 14 & 16 of Block 4 of the Smith & Williams Addition (126' x 150'). Charles Beaty addressed Council with his plan. Building Inspector John Ratliff recommended 90 days to restore or demolish.

(2) NW Corner of E. Baker & S. Dempster – E 60' & S ½ of Lot 3 of Block 3 of the Eidson & Pierson Addition (60' x 75'). The Owner was not present. John Ratliff recommended 60 days to restore or demolish.

Mayor Rumsey adjourned the Public Hearing and Opened into Regular Session.

Item No. III. The City Council discussed and/or took actions on the following agenda items.

1. Minutes of January 11<sup>th</sup>, 2007 Regular Meeting were approved unanimous with motion by Townsend and second by Haile.
2. The January Financial Statement was accepted unanimously with motion by Jenkins and second by Townsend.
3. Louis and Bonita Williams of Nacogdoches came before Council to discuss preliminary plans for a proposed 36-unit senior living apartment complex to be located at the South East of Williams Street. **Resolution #02-07**, appointing Hamilton-Charger Senior Properties LP to act on The City's behalf in applying

- OVER -



for TDHCA Funds for Hamilton Senior Village, was approved unanimous with motion by Jenkins and second by Lengefeld.

4. **Resolution #03-07**, supporting Hamilton Senior Village, was approved unanimously with motion by Jenkins and second by Haile.
5. **Resolution #04-07**, granting easement for access at Hamilton Manor Apartments was approved unanimously with corrected field notes as motioned by Townsend and second by Haile.
6. New Condemnation of Structures were addressed with Council by John Ratliff: Council unanimously approved Mr. Ratliff's recommendations.
  - (1) 307 Park Rd. – Lot 14 & 16 of Block 4 of the Smith & Williams Addition (126' x 150') – 90 days to restore or demolish, with motion by Jenkins and second by Lengefeld.
  - (2) NW Corner of E. Baker & S. Dempster – E 60' & S ½ of Lot 3 of Block 3 of the Eidson & Pierson Addition (60' x 75') – 60 days to restore or demolish, with motion by Townsend and second by Jenkins.
7. The following condemned structures and advertise for bids were unanimously approved per Mr. Ratliff's recommendations.

801 E. White - Lot 9 & 10 Of Block 4 of O. M. Little Addn; 827 N. Thompson - 826 R. Trainer; 124'x125' (Mobile Home) – demolish, with motion by Jenkins and second by Haile.

407/409 E. Main - 75'x140' of W ½ of Lot 3 of Block 11 of Wagner Addn. Of Hamilton, Texas; (407 ½ E. Main - 75'x140' of W ½ of Lot 3 of Block 11 of Wagner Addn. Of Hamilton, Texas (407 ½ E. Main) – 30 days, with motion by Townsend and second by Lengefeld.
8. **Resolution #10-07** to hold a joint election with Hamilton Independent School District was approved unanimously with motion by Collett and second by Townsend.
9. **Resolution #05-07** to call Municipal General Election for May 12, 2007, and appoint Election Judge Mike Lovell and Alternate Judge Katherine Olson was approved unanimously, with motion by Jenkins and second by Haile.
10. **Resolution #06-07**, selecting April 30 and May 1 as two twelve hour days for Early Voting was approved unanimously, with motion by Collett and second by Haile.



11. **Resolution #07-07**, authorizing Hamilton Economic Development Corporation to Loan up to One Hundred Thousand for Pecan Creek Park was approved unanimously as a First Reading, with motion by Lengefeld and second by Haile.
12. **Ordinance #03-07**, Prohibiting Drilling of Disposal Wells Inside the City Limits and Extra Territorial Jurisdiction was approved unanimously with motion by Haile and second by Jenkins.
13. **Resolution #08-07**, to participate in the Texas Building and Procurement Commission Cooperative Purchasing Program was approved unanimously, with motion by Collett and second by Haile.
14. **Ordinance #04-07**, authorizing appointment of Deputy Municipal Clerk by The Court Clerk was approved unanimously with motion by Townsend and second by Haile.
15. The purchase of Trailer Mounted Sewer Cleaning Machine for \$45,933.00, was approved unanimously with motion by Collett and second by Haile.
16. The Sanitary Sewer Overflow Final Plan was approved unanimously with motion by Haile and second by Townsend.
17. No Action was taken on Truck Traffic within the City Limits.
18. **Ordinance #05-07**, Rate Increase with Waste Management was approved unanimously with motion by Collett and second by Townsend.
19. **Resolution #09-07**, amending the Personnel Policy was approved unanimously with motion by Collett and second by Jenkins.
20. The Fuqua Addition Preliminary Subdivision Plat, with recommendations as by the City Inspector, was approved unanimously with motion by Townsend and second by Haile.
21. Deputy Johnny Slough presented the Sheriff's Report  
  
Bill Funderburk presented updates on the following:
  - a. Lake Proctor Report
  - b. Park Project
  - c. Wastewater Project, USDA Loan  
John Ratliff presented an update from the Planning & Zoning Commission.

Item No. VII. Mayor Rumsey adjourned, with motion by Townsend, at 7:45 PM.

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Roy Rumsey, Mayor

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Jane Dodson, City Secretary

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**DEMONSTRATION OF COMMUNITY SUPPORT OTHER THAN QCP**

Letters of Support and accompanying documentation:

1. Hamilton Senior Center  
Donna Ashmore, Center Director  
204 E. Gentry  
Hamilton, TX 76531  
254-386-3676  
254-386-3676 fax  
email: hccaa530@yahoo.com
2. Hamilton Chamber of Commerce  
Troy Smith, Chamber Manager  
204 E. Main  
Hamilton, TX 76531  
254-386-3216  
254-386-3563 fax  
email: cofc@htcomp.net
3. Friends for Life and Neighbor to Neighbor  
Sandy Ivey, Hamilton County Coordinator  
P.O. Box 611  
Hamilton, TX 76531  
254-386-8157  
254-386-0057 fax  
email: ntnhamilton.htcomp.net
4. Hamilton Economic Development Corporation  
Thomas C. Adams, President  
P.O. Box 224  
Hamilton, TX 76531  
254-386-5954  
254-386-3563  
email: hamiltonedc@htcomp.net
5. Hamilton Unit of the Salvation Army  
Ivy Whitehead  
P.O. Box 611  
Hamilton, TX 76531  
254-386-3676



**Hill Country Community Action Association, Inc.**

Executive Director - Tami Shaw

2005 W. Wallace, P.O. Box 846, San Saba, TX 76877

Telephone: 325.372.5167 FAX: 325.372.5226

e-mail: [hccaa@scptx.net](mailto:hccaa@scptx.net)

website: [www.hccaa.com](http://www.hccaa.com)

Case Management, Outreach, Energy, Weatherization, Aging, Nutrition, RSVP, Head Start, Family Planning

February 18, 2007

**Hamilton-Charger Senior Properties**

The Hamilton Multi-Service Senior Center, a part of Hill Country Community Action Association, would like to extend their support to the proposed development of the Hamilton Senior Village to be located at the end of Williams Street at the Hamilton city limits.

*Donna Ashmore*

Donna Ashmore  
Center Director

P. O. Box 305  
Hamilton, Texas 78531

254-386-3676  
[hccaa530@yahoo.com](mailto:hccaa530@yahoo.com)

Dedicated to providing opportunities and resources to improve the lives of Central Texans.

A United Way Agency



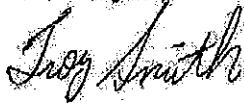
*Hamilton Chamber Of Commerce & Visitor's Center*  
P.O. Box 429 ~ 204 E. Main Street  
Hamilton, Texas 76531  
(254) 386-3216 ~ fax: (254) 386-3563  
email: [cofc@htcomp.net](mailto:cofc@htcomp.net) ~ [www.hamiltontexas.com](http://www.hamiltontexas.com)

February 20, 2007

To Hamilton-Charger Senior Properties:

The Hamilton Chamber of Commerce & Visitor's Center is in support of the Hamilton Senior Village to be located at the end of Williams Street at the Hamilton city limits. We believe that this project would be very beneficial for the Hamilton community and help meet a need in our future growth.

Thank you,



Troy Smith  
Chamber Manager



Hamilton..... "What a hometown should be"



Neighbor to Neighbor  
200 E. Gentry Street  
Hamilton, Tx 76531  
(254) 386-8157

To Whom It May Concern:

At Friends For Life and Neighbor to Neighbor our goal is to help the elderly, senior, frail and all others who have a need of any sort. We are not limited to a specific area of assistance. A few examples are:

- Help those who need assistance with filing for Social Security, Medicare, and/or Medicaid. We assist with setting up telephone interviews with the above agencies for those who cannot travel.
- Assist with helping clients find employment and also support the program Experience Works. This program trains and/or retrains seniors who are on limited income to market themselves and offers the opportunity to improve their living standard.
- Find a volunteer to drive to and from doctor's appointments, locating medical assistance, writing checks for bill paying, obtaining financial assistance and much more.

Mr. and Mrs. Williams visited our office, February 13, 2007, and talked with us about building a senior housing community in Hamilton, Tx. After hearing the details of their plan, it is a project that is much needed and would be very welcomed in our town. The development would be located in an area of town that would be convenient to the residents of Hamilton Senior Village, which would be located at the S. Williams area near the city limits.

Hamilton is a small town and our population is mainly of seniors and the elderly and doe not have anything that offers a life style for independent community living for this age group such as the Hamilton Senior Village is offering.

I am 100% in support of this community project. There are many seniors who would qualify and be very happy for the opportunity to live in a new and updated home.

Thank you.

  
Sandy Ivey

Friends For Life and  
Neighbor to Neighbor  
Hamilton County Coordinator

# Hamilton Economic Development Corporation

P. O. Box 224 ~ 204 East Main ~ Hamilton, Texas 76531

Phone: 254-386-5954 ~ Fax: 254-386-3563

e-mail: hamiltonedc@htcomp.net

February 16, 2007

Louis Williams & Associates, Inc.  
410 CR 198  
Nacogdoches TX 75965

in re: Hamilton Senior Village

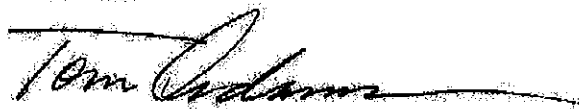
Dear Mr. Williams

Thank you for coming before the Hamilton Economic Development Corporation on February 12 to provide details of your proposed 36 unit "Hamilton Senior Village" on South Williams Street at the southeastern city limits of Hamilton.

Based upon the information available on the projected need for such housing from older residents desirous of moving to smaller, more manageable living quarters and your excellent record in developing and administering similar housing in Hamilton and elsewhere, on behalf of the Hamilton EDC, I am pleased to support your application for tax credits for the project.

Please let me or our executive director, Jane Crouch, know if we can be of further service.

Sincerely,



Thomas C. Adams, President  
Hamilton EDC

*Hamilton ... what a hometown should be!*



DOING  
THE MOST  
GOOD

Founded in 1865

William Booth, *Founder*

Sherr Clifton, *General*

Commissioner Maxwell Feener, *Territorial Commander*

Major Kenneth Johnson, *Divisional Commander*

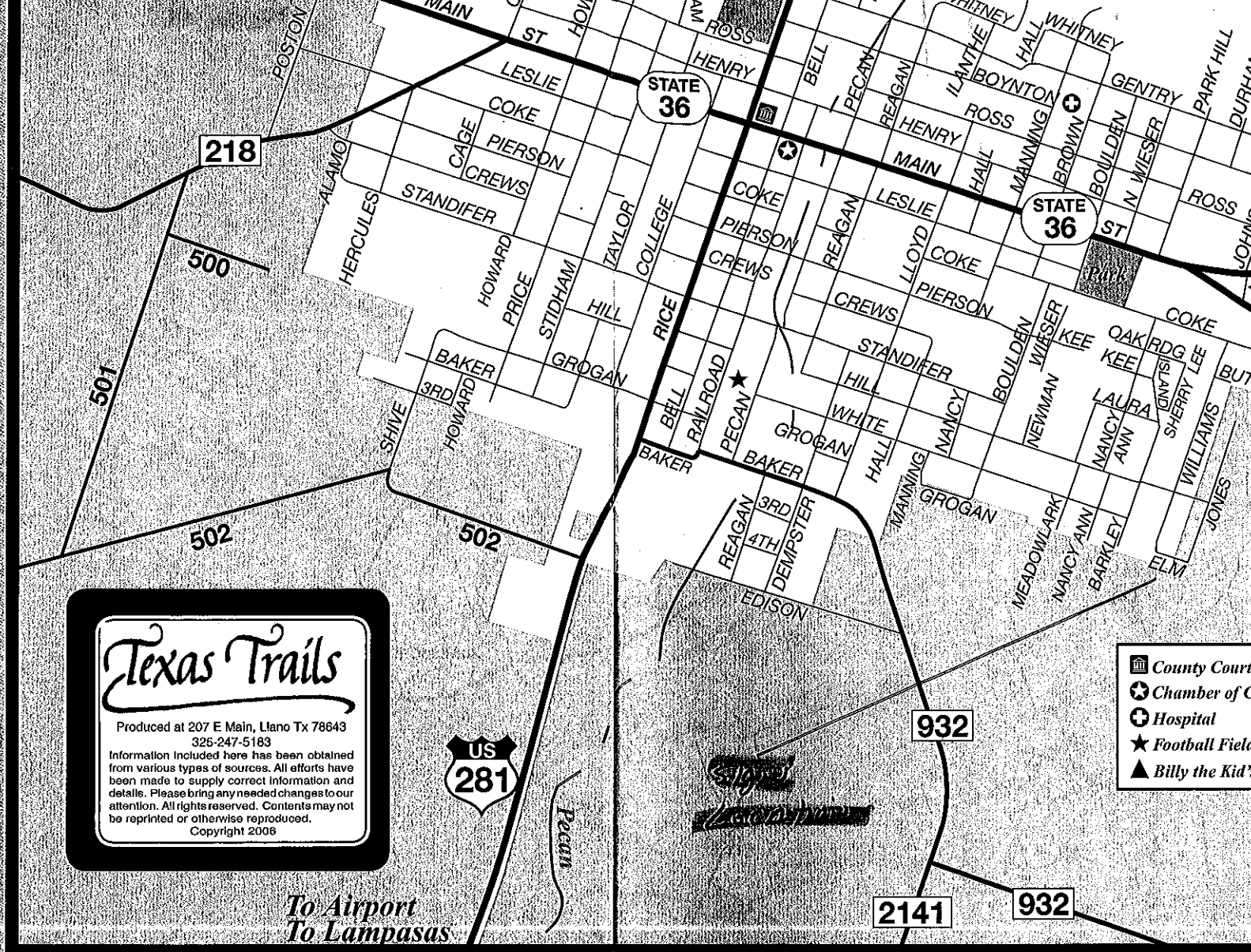
February 22, 2007

Hamilton-Charger Senior Properties

The Hamilton Service Unit of the Salvation Army would like to extend their support to the proposed development of the Hamilton Senior Village to be located at the end of Williams Street at the Hamilton city limits.

Ivy Whitehead  
Hamilton Unit of the Salvation Army  
P.O. Box 611  
Hamilton, Texas 76531





**Texas Trails**

Produced at 207 E Main, Llano Tx 78643  
325-247-5183

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- ☑ County Courthouse
- ⊕ Chamber of Commerce
- ⊕ Hospital
- ★ Football Field
- ▲ Billy the Kid's

To Airport  
To Lampasas

**HAMILTON COUNTY  
DOVE FESTIVAL & RODEO**

Arts & Crafts • Entertainment  
Giant Parade • Car Show  
5K Run • Giant Inflatables  
Pageant: August 25, 2006

**September 1-3, 2006**

**Hamilton  
Chamber of Commerce**

254-386-32

www.HamiltonTexas

204 East Main • Hamilton

2/15/07

# The Hamilton Herald-News

Hamilton, Texas 76531 Thursday, Feb. 15, 2007

## District champs

the playoffs.

The local Dogs showed their determination to win the district title early in McGregor, grabbing a 21-8 first quarter lead. But McGregor fought back to narrow the Hamilton lead to 29-24 at the half and go ahead by two in the third period. But Hamilton would not be denied and regained the lead 42-31 going into the final period and

kept the McGregor Dogs at bay throughout the fourth.

The Hamilton girls trailed at all three quarter breaks, 9-14, 19-23 and 26-35 and fell behind by as many as 10 points. However, they also showed a great deal of determination, battling back to cut the Mart lead to as little as one point in both the third and fourth quarters.

## Apartment complex in east Hamilton

with a gazebo and barbecue pit.

Although from Nacogdoches, the Williamses do already have some familiarity with Hamilton. Last year they purchased the Hamilton Manor Apartment Complex on S. College Ave. in Hamilton and have done extensive remodeling to the complex since then. They also own existing apartment complexes in Nacogdoches, Brady and Clifton and are currently building a complex in Cross Plains.

cation, construction should start six to eight months after the announcement.

The council unanimously approved the Williams' application to TDHCA and also voted to include a letter of support for the proposed project.

In other business, the council continued its effort to eliminate unsafe structures in Hamilton by condemning two more.

In a public hearing at the start of the meeting, City Building Inspector John Ratliff told the council that structure at 307 Park Road and the northwest corner of East Baker and Dempster were not in compliance with codes.

The structure on Park Road is a house that has been moved in and has not been secured to any type of foundation.

Owner of the property, Charles Beaty, told the council



**VFD OFFICERS**- New officers were recently elected for the Department. Serving for 2007 will be (l-r): Toby Logan, Fire Chief; Phillip Hall, Assistant Foreman; Larry Shaw, Foreman; John Armstrong, Treasurer; Steve Sanford, President; Assistant Chief; and Ed Ramos, Vice President. Since taking office, addressing several internal department issues. In an open letter to Stanley and Fire Chief Logan discuss those issues in this week's paper.

## Jury convicts three for conspiring to ro

FORT WORTH (Department of Justice release) A federal jury today (Feb. 5) found three area residents guilty on all counts of a superseding indictment charging them with offenses

carry a firearm during and in relation to a crime of violence, one count of conspiracy to possess an unregistered firearm and one count of possession of an unregistered firearm.

Sentencing has been set for Feb. 25, 2007, before U.S. District

# Challenge

## 07199

**Kingsville Affordable Housing, Inc.**

600 East General Cavazos  
Kingsville, Texas 78363  
(361) 221-9112

June 25, 2007

Audrey Martin  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup>  
Austin, Texas 78711-3941

RE: Scoring Challenge 07199 Kingsville LULAC Manor Apartments

Dear Ms. Martin:

In review of the updated scores dated June 20, 2007, there appears to be a mistake in the scoring for this application.


In order to receive points for a Commitment of Development Funding from Local Political Subdivisions (LPS) with HOME funds; it is explicitly clear in the QAP that in order to qualify for these points, a City Resolution authorizing the applicant to submit a HOME application on behalf of the City must be provided with the application. The purpose of the resolution is to ensure that there is a direct connection between the governing body of the City and the funds being qualified from TDHCA as if funded by the City. This applicant did not obtain any resolution from the City of Kingsville. In fact, the only application in this year's cycle for Region 10 Rural to receive a City resolution, both in support and in authorization to submit for HOME funds on behalf of the City of Kingsville, is Kings Crossing Phase II # 07124.

The HOME application scoring criteria and the Tax Credit application scoring criteria are mutually exclusive. An applicant is not restricted from using HOME funds in a tax credit application and there is no challenge as to the use of HOME funds on LULAC Manor. However, we do challenge the LULAC Manor tax credit score for LPS because the tax credit scoring criteria was not met, and can not be met.

Without the 18 points for LPS, application 07199 is not competitive. I'm sure that the LULAC Manor applicants, like all other applicants competing in Kingsville this year, recognized early on that the only source available for LPS in Kingsville is through a proper HOME allocation or the Local Housing Authority. There is no other direct source available from the City or eligible LPS.

We request that staff revisit this matter to ensure that no points are scored for HOME funds as a LPS source for application 07199 while also being on notice that there is no other sources for LPS once the HOME points are removed.

Sincerely,

  
Ino Alvarez  
Executive Director

Cc: Carlos Yerena, City Manager  
City of Kingsville

**Courts of Las Palomas**  
**600 General Cavazos Blvd**  
**Kingsville, TX. 78363**  
**Phone - 361-516-0114**  
**Fax - 361-516-0335**

# Fax

To: Audrey Martin From: I NO Alvarez  
 Fax: (512) 475-0764 Date: June 24, 2007  
 Phone: \_\_\_\_\_ Pages: 2  
 Re: \_\_\_\_\_ CC: \_\_\_\_\_

- Urgent     For Review     Please Comment     Please Reply     Please Recycle

•Comments:

Attached, please find copy of  
 Scoring Challenge 07199 Kingsville LUJAC  
 Manor Apts

from - I no Alvarez  
 Kings Affordable Housing  
 Kingsville, Texas  
 (361) 221-9112

**Kingsville Affordable Housing, Inc.**

600 East General Cavazos  
Kingsville, Texas 78363  
(361) 221-9112

July 12, 2007

Audrey Martin  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup>  
Austin, Texas 78711-3941

RE: Scoring Challenge 07199 Kingsville LULAC Manor Apartments

Dear Ms. Martin:

We are submitting for your review, additional information relating to the in-eligibility of Application 07199 for points under 49.9 (i) (5) of the 2007 QAP.

The QAP clearly states in Sec. 49.9 (i) (5) (vii) that HOME funds "will qualify if a resolution is submitted with the application authorizing the applicant to act in behalf of the local political subdivision in applying for HOME funds from TDHCA for the particular application.."

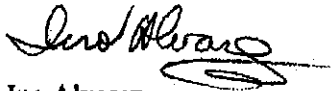
As we stated in our challenge of 06/25/07, the Kingsville LULAC Manor application did not include any resolution from a qualified local political subdivision authorizing Kingsville LULAC Manor, L.P. to act in its behalf in applying for HOME funds.

While the Kleberg County Commissioners Court passed a resolution authorizing Kingsville LULAC Manor L.P. to act on its behalf for TDHCA HOME funds on **March 12, 2007; this was twelve days after the March 1, 2007 deadline for submission of tax credit applications.** Accordingly, even if the "county" resolution is somehow qualified as a local political subdivision (which should not be qualified because the development is located wholly within the city limits of Kingsville) the deadline to submit the resolution was not met and can not be cured or accepted as late by an administrative deficiency.

Without the 18 points for LPS, application 07199 is not competitive.

Thank you for taking the time to review this clarification and additional information to our challenge.

Sincerely,



Ino Alvarez  
Executive Director

Cc: Carlos Yerena, City Manager  
City of Kingsville

AGENDA ITEM #18

(Rec. 1032-1390)

**IN THE MATTER OF DISCUSSING AND ACTING ON  
REQUEST TO OPEN A COUNTY ROAD  
(EBONY BLVD) IN PCT. 3**

No action was taken.

AGENDA ITEM #17

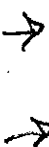
(Rec. 1391-1407)

**IN THE MATTER OF DISCUSSING AND ACTING ON  
ADOPTING RESOLUTION IN SUPPORT OF KINGSVILLE  
LULAC MANOR APARTMENTS TO APPLY FOR FUNDING  
FROM THE TEXAS DEPARTMENT OF HOUSING AND  
COMMUNITY AFFAIRS, TAX CREDIT PROGRAM**

The above matter coming on for consideration, a motion was made by Commissioner Lomas and seconded by Judge De La Garza to adopt the resolution in support of Kingsville Lulac Manor Apartments to apply for funding from the Texas Department of Housing and Community Affairs, Tax Credit Program. Upon vote, motion carried unanimously.

**RESOLUTION**

WHEREAS, Kingsville LULAC Manor Trust / Kingsville Manor L.P., has proposed to rehabilitate the Kingsville LULAC Manor Apartments located at 1220 North 17<sup>th</sup> Street in Kingsville, Texas; and  
WHEREAS, the Kingsville LULAC Manor Apartments have for over 35 years provided decent affordable housing for families in the community; and  
WHEREAS, Kingsville LULAC Manor Trust has submitted a combined application to accomplish this property rehabilitation to the Texas Department of Housing and Community Affairs (TDHCA) for the 2007 Low-Income Housing Tax Credit Program and the TDHCA HOME Program; and  
WHEREAS, Kingsville LULAC Manor Apartments is located in the City of Kingsville Enterprise Zone F, and up-grading the property will preserve the HUD Sec. 8 Housing Assistance and be accomplished with resident input and without displacement of low-income residents; and  
WHEREAS, the application to TDHCA for the rehab of Kingsville LULAC Manor Trust Apartments consists of a partnership between two non-profit organizations with experience and a track record of providing safe and attractive affordable housing; and  
WHEREAS, Sec. 509 (j)(5), Texas Administrative Code, which provides Housing Tax Credit points for the commitment of development funding by local political subdivisions, states that the TDHCA HOME Program funds will not qualify for points in this category "unless a Resolution is submitted with the application from the Local Political Subdivision authorizing that the Applicant act on behalf of the Local Political Subdivision in applying for HOME or Housing Trust Funds from the TDHCA for the particular application."  
NOW THEREFORE, BE IT RESOLVED that in concurrence with the letter of endorsement by the Kleberg County Judge, dated February 26, 2007,  
The Kleberg County Commissioners' Court endorses this project and authorizes the Kingsville LULAC Manor L.P., to act on its behalf for TDHCA HOME and / or Housing Trust Funds to support the Kingsville LULAC Manor Apartments, 2007 Tax Credit Project.  
ADOPTED this 12th day of March, 2007.



/s/ Pete De La Garza  
Pete De La Garza, Kleberg County Judge

/s/ David Rosse  
David Rosse, Commissioner, Pct 1

/s/ Norma Alvarez  
Norma Alvarez, Commissioner, Pct 2

/s/ Roy Cantu  
Roy Cantu, Commissioner, Pct 3

/s/ Romeo Lomas  
Romeo Lomas, Commissioner, Pct 4

ATTEST: /s/ Leo Alarcon  
Leo Alarcon, County Clerk

AGENDA ITEM #16

(Rec. 1408-1414)

**IN THE MATTER OF DISCUSSING AND ACTING ON  
ADOPTING PROCLAMATION RECOGNIZING THE  
WEEK OF MARCH 18 THROUGH 24, 2007 AS  
"NATIONAL AGRICULTURE WEEK IN TEXAS"**

The above matter coming on for consideration, a motion was made by Commissioner Rosse and seconded by Commissioner Alvarez to adopt the proclamation recognizing the week of March 18 through 24, 2007 as "National Agriculture Week In Texas". Upon vote, motion carried unanimously.

**PROCLAMATION**

**RECOGNIZING NATIONAL AGRICULTURE WEEK IN TEXAS  
MARCH 18 THROUGH 24, 2007**

WHEREAS, the week of March 18—24, 2007, is "NATIONAL AGRICULTURE WEEK IN TEXAS", as proclaimed by Texas Agriculture Commissioner Todd Staples, and  
WHEREAS, agriculture begins with the growing and harvesting of food, fiber and horticulture ends with almost everything we eat, wear and use, and

**Kingsville Affordable Housing, Inc.**

**600 East General Cavazos**

**Kingsville, Texas 78363**

**(361) 221-9112**

**(361) 516-0335**

**Rece**

JUL 17 2007

**FAX.....FAX.....FAX**

**TO: AUDREY MARTIN**

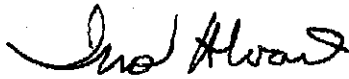
**FROM: INO ALVAREZ,  
Kingsville Affordable Housing**

Dear Ms. Martin,

Attached, please find a copy of a letter and attachment related to our scoring challenge to Application 07199, Kingsville LULAC Manor that we submitted to you on June 26, 2007.

Please contact us if you have any questions or require additional information. You may reach us at (361) 455-8463 or (361) 221-9112 or by e-mail at [ialvarez@stydc.com](mailto:ialvarez@stydc.com). Our fax number is (361) 516-0335.

Sincerely,

  
Ino Alvarez, Executive Director

Cc: Carlos Yerena, City Manager  
City of Kingsville



Applicant  
Response  
07199

**KINGSVILLE LULAC MANOR TRUST  
8610 North New Braunfels, Suite 500  
San Antonio, Texas 78217**

Phone: 210.821.4308

Fax: 210.821.4303

July 6, 2007

Audrey Martin  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup>  
Austin, Texas 78711-3941

Re: Response to Scoring Challenge 07199 Kingsville LULAC Manor Apartments

Dear Ms. Martin:

We disagree with Ms. Ino Alvarez's stated position regarding requirements for scoring points for Commitment of Development Funding from Local Political Subdivisions.

In satisfaction of the QAP criteria, Application 07199, Kingsville LULAC Manor Apartments, applied for HOME funds from TDHCA with a resolution of support from the County of Kleburg, authorizing the applicant to act on the County's behalf in seeking those funds. The County Commissioners were very supportive of the Kingsville LULAC Manor Apartment application for its renovation and preservation of the property based Section 8 contract. All required support documentation was submitted with the tax credit application and approved by the TDHCA. The County of Kleberg is an acceptable local political subdivision as set out in the 2007 Texas Tax Credit Program QAP.

Section 49.9 (i)(5) of the 2007 Housing Tax Credit Program QAP gives the guidance for points for Commitment of Development Funding By Local Political Subdivisions. Paragraph A. (vii) of that section provides the guidance for applicants to access TDHCA HOME funds on behalf of the Local Political Subdivisions and obtain the points. Throughout Section 49(i)(5) reference is made to the term Local Political Subdivisions. The definition of a Local Political Subdivision is set out in Section 49.3 Definitions Paragraph (56) Local Political Subdivision which states "A county or municipality (city) in Texas. For purposes of Section 49.9(i)(5) of this title, a local political subdivision may act through a Government Instrumentality such as a housing authority, housing finance corporation, or municipal utility even if the Government Instrumentality's creating statute states that the entity is itself not a "political subdivision".

Neither the 2007 Housing Tax Credit Program QAP nor any of the other procedural material limit the definition of a local political subdivision. The Kingsville LULAC Manor Trust application is in compliance with the aforementioned provisions.

**We respectfully request that you continue to award the scoring of points for the Commitment of Development Funding by Local Political Subdivisions.**

Should you have any questions or if we can be of any additional assistance please don't hesitate to contact us.

Yours truly,

  
Walter Martinez  
Authorized Representative

**KINGSVILLE LULAC MANOR TRUST**  
**8610 North New Braunfels, Suite 500**  
**San Antonio, Texas 78217**

Phone: 210.821.4308  
Fax: 210.821.4303

July 27, 2007

Audrey Martin  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup>  
Austin, Texas 78711-3941

Re: Response to Scoring Challenge 07199 Kingsville LULAC Manor Apartments

Dear Ms. Martin:

We disagree with Ms. Ino Alvarez's stated position regarding requirements for scoring points for Commitment of Development Funding from Local Political Subdivisions.

Application 07199, Kingsville LULAC Manor Apartments, received its commitment of development funding from the County of Kleberg, a local political subdivision. The County Commissioners were very supportive of the Kingsville LULAC Manor Apartment application for its renovation and preservation of the property based Section 8 contract. All required support documentation was submitted with the tax credit application and approved by the TDHCA. The County of Kleberg is an acceptable local political subdivision as set out in the 2007 Texas Tax Credit Program QAP.

The initial materials submitted in the aforementioned application did not include a resolution. The deficiency process allows for additional materials to be submitted subsequently in response to an administrative deficiency (49.9(a)). An administrative deficiency was issued by the Department regarding this item and as part of the response to this item a resolution from the County of Kleberg was provided in a timely manner. The resolution was dated March 12, 2007 and among other things clarified, corrected and ratified County Judge Pete De La Garza correspondence of February 26, 2007 making the concurrence effective prior to March 1, 2007. As a result of the aforementioned process the resolution was submitted with the application.

We believe this challenge merely restates the complaints in the original challenge, which was resolved by the TDHCA staff. The original challenge with the TDHCA was filed on June 26, 2007. The supplemental challenge, which is the subject of this letter, was filed on July 16, 2007. On July 23, 2007 the Department posted a response to the challenge indicating that the applicant/application had been cleared ("The Applicant submitted the required resolution from Kleberg County, which is a Local Political Subdivision pursuant to the QAP. The Applicant provided sufficient evidence to qualify for points under 49.9(i)(5) of the 2007 QAP"). Since staff determinations on challenges cannot be appealed, we believe no further action is necessary under the QAP rules (49.17c (3)). Note that if, for some reason, the second challenge is not considered a restatement of the original challenge, the applicant did not receive timely notice of the second challenge, within the 7 business days set out in 49.17c.

We appreciate the TDHCA staff's continued concurrence with our submittal. We have followed all the rules in the QAP.

Should you have any questions or if we can be of any additional assistance please don't hesitate to contact us.

Yours truly,

  
Walter Martinez  
Authorized Representative

# Challenge 07220

WITNESS AFFIRMATION FORM

My name is: Laura Waller Agenda Item No.: \_\_\_\_\_  
(please print)

I am appearing before this body to testify regarding:

Project # and Name: #07220 San Gabriel Crossing

General Topic: Multifamily Housing

I prefer to present comments: (check one)

My position on the above matter is:

During Public Comment Period (before Agenda Items)

For

When the specific Item is presented to the Board

Against

I yield my time to: \_\_\_\_\_

Neutral

I am Representing:

Contact Information:

myself, my occupation, profession, business:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

lauract150@  
yahoo.com  
\_\_\_\_\_  
\_\_\_\_\_

the following persons, firms, corporations, classes, groups:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the above statements by me are true and accurate, and that I have listed all persons, firms, corporations, classes or groups which I represent in reference to the matters on which I am appearing. I further certify that the testimony I am about to give will be true and accurate.

Signature of Witness: Laura Waller

SWORN to before me, Chairman of the Board, Texas Department of Housing and Community Affairs, this 28th day of June 2007.

The witness:  did testify  did not testify

E Anderson  
Chairman

**TO: THE TDHCA BOARD OF DIRECTORS**

**SUBJECT: REVIEW AND ANALYSIS OF TDHCA APPLICATION #07220,  
SAN GABRIEL CROSSING IN LIBERTY HILL**

This review and analysis of TDHCA Application #07220 is being submitted to the TDHCA Board of Directors in an effort to address the falsifications and omissions, as well as the misleading and inconsistent information, submitted by the applicant who is requesting federal housing tax credits for the San Gabriel Crossing in Liberty Hill.

The 2007 HTC QAP Rules state that "the evaluations (of the site) shall be based on the condition of the surrounding neighborhood, including appropriate environmental and aesthetic conditions and proximity to retail, medical, recreational, and educational facilities, and employment centers. The site's appearance to prospective tenants and accessibility via existing transportation infrastructure and public transportation systems shall be considered."

Liberty Hill has no transportation infrastructure, no medical facilities, no supermarkets, and no employment centers in place such as those that exist in the cities of Cedar Park/Leander or in the Northwest Austin referenced in the Market Analysis submitted for this application. The neighborhood is NOT "well-located within the Metropolitan Area's transportation infrastructure", as referenced in the Market Analysis. (pg. 25)

The comparables used on the rental map and listed on pg. 49 of the Market Analysis are approximately 15.2 to 18.3 miles from the development site and located in the Cedar Park/Leander area, which has a combined population in excess of 56,246 as opposed to the 1491 population of Liberty Hill. The Cedar Park/Leander area is approximately 38 times the size of the population of Liberty Hill and is in no way comparable. The Demographic Snapshot Report referenced in the Market Analysis uses a "Population by Ancestry" of 39,846 persons (which is approximately 27 times the population of Liberty Hill).

The Market Analysis lists only Austin area employers and Austin annual employment growth rate (pg. 32) and makes no reference as to the lack of potential employment opportunities in Liberty Hill. Liberty Hill is a small, rural community with a limited number of businesses, the majority of which are small, locally owned, "Mom and Pop" type establishments.

Another reflection of the irrelevance of the Market Analysis as not pertaining to Liberty Hill, is that it lists a Total Theoretical Demand for Affordable Rental Housing Units at 1395 households (pg. 73), as compared to the total current population of the individual citizens of Liberty Hill, (1,491).

To compare the housing market of a small, rural town such as Liberty Hill to the truly suburban housing markets of Cedar Park/Leander and Northwest Austin is ludicrous on its face. It seems the only reason to include such a comparison in the Market Analysis would be to bolster the claims of the developer and its partners that this housing project is economically feasible and profitable. In no way does it serve to document a legitimate demand for this type of housing in Liberty Hill.

Even though your Board will not be taking formal action on this application until next month, Mr. Mayfield of the Texas Housing Foundation has already made comments to the effect that "we are ranked No. 1 in our Region and we will receive these tax credits". In addition, the Executive Director of TDHCA, Mr. Gerber, has also indicated that these tax credits will likely be awarded for this project since this application is the only one in Region 7. Certainly, we would hope that this Board would not award tax credits worth millions of dollars to an applicant simply because it is the only one submitted for a particular region.

The review of the pre-application submissions reveal that (as of March 1, 2007), there were 4 total applicants in Region 7:Rural and 6 total applicants in Region 7:Urban/Exurban. The Market Analysis for this application was actually based on Region 7: Urban/Exurban data. This is not only inconsistent with the requirements for this particular application, but also, perhaps, a fraudulent use of rural monies intended for a different market altogether. If such is the case, it could warrant a governmental audit.

Last, but not least, is the fact that the **Qualified Census Tract Table lists that this Tract (Williamson County, TX census tract 203.01) was not designated a QCT because it did not meet the statutory eligibility criteria.** In tract 203.01, 23.9 percent of the households had incomes below 60 percent of area median income adjusted for tract average household size (50 percent or higher is required for QCT eligibility), and the poverty rate in tract 203.01 was 5.7 percent (25 percent or higher is required for QCT eligibility).

Attached is a brief breakdown of the some of the items on the long list of falsifications, omissions, and misleading and inconsistent information included in the TDHCA Application # 07220. (The total analysis breakdown by specific tabs consists of 9 pages of documentation and may be provided upon request.)

## **LH Residents for Responsible Growth**

**[www.libertyhillnews.com](http://www.libertyhillnews.com)**

cc: Governor Rick Perry

Rep. John R. Carter

State Senator Steve Ogden

State Rep. Dan Gattis

Dallas Morning News

Austin American Statesman

**BRIEF OVERVIEW OF THE ANALYSIS OF TDHCA APPLICATION #07220,  
SAN GABRIEL CROSSING IN LIBERTY HILL**

**Williamson County, TX census tract 203.01 was not designated a QCT because it did not meet the statutory eligibility criteria. In tract 203.01, 23.9 percent of the households had incomes below 60 percent of area median income adjusted for tract average household size (50 percent or higher is required for QCT eligibility), and the poverty rate in tract 203.01 was 5.7 percent (25 percent or higher is required for QCT eligibility).**

Site Acquisition costs of \$420,000 (\$70,000 acre), approximately 4 times the appraised value of \$17,980 per acre; tax assessed value is approximately only \$107,870 vs. \$420,000. (TDHCA #07220, pg. 199 )

Liberty Hill does not have transportation infrastructure, medical facilities, supermarkets, employment centers or any of the existing infrastructure that can be found in the cities of Cedar Park/Leander or Northwest Austin, as represented in the Market Analysis. The population, demographics, growth rate, and job opportunities of the cities of Cedar Park/Leander and NW Austin area are not relative or comparable in any way to the small, rural town of Liberty Hill. As of 2006, the population of Cedar Park "is estimated to be around 42,400, making it the seventh-fastest growing city in the United States", and as of 2003, Leander's population was estimated at 13,846. How could cities with a combined population in excess of 56,246 possibly be used as a comparable market with Liberty Hill, population of 1491 in 2005 (barely up from 1409 in 2000)? The Market Analysis appears to be a boiler plate economic feasibility analysis specific to a large urban center rather than any verification or validation of the need or demand for low-income multifamily housing for small, rural Liberty Hill. (TDHCA #07220, pg. 28 and Market Analysis Report)

Liberty Hill does not have a full service grocery store anywhere in town. Alman's is listed as a grocery store, but it is actually a small, convenience store; two of the stores in town carry a few extras like some fruits and vegetables, but they are actually small convenience stores with convenience store prices. (pg. 154) The "LH Food Mart" listed in the application is actually a Shell Gas Station/convenience store and is not a grocery store. (pg. 154)

Liberty Hill does not have a General Practitioner or a Medical Doctor anywhere in town. The only doctors' offices listed as near (within the 2 mile map) of the development site are a dentist's office, Liberty Hill Dental, and a chiropractor's office, Dr. Jeffry Popham. (pg. 154)

Motherloads Pizza is not a restaurant, as listed on the application, but is actually a take-out & delivery only location and it is only open in the evening and on the weekends.

**PLEASE READ THE FOLLOWING PAGE RE: DOCUMENT FALSIFICATIONS**



**VOLUME 3, TAB 7: EVIDENCE OF NON-PROFIT AND CHDO PARTICIPATION**  
**(TDHCA #07220,pg. 293)**

The form's intended use is to govern and regulate the very situation applicable to this TDHCA application. The directions require nonprofit organizations to complete this section. All nonprofit Applicants or principals must complete this form without regard to their level of ownership or the set aside under which the Application was made.

**In a letter from the Law Offices of Dominic Audino to Robbye Meyer of TDHCA (dated February 27,2007), Texas Housing Foundation and DMA Development Company are both listed as Co-Developers to the Liberty Hill THF Housing, L. P. (TDHCA #07220, pg. 256). The Texas Housing Foundation Corporate Bylaws clearly state that the "Foundation is formed for public and charitable purposes. It will be non-profit and nonpartisan."**

This form has been left blank except for Legal Status of "PHA" and a)

a) Is the Applicant comprised of a joint venture between a Nonprofit Organization and for-profit entity? The box is checked as "NO", although there is a direct or indirect, financial relationship between the nonprofit Texas Housing Foundation (listed as a Co-Developer in the above mentioned letter as well as Member/Manager of General Partner, THF San Gabriel Crossing), and Boston Capital, a for-profit entity.

-----  
None of the other applicable questions were answered and the forms were left **BLANK**. (I have filled in some information of particular interest that was omitted.)

g) Will the nonprofit be contributing funds to the development? Yes, in Volume 1, Tab 4. Funding Request (page 36 of the TDHCA submission #07220, Line 16) there is an In-Kind Equity/Deferred Developer Fee referenced as DMA Dev/THF Dev Co.:

Construction or Rehab. Loan Stage Amount	\$758,521
Permanent Loan Stage Amount	\$37,291

**THF San Gabriel Crossing , General Partner, is a related subsidiary entity to THF Development Company which has a direct financial relationship with Mark Mayfield of the Texas Housing Foundation, Marble Falls Housing Authority, Liberty Hill THF Housing, and Central Texas Affordable Housing Management Corporation. (Mayfield also has a previous relationship with the Highland Lakes Housing Opportunity Corporation.) On the above mentioned legal correspondence to the TDHCA, Texas Housing Foundation is also listed as the Co-Developer, which is inconsistent with TDHCA #07220, pg. 121).**

h) Will the nonprofit receive any part of the development or management fees paid in connection with the development? **Yes**, the Property Manager listed (on TDHCA #07220, pg. 120, Part A. Development Team Members) is **THF Housing Management Corporation**, with the contact name of **Mark Mayfield**, and a proposed fee of **\$30,000**.

**Interestingly, on the same set of forms, pg. 121, the Co-Developer is listed as Liberty Hill THF Housing (also Mark Mayfield) as opposed to Texas Housing Foundation as referenced to in the above mentioned legal letter (February 27, 2007). Below the proposed fee of \$194,200 for the Liberty Hill THF Housing, L. P. (with the contact name and information for Mark Mayfield), the box of "NO" that there is not a "direct or indirect, financial, or other interest with Applicant or other team members."** (This also relates to Tab 6, Part A: Development Team Members)

\*\*\*\*\*  
\*\*

The Applicant/Development Owner, Liberty Hill THF Housing, L. P. , and the General Partner, THF San Gabriel Crossing, L. L. C., on the submission for housing tax credits with the Texas Department of Housing and Community Affairs is not legally formed. (TDHCA #07220, pg. 7)

If the applicant is in good standing with the Secretary of State (as of March 1,2007), why is the State Filing # not applicable? (TDHCA #07220, pg. 8)

Indirect Construction Costs. THF has listed costs for Architectural-Design Fees of \$70,000 and Architectural -Supervision Fees of \$30,000. The recurrence of costs for these services is questionable considering the San Gabriel Crossing will be the exact architectural design and layout of a previous Texas Housing Foundation development (TDHCA #07220, pg. 28). It may be a common architectural plan used by DMA Development Company as well, in which case the request for \$100,00 per each new application for a previously purchased site design would be warrant a potential governmental oversight audit.

There is no associated breakdown for Impact Fees for the amount of \$230,000. Since the user fees levied in anticipation of a development should be linked to an added service cost, rather than some arbitrary amount, shouldn't they be delineated? If your jurisdiction has development impact fees, are the fees specified and calculated under local or state statutory criteria? (TDHCA #07220, pg. 28)

Although the application lists a cost of \$4000 for an Environmental Assessment, according to the letter from Patrick O'Connor & Associates in their Market Analysis Report, they state that "We are not qualified to detect or identify hazardous substances which may, or may not, be present on, in, or near this property. The presence of hazardous materials may negatively affect feasibility. We urge the user of this report to obtain the services of specialists for the purpose of conducting an environmental audit to ensure that the subject property is free of hazardous materials." (Market Analysis, pg. 2)

## **VOLUME 1, TAB 7, PART II. CREDIT LIMIT CERTIFICATION**

Liberty Hill THF Housing L.P., doesn't list % of Ownership or % of Development Fee in Rural Joint Venture Columns, although applicable and clearly the purpose of the credit limit certification. (TDHCA #07220, pg. 131) Liberty Hill THF Housing, L. P. is listed as receiving a proposed fee of \$194,200 (or 20.33% of the \$955,200 Development Fee). (reference pg. 121 & pg. 28)

\*Please note that the Liberty Hill THF proposed amount of \$194,200 added to the DMA Development Company proposed amount of \$776,800 equals \$971,000 (a \$15,800 variance from the Developer Fee Total of \$955,200 as listed on the Total Development Summary (TDHCA #07220, pg. 28)\*)

THF San Gabriel Crossing, LLC; THF Housing Facility Corporation; Texas Housing Development, LLC; and Texas Housing Foundation don't list % of Ownership or % of Development Fee in Rural Joint Venture Columns, although applicable and clearly the purpose of the credit limit certification. (TDHCA #07220, pg. 132-135)

DMA Community Ventures, LLC, and DMA Development Company, LLC, only list % Ownership on 3 of 5 proposed applications and enter "N/A" in the column requesting % of Development Fee in Rural Joint Venture Columns, although applicable and clearly the purpose of the credit limit certification form. (TDHCA #07220, pg. 136 & 137). DMA Development Company also neglected to list (on pg. 137) The Village at Morning Star II in Texas City as per the previous listing on pg. 102). Additionally, under the name of Diana McIver, on Part II. Credit Certification, pg. 138, she lists the Morningstar Villas in Texas City rather than the correct name of the development, which is The Village at Morning Star II.

## **VOLUME 1, TAB 8: PUBLIC NOTIFICATION CERTIFICATION AND INFORMATION FORM**

Listing of Political Officials Forms (TDHCA #07220, pg. 142-147) on the application have been left blank, although the box is not checked in reference to previous pre-application submission of this required information. If the political officials are not identified, then how can there be any review regarding Conflict of Interest (especially if those political officials engage in a business relationship with the applicant at a later date)?

When this omission was mentioned to Mr. Gerber via email from Carl Cook on June 06, 2007, the filled out forms appeared in the pre-application document with a date of January 8, 2007.

## **TAB 12: DEMONSTRATION OF COMMUNITY SUPPORT OTHER THAN QUANTIFIABLE COMMUNITY PARTICIPATION**

The majority of the letters are submitted by groups that are affiliated with real estate agent and Mayor Fuller, City Council members or the landowners of the property to be purchased by Texas Housing Foundation. For example, the President of the Lions Club, Jimmy Oliver, is the husband of the Janet Oliver, who held the seat of Council Member Place 1 until May 2007. The October 2006 Lions Club roster (TDHCA #07220, pg. 357) lists Janet Oliver as the President, also while she was serving as a Liberty Hill

**council member, and Jimmy Oliver as the Treasurer.** The roster of club members also includes the **prospective sellers of the property** to be developed, Gary (President 04-05, Treasurer 06-07) and Kaye Jackson (Secretary 04-05). The Jacksons will receive approximately **4 times the appraised value for their land** from Texas Housing Foundation if the multifamily housing development is approved. Gary Spivey listed as 1st Vice President has a "working interest" in the property to be developed.

## **OAP RULES RE: TDHCA APPLICATION #07220, SAN GABRIEL CROSSING IN LIBERTY HILL**

### **Application Procedures for Housing Tax Credits with Tax Exempt Bond Financing; Multifamily Finance Production**

#### **2) Governing QAP**

The QAP is the document that governs the administration of the HTC Program, as well as outlining the application requirements. The threshold requirements of an application, as well as all eligibility criteria and site and Development restrictions, which are required for a bond financed tax credit application, are one part of the QAP.

#### **3) Application Documentation Requirements**

c) A TDHCA Uniform Application with all the multifamily worksheets describing the proposed development in detail. All required application and threshold documents in accordance with the applicable QAP. The Environmental Site Assessment and Market Study must be included.

d) Consistency with the local municipality's consolidated plan or similar planning document must also be demonstrated in those instances where the city or county has a consolidated plan.

A Unified Development Code and Comprehensive Plan exists for Liberty Hill; therefore, a letter from Real Estate agent and Mayor Fuller alleging the need for affordable housing does not supercede, replace or nullify the policies of the town's existing code (re: #07220, letter pg. 52). A few examples of inconsistencies with Liberty Hill's Unified Development Code are as follows:

- 1.02.01 Manage Growth that is compatible with the Vision of Liberty Hill
  - A. New development must be compatible with existing development and community character.
  - B. New development must maintain small town character, look and feel of community.
- 1.02.02 Design of Buildings should be compatible with existing buildings and Vision for Liberty Hill
  - B. Regulations on commercial development should be intelligently crafted, so as to encourage economic development by providing predictability, continuity, and protection for investments that would be enhanced by orderly and attractive growth.
- 1.02.08 Preserve and protect Liberty Hill's rich heritage.
  - A. Preserve and enhance historic areas throughout the City.
  - B. Preserve the community character (e.g. residential street setbacks and layouts)

A multifamily development in the proposed location would not be "compatible in intensity, appearance and operation with surrounding land uses in the area," and it would "impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution."

#### **Qualified Census Tract Table Generator -- Tract Not Designated**

Williamson County, TX census tract 203.01 was not designated a QCT because it did not meet the statutory eligibility criteria. In tract 203.01, 23.9 percent of the households had incomes below 60 percent of area median income adjusted for tract average household size (50 percent or higher is required for QCT eligibility), and the poverty rate in tract 203.01 was 5.7 percent (25 percent or higher is required for QCT eligibility). (Ref: #07220, Volume 3, Tab 2, Site Information) ([http://qct.huduser.org/tables/why\\_not.odb?qct\\_id=484910203010](http://qct.huduser.org/tables/why_not.odb?qct_id=484910203010))

Applicant  
Response  
07220



July 13, 2007

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin, TX 78711-3941

RE: *San Gabriel Crossing/#07220*  
*Liberty Hill, Texas*

Dear Mr. Gerber:

The purpose of this letter is to respond to the challenges presented by the LH Residents for Responsible Growth. No names of residents claiming to be part of this ad hoc organization were provided as part of this challenge. If the agency has received a listing, we would appreciate being provided with such a list.

DMA Development Company, LLC is serving as co-developer for this apartment community along with THF Housing Development Corporation, LLC. THF San Gabriel Crossing, LLC, of which THF Housing Facility Corporation is the sole member, will serve as the managing general partner of the limited partnership formed to own this housing.

The statement submitted by the LH Residents for Responsible Growth ("the challenger") challenges facets of the application itself as well as the policies of the Department. We will be responding *only* to those challenges or allegations as they are directed towards the application and its consistency or qualification under the 2007 Qualified Allocation Plan.

For your ease in reviewing, I have indicated the challenge – or a paraphrase of the challenge – in bold type. Our response follows the challenge.

**1) The site is not in a Qualified Census Tract.**

The site is *not* in a QCT and in Volume 4, Tab 17, the applicant specifically indicates that the site is not located in a QCT. We believe the challenger mistakenly believes that all tax credit developments **MUST** be located in Qualified Census Tracts, which is an incorrect assumption.

**2) Site Acquisition cost was four times more than the tax-appraised value.**

It is not uncommon that the tax-appraised value and the acquisition cost differ significantly. This site was, in fact, the most reasonably priced of the sites we reviewed in Liberty Hill. Regardless, land cost is not in eligible basis and no tax credits are provided for land acquisition. For the record, our lender/investor will require an appraisal and will not fund an amount in excess of the appraised value.

**3) Amenities. Several comments from the challenger relate to amenities which appeared on maps in the application, some of which were identified by the applicant as qualifying for points. The challenger may have not realized that the 2007**

**Qualified Allocation Plan lumps categories together and that points may be taken for subsets of that category. The specific allegations are:**

- ✓ **Alman's (sic) is a convenience store, not a grocery store, as listed on the application.**
  - The name of the store is Allman's Grocery and it is identified by business type as a grocery store. While it is not a large supermarket, it is still considered a grocery store. Amenity points were requested for having the grocery store within 2 miles of the site.
  
- ✓ **Amenities—LH Food Mart is a gas station/convenience store not a grocery store.**
  - The application did not indicate that LH Food Mart was a grocery store but rather that it was a convenience store/mini-mart. No amenity points were taken for this item; although points were taken for Parker's Corner Market, also a convenience store.
  
- ✓ **Amenities—Liberty Hill does not have a General Practitioner or a Medical Doctor, only a dental office and a chiropractor's office.**
  - Applicant did not request points for hospital or medical clinic as an amenity. It did request points for Dental office and Chiropractor's office under the Doctor's offices category which includes medical, dental, and optometry offices per the QAP.
  
- ✓ **Amenities—Motherload's Pizza is not a restaurant, but a take-out and delivery location.**
  - Motherload's Pizza is identified by business type as a restaurant. Allowable types of restaurants under this category include fast food, which often is in the form of take out or delivery.

*For the record, information was provided to support six amenities, while only four were needed for the maximum points.*

**4) Organizational Documents. The Challenger refers to a letter from Law Offices of Dominic Audino that references Texas Housing Foundation and DMA Development Company as Co-Developers (Volume 3, Tab 4).**

Although the attorney for Texas Housing Foundation, Dominic Audino, incorrectly identifies Texas Housing Foundation as the Co-Developer in the reference line of the subject letter, the purpose of the letter is not to opine on whether or not Texas Housing Foundation is the Co-Developer, rather the letter was provided in response to QAP requirement to provide evidence that the managing member of the general partner, THF Housing Facility Corporation, LLC, a wholly owned instrumentality of the Texas Housing Foundation, as a Texas Regional Housing Authority, has authority to do business in Texas. Because there are no Articles of Incorporation for Texas Housing Foundation, the letter explains how the Texas Housing Foundation was established pursuant to Texas Local Government Code, Chapter 392.013. This was clarified with TDHCA in letter dated March 29, 2006.



Throughout the application, THF Housing Development Corporation, LLC, is correctly listed as the co-developer.

**5) Nonprofit Questionnaire. The challenger states that Volume 3, Tab 7, was not filled out.**

This form was submitted on March 29, 2007, in response to a deficiency request from TDHCA. Although the challenger indicates how they believe the form should have been completed, the applicant completed the form in the manner required by the QAP and the Department accepted the form as submitted.

Additionally, the challenger is apparently concerned as to whether this application is a joint venture or not. The 2007 QAP does not include a definition of joint venture in the definitions section. It does address joint ventures between experienced and inexperienced developers in rural areas, but this application does not qualify under that category. Thus, whether or not this transaction is to be defined as a Joint Venture is in the eyes of the beholder and is neither a threshold nor a scoring matter. That aside, as disclosed in the application, the applicant, Liberty Hill THF Housing, LP (to be formed) is comprised of its general partner THF San Gabriel Crossing, LLC (to be formed)(.01%); DMA Community Ventures, LLC (.01%) as special limited partner; and Boston Capital (99.98%) as the *proposed* limited partner. The nonprofit THF Housing Facility Corporation is the sole member of the general partner, which has the controlling interest in the applicant. Its manager/member is the Texas Housing Foundation. The *proposed* limited partner's relationship to the general partner and its manager/member THF Housing Facility Corporation and its manager/member Texas Housing Foundation is a standard relationship in tax credit financing.

DMA Community Ventures, LLC will serve as a special limited partner during the initial guarantee period as required by the investor.

**6) Liberty Hill THF Housing, L.P. is not legally formed. This is inconsistent with the box that indicates that the applicant was in good standing with the state. It is also inconsistent that there is not a SOS filing number listed. (Volume 1, Tab 1)**

Liberty Hill THF Housing, L.P. is not legally formed. However, a name reservation has been secured with the Secretary of State. The applicant, Liberty Hill THF Housing, L.P. correctly marked the box that it is in good standing with the Secretary of State because it has filed and paid the appropriate fees for the name reservation. The partnership's organizational documents will be prepared and filed with the Secretary of State after it receives an award of tax credits, as is customary with tax credit developments. At that time a State filing number will be obtained.

**7) Architectural expenses are not justified because the developer has "previously purchased" the site designs.**

The architect's design fee of \$70,000 and supervisory fee of \$30,000 (or approximately 5%) is customary for project of this size and scope. TDHCA has recognized this in its underwriting. While it is true that the buildings and units will be

similar to existing multifamily developments previously developed by Texas Housing Foundation, the architect must develop new architectural plans and specifications and the site engineering and building engineering from previous locations cannot be reused. The architect must design the entire project in compliance with the local design, site and code requirements of the City of Liberty Hill. Each multifamily development project is unique from another and contains different numbers of buildings, site layout, amenities, etc.

**8) There is no justification for the \$230,000 of impact fees.**

Although not required to provide justification of this expense in the application, this line item covers the cost of waste water metering fees of \$3,000 per each living unit equivalent (approximately \$230,000 including the community building). The information was obtained from the City of Liberty Hill.

**9) The \$4,000 listed for an Environmental Site Assessment is listed in the Market Study but market analyst state they are not "qualified to detect hazardous substances...the presence of hazardous materials my negatively affect feasibility. We urge the user to obtain the services of a specialist...to conduct an environmental audit...."**

The statement is included to inform the reader that the market analyst did not complete a Phase I Environmental Site Assessment as they are not qualified to do so. A Phase I Environmental Site Assessment was conducted by a licensed firm and submitted with the tax credit application. No contamination was identified and no further investigation was required.

**10) Volume 1, Tab 7, Liberty Hill THF Housing, L.P. and THF San Gabriel Crossing, LLC do not list % Ownership or % Developer Fee in Rural Joint Venture Columns, although applicable and clearly the purpose of the credit limit certification.**

This application was not submitted as a rural joint venture. The purpose of the rural joint venture is to encourage the capacity building of inexperienced developers by partnering with experienced developers to ensure greater housing opportunities in rural communities.

**11) Volume 1, Tab 7 DMA Community Ventures, LLC and DMA Development Company, LLC do not list % ownership and % developer fee for Riverbend Trails and San Gabriel Crossing.**

The form as submitted is correct because Riverbend Trails in San Angelo and San Gabriel Crossing in Liberty Hill are not rural joint venture applications and therefore no percentage of ownership and/or developer fee should be listed in the joint venture column.

**12) Volume 1, Tab 7, Part II Credit Limitation. DMA Development Company, LLC did not list the Village at Morningstar II in Texas City (as previously listed on page 102). Also, there are inconsistencies with the name of the Texas City Project. It is referred to as Morningstar Villas on Diana McIver's credit limit certification page, but is called The Village at Morningstar II on pg 137.**

Morningstar Villas was inadvertently omitted from DMA Development Company, LLC's Part II Credit Limitation form in this application, although it was correctly listed in the application filed for Morningstar Villas. A revised form including Morningstar Villas is attached. However, Morningstar Villas is listed on Diana McIver's Part II Credit Limitation form, which is the critical form for review of the credit cap. Page 102 of the application is the Previous Participation form on which The Village at Morningstar is listed as a previous project of DMA Development Company. Morningstar Villas is a phase II of The Village at Morningstar, which opened in 2006. If there are any references to The Village at Morningstar II in the application, it is the same project as Morningstar Villas.

**13) Volume 1, Tab 8, Listing of Public Officials Forms on the application have been left blank, although the box is not checked in reference to previous pre-application submission of the required information.**

A pre-application was submitted to TDHCA on January 8, 2006. Included in Tab 3, is the Public Notifications Information and Certification Form which listed all entities, including political officials that were required to be notified of the of the application submission pursuant to Section 49.8(d)(3) of the 2007 QAP. Volume 1, Tab 8 of the Tax Credit Application contains forms which allow the applicant to list any changes made between the pre-application and application submission which required re-notification of entities or list any changes in the elected officials. While, the boxes on Volume 1, Tab 8 Part 1 and 2 indicated there were no changes that required re-notification, the box on Public Notification form was inadvertently left blank. There were no known changes to the elected officials in the time period between January 2, 2007 and March 1, 2007. A revised form can be provided to TDHCA at its request.

**14) Volume 4, Tab 12. Support letters are submitted by groups that are affiliated with real estate agent and Mayor Connie Fuller, City Council Members, or the landowners. The president of the Lions Club is the husband of a former city council member. The landowners are members of the Lions Club. Gary Spivey, a Lions Club member, has a "working interest" in the property.**

Letters in support of the project were received at the request of the applicant and were provided based on the merits of the project. In a small community, it is not unusual that people are members of multiple community organizations or have relatives that are part of various community organizations. These are not prohibited relationships under TDHCA requirements for community support letters.

**15) QAP Rules RE: TDHCA Application #07220 Application Procedures for Housing Tax Credits with Tax Exempt Bond Financing; Multifamily Finance Production. The Challenger referenced the omission of application requirements which are related only to the Private Activity Bond Program.**

The applicant is not applying for tax exempt bonds and these requirements are not applicable.

**16) Market Study challenges. The Challenger raised the following issues as it relates to the market study:**

- ✓ **Not well-located within the Metro Area transportation infrastructure**
- ✓ **Comparables are far (15-18 miles) and the populations they serve are larger**
- ✓ **Lists only Austin employers & job growth**
- ✓ **Theoretical demand exceeds Liberty Hill's population**

The market study completed by O'Connor & Associates was completed in accordance with the rules governing the 2007 QAP. TDHCA reviewed the market study as part of its underwriting report and has accepted it with revisions.

Because Liberty Hill is a rural community with very little multifamily housing, the closest comparables were found in neighboring Leander and Cedar Park. The market analysis identified a theoretical demand for housing units at 1,395 which clearly indicates that the proposed 76 units will be easily absorbed by the market. While the population of Liberty Hill, based on 2000 census data, is 1,491, the City of Liberty Hill actually serves many more people than counted in the census data. Data retrieved from the School District Report from the Texas State Board of Education indicates that the total population served by Liberty Hill Independent School District is 6,754. This clearly shows that people in the surrounding community are using the resources of Liberty Hill and that the population in Liberty Hill is larger than the 2000 census data. Liberty Hill is a growing community with a lot of new single family developments being built.

Having an existing public transportation system is not a prerequisite for developing tax credit housing in a community. The City of Liberty Hill does not currently have public transportation but there are several amenities within walking distance of the proposed project for residents who do not own vehicles. Further, based on other similar communities under management by THF, the vast majority of the residents will own automobiles.

I appreciate this opportunity to respond to the challenges/allegations presented to you by the LH Residents for Responsible Growth. The development of San Gabriel Crossing does have the continuing support of the Liberty Hill Mayor, City Council and community leaders, as you heard in testimony at the July 12<sup>th</sup> Board Meeting. Mark Mayfield and I would be happy to discuss this in greater detail should you and your staff have concerns.

Sincerely,



Diana McIver

Cc: Mark Mayfield, Texas Housing Foundation  
Honorable Connie Fuller, Mayor, City of Liberty Hill

**Part II: Credit Limit Certification**

Application Development Name: San Gabriel Crossing

Name and role of Person or Entity Completing this Form (must match Part I):

Name: DMA Development Company, LLC

- which is:
- the Applicant for a tax credit allocation.
  - an Affiliate of the Applicant.
  - a Developer for the Applicant for this specific Application.
  - a Related Party to the Applicant.
  - a Guarantor on the Application.

Address: 4101 Parkstone Heights Drive, Suite 310

City: Austin State: TX Zip: 78746

The Rules of the Texas Department of Housing and Community Affairs (the "Department") provide in Section 49.6(d) of the QAP that the Department shall not allocate more than \$2 million of tax credits from the 2007 Application Round to any Applicant (which includes Affiliates), Developer, Related Party, or Guarantor. The undersigned represents to the Department that the following is a list of all developments for which it is the Applicant, an Affiliate of the Applicant, the Developer, Related Party, or Guarantor, that has applied for an allocation of 2007 tax credit authority from the Department in the 2007 Application Round.

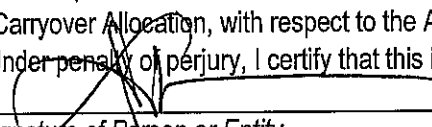
**If Rural Joint Venture:**

<u>Development Name:</u>	<u>City:</u>	<u>% Ownership:</u>	<u>% of Dev. Fee:</u>
<u>Wild Horse Commons</u>	<u>Kingsville</u>	<u>N/A</u>	<u>80%</u>
<u>Morningstar Villas</u>	<u>Texas City</u>	<u>N/A</u>	<u>N/A</u>
<u>Riverbend Trails</u>	<u>San Angelo</u>	<u>N/A</u>	<u>N/A</u>
<u>San Gabriel Crossing</u>	<u>Liberty Hill</u>	<u>N/A</u>	<u>N/A</u>
<u>The Bluestone</u>	<u>Mabank</u>	<u>N/A</u>	<u>50%</u>
<u>The Grove at Brushy Creek</u>	<u>Bowie</u>	<u>N/A</u>	<u>50%</u>

I hereby certify that the foregoing is a complete list of Developments with respect to which I have sought an allocation of 2007 tax credit authority from the Department. I certify that, if the Department issues a recommendation to the Board which may cause Applications for which I am the Applicant, an Affiliate of the Applicant, the Developer, Related Party, or Guarantor, to receive credits in excess of \$2 million, I agree to notify the Department immediately and within three business days provide the notification in writing by facsimile to the Department's HTC Program.

I acknowledge that if the Department determines that an Applicant, an Affiliate of the Applicant, the Developer, Related Party, or Guarantor, has received (in the aggregate) allocations in the 2007 Application Round from the Department exceeding \$2 million, the Department must refuse to issue a Commitment Notice or Carryover Allocation, or must terminate a Commitment Notice or Carryover Allocation, with respect to the Applications which exceed \$2 million.

Under penalty of perjury, I certify that this information, and these statements, are true, complete and accurate:

By:  7/13/07  
*Signature of Person or Entity* *Date*

Its: President

# Challenge

## *07227*

**CDHM GROUP, LLC**  
**2137 N. COURTENAY PKWY – SUITE 23**  
**MERRITT ISLAND, FLORIDA 32953**

April 16, 2007

TDHCA  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

RE: CHALLENGE OF 07227 CHAMPION HOMES - LA JOYA, TEXAS

This challenge is about the following areas of the application:

- 1) Loan as a contribution for the above referenced development. This loan is made by one of the owner / affiliates of the development. La Joya Housing Authority, whom they list as a political subdivision. It is my understanding that Housing Authorities can not be a political subdivision for the purpose of the contribution of funds for the 18 points. The housing authority owns the land and is taking a note for the \$1,000,000 for the land and will be paid back at the end of 30 years at an AFR interest rate. No where does this show in the proformas
- 2) These funds are used for other points in the application. Volume 4, Tab 21 Using the loan as leverage of Private, State and Federal Resources.
- 3) Using the construction loan as a Third- Party funding. Volume 4, Tab 22.
- 4) He did not check the box for the Demonstration of Community Support. The Housing Authority can not be a Quantifiable Community Participant.
- 5) The organization chart list La Joya Housing Authority as owner and developer and will received developer fees.
- 6) If there is a revitalization plan as described in the points taken in Volume 4, Tab 9 and they are not in a qualified census tract, and they marked the form Volume 4, Tab 18 as not applicable. This only proves that there is no City Revitalization Plan. There are no copies of the plan in either Tab.

- 7) Under the Total Development Summary – they have put the demolition under the Acquisition cost and not the construction cost. This would run his total for the Construction, Gen. Requirements, Profit & Overhead, and Contingency to \$4,883,595 and would be over the \$75 per net rental space for the development.

I would like to enter these challenges, as I feel they are not going by the rules.

Sincerely,  
CDHM GROUP, LLC



Donald Pace  
Sole Member



Applicant  
Response  
*07227*

**ODYSSEY RESIDENTIAL HOLDINGS, L.P.  
5420 LBJ FREEWAY, SUITE 1235  
TWO LINCOLN CENTRE  
DALLAS, TX 75240  
972-701-5551  
972-701-5562 FAX  
214-280-6308 or 214-608-7201 Cells**

Ms. Audrey Martin  
TDHCA  
221 E. 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78711

April 26, 2007

RE: Champion Homes at La Joya #07-227, Challenge Notice received April 19, 2007

Dear Audrey:

This response and supporting material, if any, is sent by e-mail today to your attention. In response to the challenge letter, please find our response as follows:

1. Contribution by the LPS for 18 points: The QAP has a specific provision for the funding by a housing authority with authority to act on behalf of the LPS. This was documented in our application and notice of administrative deficiency. The La Joya Housing Authority is an instrumentality of the State with authority to act in affordable and public housing matters on behalf of the City. The department agreed with this position in their review and awarded us those points in the review of our scoring criteria. I include items contained in my response to the notice of administrative deficiency by reference for inclusion in this response.
2. Volume 4 Tab 21: A portion of our commitment is capital grant funds from the housing authority which qualifies for this point. The funds are sourced from HUD and loaned to the partnership by the housing authority as allowed by the QAP.
3. Volume 4 Tab 22: We disagree that AIG is a commercial lender as defined in the QAP. These loans are not available to the general public this is not a for profit business endeavor of AIG outside support for affordable housing. Only tax credit affordable housing is eligible for this loan. As instructed we previously deleted this point from our self scoring sheet and understand staff does not intend to award this application that point.

Page Two

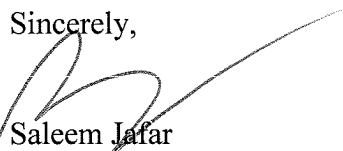
Champion Homes at La Joya #07-227 Challenge Response

April 26, 2007

4. QCP and DCS designations: The housing authority resident's council was asked to provide a letter for the QCP. If we do not get those points, we will not qualify for the DCS points and do not request those points. However, a qualified letter from the La Joya resident's council will count for the QCP points as specifically allowed by the QAP by commenting on a re-construction or re-habilitation on the identical site for the identical number of units which are occupied by those residents at the time of the application. This application covers 100% of their housing stock.
5. This is a statement and not a challenge.
6. Volume 4 Tab 9: The documentation for support for the plan was submitted with the application and the response to the notice of administrative deficiency which are included in this response by reference. The material meets the required elements for these points. There is a plan, the plan includes affordable housing of this kind and the development is located in the designated geographic area identified in the resolution establishing the revitalization zone. A separate letter from the City confirming our location in the identified zone is included in the application. We have an acknowledgement of staff on our compliance with this point category pursuant to the deficiency notice process.
7. Under total Development Summary: We have properly categorized the demolition costs in this section of the cost schedule. The Seller, the PHA, is responsible for the demolition work. We are to reimburse them for this cost as part of the site acquisition cost. We broke it out for the purpose of clarity on just this issue. If the schedule is deemed to be in-correct by the Department, which has already reviewed the application for points and threshold, we are entitled to a notice of deficiency and the right to make any corrections. We would exercise our rights to correct the deficiency as allowed in the QAP. We agreed to be below the cost cap and intend to adhere to that certification.

Because Mr. Fisher and I are both traveling, you are hereby requested to advise us of any follow up requirements by fax to our office and a notification phone call to our cell numbers. Mr. Fisher's cell number is 214-608-7201 and my cell number is 214-280-6308. If you need additional information please do not hesitate to contact us.

Sincerely,



Saleem Jafar  
President of the GP

# Challenge

## 07228

**CDHM GROUP, LLC**  
**2137 N. COURTENAY PKWY – SUITE 23**  
**MERRITT ISLAND, FLORIDA 32953**

April 16, 2007

TDHCA  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

RE. CHALLENGE OF 07228 LAS PALMAS HOMES, LOS FESNOS, TEXAS


This challenge is about the following areas of the application:

- 1) Loan as a contribution for the above referenced development. This loan is made by one of the owner / affiliates of the development. Cameron Co. Housing Authority, whom they list as a political subdivision. It is my understanding that Housing Authorities can not be a political subdivision for the purpose of the contribution of funds for the 18 points. The housing authority owns the land and is taking a note for the \$1,650,000 for the land and will be paid back at the end of 30 years at an AFR interest rate. No where does this show in the proformas.
- 2) These funds are used for other points in the application. Volume 4, Tab 21 Using the loan as leverage of Private, State and Federal Resources.
- 3) Using the construction loan as a Third- Party funding. Volume 4, Tab 22.
- 4) He did not check the box for the Demonstration of Community Support. The Housing Authority can not be a Quantifiable Community Participant.
- 5) The organization chart list Cameron County Housing Authority as owner and developer and will received developer fees.
- 6) If there is a revitalization plan as described in the points taken in Volume 4, Tab 9 and they are not in a qualified census tract, and they marked the form Volume 4, Tab 18 as not applicable. This only proves that there is no City Revitalization Plan. There are no copies of the plan in either Tab.

7) They have changed their unit mix from the pre-application to the final application. They had 132 units in the pre-application and the final application has 75 units and he check the box that no changes were made between the pre-application and the final application. Vol 1, Taab 8

I would like to enter these challenges, as I feel they are not going by the rules.

Sincerely,  
CDHM GROUP, LLC

A handwritten signature in cursive script, appearing to read "Donald Pace", written over the typed name.

Donald Pace  
Sole Member

Applicant  
Response  
07228

**ODYSSEY RESIDENTIAL HOLDINGS, L.P.**  
**5420 LBJ FREEWAY, SUITE 1235**  
**TWO LINCOLN CENTRE**  
**DALLAS, TX 75240**  
**972-701-5551**  
**972-701-5562 FAX**  
**214-280-6308 or 214-608-7201 Cells**

Ms. Audrey Martin  
TDHCA  
221 E. 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78711

April 26, 2007

RE: Las Palmas Homes #07-228, Challenge Notice received April 19, 2007

Dear Audrey:

This response and supporting material, if any, is sent by e-mail today to your attention. In response to the challenge letter, please find our response as follows:

1. Contribution by the LPS for 18 points: The QAP has a specific provision for the funding by a housing authority with authority to act on behalf of the LPS. This was documented in our application and notice of administrative deficiency. The Cameron County Housing Authority is an instrumentality of the State with authority to act in affordable and public housing matters on behalf of the County. The department agreed with this position in their review and awarded us those points in the review of our scoring criteria. I include items contained in my response to the notice of administrative deficiency by reference for inclusion in this response.
2. Volume 4 Tab 21: A portion of our commitment is capital grant funds from the housing authority which qualifies for this point. The funds are sourced from HUD and loaned to the partnership by the housing authority as allowed by the QAP.
3. Volume 4 Tab 22: We disagree that AIG is a commercial lender as defined in the QAP. These loans are not available to the general public this is not a for profit business endeavor of AIG outside support for affordable housing. Only tax credit affordable housing is eligible for this loan. As instructed we previously deleted this point from our self scoring sheet and understand staff does not intend to award this application that point.

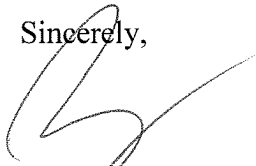


4. QCP and DCS designations: The housing authority resident's council was asked to provide a letter for the QCP. If we do not get those points, we will not qualify for the DCS points and do not request those points. However, a qualified letter from the Las Palmas resident's council will count for the QCP points as specifically allowed by the QAP by commenting on a re-construction on the identical site for the identical number of units which are occupied by those residents at the time of the application.
5. This is a statement and not a challenge.
6. Volume 4 Tab 9: The documentation for support for the plan was submitted with the application and the response to the notice of administrative deficiency which are included in this response by reference. The material meets the required elements for these points. There is a plan, the plan includes affordable housing of this kind and the development is located in the designated geographic area identified in the resolution establishing the revitalization zone. A separate letter from the County confirming our location in the identified zone is included in the application. We have an acknowledgement of staff on our compliance with this point category pursuant to the deficiency notice process.
7. Volume 1 Tab 8: We are allowed to correct the number of units to 75 as allowed by the QAP. Our notification originally included only the 75 units. The correction from the pre application was the unit count on the application form. Nothing in the QAP takes these points away for this issue because the notification at the time of pre application was correct as certified in the final application.

Because Mr. Fisher and I are both traveling, you are hereby requested to advise us of any follow up requirements by fax to our office and a notification phone call to our cell numbers. Mr. Fisher's cell number is 214-608-7201 and my cell number is 214-280-6308. Your help in this matter is appreciated.

If you need additional information please do not hesitate to contact us.

Sincerely,



Saleem Jafar  
President of the GP

# Challenge

## 07249



**Round Rock Housing Authority**

P.O. Box 781

Round Rock, Texas 78680-0781

May 25, 2007

Ms. Robbye Meyer  
Director, Multifamily Finance  
Texas Department of Housing and Community Affairs  
221 East 11th  
Austin, Texas 78701

Re: Challenge to Neighborhood Letter for TDHCA File # 07249, Bluffs Landing Senior Village in Round Rock, Texas and its eligibility for Quantifiable Community Participation

Dear Ms. Meyer:

Please accept this letter as a formal challenge to the validity of the neighborhood organization letter from RR Vista Neighborhood Association (hereinafter the Association) for Bluffs Landing Senior Village, TDHCA #07249 and the Association's eligibility for Quantifiable Community Participation. I understand that the applicant received a full score of 24 points for this letter. In looking at the letter itself and the documentation submitted with the letter, there are a number of questionable points that I would like to challenge.

- Formation of the RR Vista Neighborhood Association was on 11/29/06, just one day prior to TDHCA's deadline for formation on 12/1/06. Obviously, this organization was created for the sole purpose of acquiring points for the Tax Credit Application. It is rather apparent that the applicant/developer assisted in organizing this neighborhood association for the sole purpose of deriving benefit for the proposed development.
- Neither the Chairman of the Association's Board (Kevin Hunter) nor the additional contact (Rachel Knox) appear to live within the stated neighborhood boundaries. In fact, they appear to live in Austin (per the addresses stated in the letter) and work for the same company, HTH Capital, a real estate finance and development company based out of Austin.
- The letter does not list any other officers or members of the neighborhood organization. No one is mentioned in the documentation that actually lives within the stated neighborhood boundaries and they do not appear to have an interest in the community or a stake in the Association's purported goals.
- The Association's bylaws in article II, grant it the power of "taxation," which is arguably incompatible with the Association's non-profit formation pursuant to IRC 501(c)(3).
- The Association's bylaws in article V(1)(iii), leaves Association membership open to those with "having an economic interest in property within the area defined in Article IV."

---

Section 8 Office  
1505 Lance  
Phone: (512) 255-6267  
Fax: (512) 255-3943

Public Housing Office  
1505 Lance Lane  
Phone: (512) 255-3702  
Fax: (512) 255-3943

- The boundaries of the Association (per Exhibit A in the neighborhood documentation submitted and attached) are inconsistent with industry standards for development, to say the least. I have also enclosed an aerial with the stated neighborhood boundaries superimposed and items marked 1 - 6
  - Items 1 and 2 – the boundaries bisect multiple buildings and parking lots, making enforcement of Association rules impossible and highly susceptible to disparate treatment of area residents.
  - Item 3 – the boundaries actually include a small number of homes (approximately 12) in another neighborhood that is arguably already subject to a competing owner's association.
  - Item 4 – the boundaries bisect an existing apartment complex, again, making enforcement of Association rules impossible and highly susceptible to disparate treatment of area residents and potentially encroaching on individual property owners' rights.
  - Item 5 – the vast majority of the said neighborhood organization is vacant land with a number of scattered homes.
  - Item 6 – the boundaries include all four (4) quadrants of a major city intersection (Old Settlers Way and FM 1460).
- The City of Round Rock maintains a list of over 50 neighborhood associations and contacts in Round Rock. RR Vista Neighborhood Association is not included in this list.

In summary, it is obvious that the RR Vista Neighborhood Association has been contrived only for application points. The packet contains no information regarding the Board or member composition. Furthermore, no one listed in the letter lives in the stated boundaries of the Association, and the boundaries make no logical sense. Lastly, the City of Round Rock, which maintains a very large list of neighborhood organizations, has never heard of RR Vista Neighborhood Association. Based upon this information, I strongly suggest that the RR Vista Neighborhood Association letter should be rejected and that the points for Bluffs Landing Senior Village, TDHCA #07249 be disallowed.

Sincerely,



Ebby Green

Executive Director, Round Rock Housing Authority

cc: Multifamily Director

Attn: Neighborhood Input

Texas Department of housing and Community Affairs

P.O. Box 13941 (MC332-10)

Austin, TX 77871-3941

07249

*RR Vista Neighborhood Association*  
*PO Box 161415*  
*Austin, Texas 78716*

Date: February 25, 2007

Multifamily Director  
Attn: Neighborhood Input  
Texas Department of Housing and Community Affairs  
P.O. Box 13941 (MC 332-10)  
Austin, TX 78711-3941

RE: Quantifiable Community Participation  
Development #: TDHCA # 07249  
Development: Bluffs Landing Senior Village  
Development Location: Round Rock, Texas

RR Vista Neighborhood Association, Inc. (the Organization), is located north and east of downtown Round Rock in Williamson, County Texas. The RR Vista Neighborhood Association is a qualified Neighborhood Organization that was formed and filed with the Secretary of State prior to December 1, 2006. As Chairman of the Board of the RR Vista Neighborhood Association I am writing to express support for the proposed development to be located on 8 acres at 2200 Old Settlers Blvd.

Mr. Denison, project developer of the Bluffs Landing Senior Village, has presented in detail the proposed development and further described the affordable senior housing project including the proposed site plan, construction materials, landscaping, amenities and potential types of occupants.

The entire proposed development, Bluffs Landing Senior Village, is included within the boundaries of the RR Vista Neighborhood Association. The proposed project is located on eight acres of currently undeveloped land within the northwest quadrant of the Organization. This organization acknowledges that annexations effective after December 1, 2006 are not considered eligible. Attached is a copy of the RR Vista Neighborhood Association filed legal formation documents, bylaws, exhibits, maps and Secretary of State Certificate of Good Standing. Also attached is a map of the organization area and the location of the 8 acre tract.

RR Vista Neighborhood Association's goal is to increase and facilitate communication among the residences, business owners and property owners in the organization's boundaries in order to maintain a high quality of life and ensure compatible development of the rural land within the area and the redevelopment of existing property. The organization is not a broader based community organization, resident council, charity or development corporation, and its members include respective property owners (residents, business owners, etc) and their representatives, who have elected a set of board members to assist in their representation.

This organization certifies that it was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2007 Housing Tax Credit application round; the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; the Applicant, Developer, employee or agent of any Applicant has not provided assistance, other than describing the proposed development and other related information sharing to the neighborhood organization for any application in the Application Round (ie hosting a public meeting, providing the TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to the TDHCA staff of guidance are acceptable forms of assistance); and that the Applicant, Developer or any employee or agent of any Applicant has not provided any "production" assistance .

The organization supports the proposed Bluffs Landing Senior Village for the following reasons:

1. **Need:** There is a substantial need for affordable senior living in Round Rock. As a community undergoing rapid growth and facing ever increasing rises in the cost of living, Round Rock and in particular our immediate area would greatly benefit from additional affordable living opportunities for seniors.
2. **Quality Development:** The Developer, Colby Denison, has shown us he is an experienced affordable housing developer who builds a quality project, for example his project in Seguin and Georgetown. We believe his quality development will comply with regulations and goals of the TDHCA and those of our association.
3. **Project Design and Amenities:** In reviewing the proposal, the Board believes the project is providing both design and amenities that individuals would find desirable and which would provide opportunities for a high quality of life for senior residents. The planned project includes a masonry exterior, landscaped maintained grounds, a furnished community building with activity room, fitness center and business center.
4. **Long Term Goal:** The Bluffs Landing Senior Village and its community goals would compliment the neighborhood and Round Rock as a whole. Mr. Denison has been informative and has taken the time to describe the project in detail.

We lend our support to the development of the affordable senior housing development as outlined by Mr. Denison on the undeveloped eight acre parcel. If you have any questions contact me.

As the signer of this letter, I certify that I have the authority to sign on behalf of the neighborhood organization. I am providing the following required information:

Kevin Hunter  
3304 Meredith  
Austin, Texas 78703  
Ph. 512.751.3944  
Fax 512.327.5113  
Email: [Khuntercpa@aol.com](mailto:Khuntercpa@aol.com)

I am also providing the following information for one additional contact, Rachel Knox, for the organization.

1016 Mopac Circle Ste. 109  
Austin, Texas 78746  
Ph. 512.656.7503  
Email: [RA\\_Knox@yahoo.com](mailto:RA_Knox@yahoo.com)

Respectfully,



Kevin Hunter  
Chairman of the Board

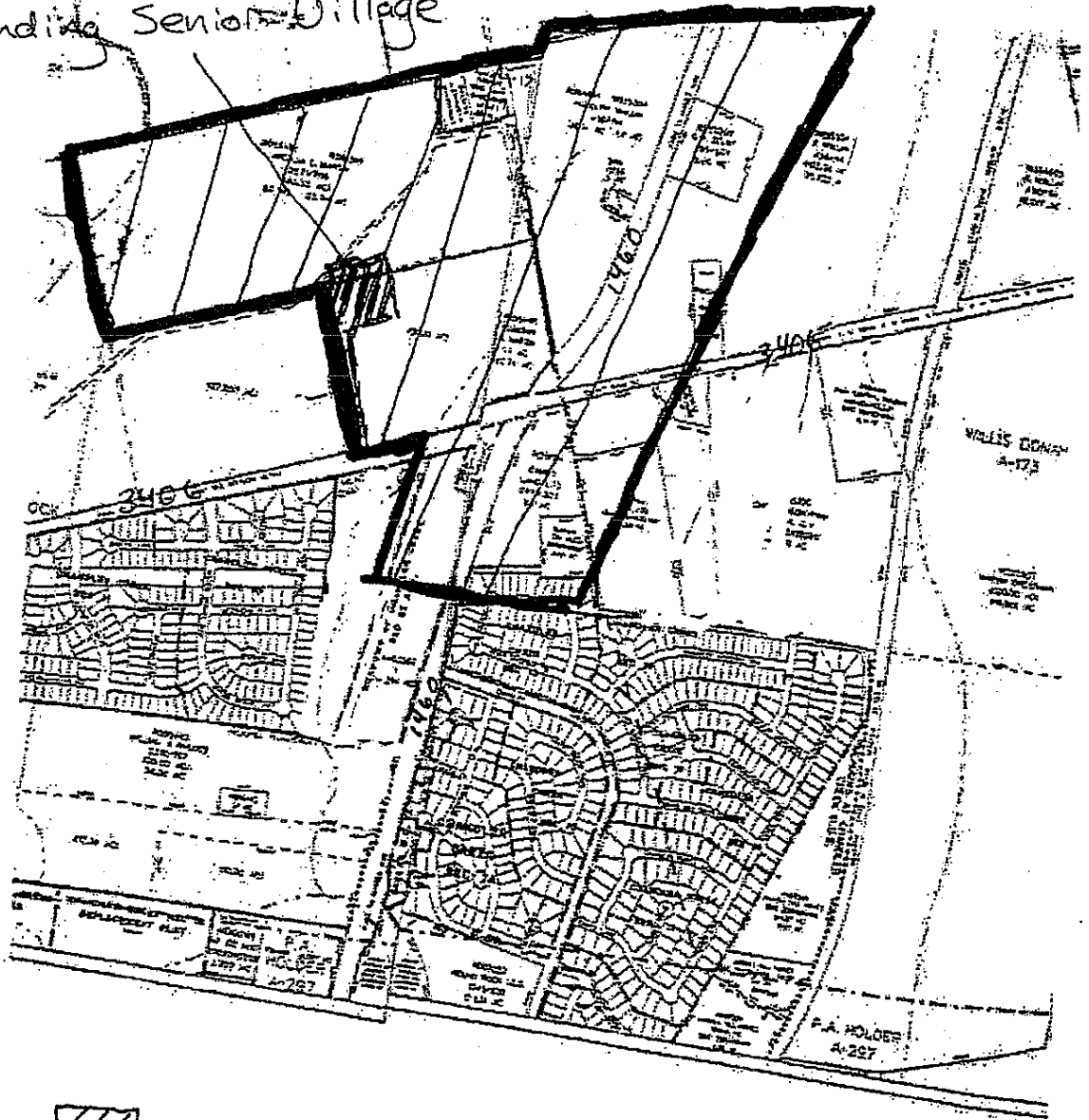
Attachments:

1. Map showing the location of the project and the Neighborhood Association.
2. Documentation verifying the RR Vista Neighborhood Association, Inc. was on record, effective prior to December 1, 2006 with the Secretary of State and the entity is in good standing.
3. Certificate of Formation, Bylaws, Exhibits other formation documents

Exhibit A

RR VISTA NEIGHBORHOOD ORGANIZATION BOUNDARY

Proposed Bluffs  
Landing Senior Village



RR Vista Neighborhood Association





**Office of the Secretary of State**

**CERTIFICATE OF FILING  
OF**

RR Vista Neighborhood Association, Inc.  
File Number: 800739401

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 11/29/2006

Effective: 11/29/2006



A handwritten signature in black ink that reads "Roger Williams".

Roger Williams  
Secretary of State



## TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

SUSAN COMBS · COMPTROLLER · AUSTIN, TEXAS 78774

February 27, 2007

### CERTIFICATE OF ACCOUNT STATUS

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I, Susan Combs, Comptroller of Public Accounts of the State of Texas, DO  
HEREBY CERTIFY that according to the records of this office

**RR VISTA NEIGHBORHOOD ASSOCIATION INC**

is, as of this date, in good standing with this office having no franchise  
tax reports or payments due at this time. This certificate is valid through  
the date that the next franchise tax report will be due February 26, 2008.

This certificate does not make a representation as to the status of the  
corporation's Certificate of Authority, if any, with the Texas Secretary of  
State.

This certificate is valid for the purpose of conversion when the converted  
entity is subject to franchise tax as required by law. This certificate is  
not valid for the purpose of dissolution, merger, or withdrawal.

GIVEN UNDER MY HAND AND  
SEAL OF OFFICE in the City of  
Austin, this 27th day of  
February 2007 A.D.

A handwritten signature in cursive script that reads "Susan Combs".

Susan Combs  
Texas Comptroller

Taxpayer number: 32023059754

File number: 0800739401

Form 05-304 (Rev. 02-03/14)



## Corporation Search Results

## Franchise Tax Certification of Account Status

**This Certification Not Sufficient for Filings with Secretary of State**

Do **not** include a certification from this Web site as part of a filing with the Secretary of State for dissolution, merger, withdrawal, or conversion. The Secretary of State will reject a filing that uses the certification from this site.

To obtain a certificate that is sufficient for dissolution, merger, or conversion, see Publication 98-336d, [Requirements to Dissolve, Merge or Convert a Texas Entity](#).

## Certification of Account Status

## Officers And Directors Information

Company Information:

**RR VISTA NEIGHBORHOOD  
ASSOCIATION INC**  
1016 MO PAC CIR STE 102  
AUSTIN, TX 78746-6810

Status:

**IN GOOD STANDING NOT FOR  
DISSOLUTION OR WITHDRAWAL  
through February 26, 2008**

Registered Agent:

KEVIN HUNTER  
1016 MOPAC CIRCLE SUITE 102  
AUSTIN, TX 78746

Registered Agent Resignation Date:

State of Incorporation:

TX

File Number:

0800739401

Charter/COA Date:

November 29, 2006

Charter/COA Type:

Charter

Taxpayer Number:

32023059754

Susan Combs  
Texas Comptroller of Public Accounts

[Window on State Government](#)  
[Contact Us](#)  
[Privacy and Security Policy](#)

Form 202

Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
X: 512/463-5709



Filed in the Office of the  
Secretary of State of Texas  
Filing #: 800739401 11/29/2006  
Document #: 152625080002  
Image Generated Electronically  
for Web Filing

Filing Fee: \$25

**Certificate of Formation  
Nonprofit Corporation**

**Article 1 - Corporate Name**

The filing entity formed is a nonprofit corporation. The name of the entity is :

**RR Vista Neighborhood Association, Inc.**

The name must not be the same as, deceptively similar to that of an existing corporate, limited liability company, or limited partnership name on file with the secretary of state. A preliminary check for the "name availability" is recommended.

**Article 2 - Registered Agent and Registered Office**

A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

**Kevin Hunter**

C. The business address of the registered agent and the registered office address is:

Street Address:

**1016 Mopac Circle  
Suite 102 Austin TX 78746**

**Article 3 - Management (Complete items A or B)**

A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

OR

B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

**Article 4 - Organization Structure  
(You must select either A or B below)**

A. The corporation will have members.

B. The corporation will not have members.

**Article 5 - Purpose**

The corporation is organized for the following purpose or purposes:

**To improve the quality of residential life of the members of the Association in Round Rock**

**Supplemental Provisions / Information**

[The attached addendum, if any, is incorporated herein by reference.]

**Effectiveness of Filing**

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its

signing. The delayed effective date is:

**Organizer**

The name and address of the organizer are set forth below.

**Kevin Hunter      1016 Mopac Circle, Suite 102, Austin, Texas 78746**

**Execution**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

**Kevin Hunter**

Signature of organizer.

FILING OFFICE COPY

## BY-LAWS

### **RR Vista Neighborhood Association, Inc. A Texas Non-Profit Corporation**

#### I. NAME

The name of this non-profit, non-partisan organization shall be the RR Vista Neighborhood Association, Inc., hereinafter referred to as the Association.

#### II. PURPOSE

The purpose of the Association is to maintain and improve the quality of residential life in Round Rock, Texas, within the boundaries of the Association. Areas of its concern include, but are not limited to: zoning and land use, public services, including streets, drainage, water and sewage lines, traffic, and neighborhood and family health and safety; taxation, property maintenance, restoration, and improvement.

#### III. GOALS

The goals of the Association are:

1. to keep informed of actions proposed by governmental units or by private individuals or groups which might affect the quality of residential life in the area.
2. to share that information with residents of the area.
3. to provide a forum for the discussion of community problems and issues.
4. to promote and defend the interests of the area and its residents through appropriate action directed to governmental bodies and to private groups and individuals.
5. to cooperate with other neighborhood associations in the promotion of shared or overlapping interests.

#### IV. GEOGRAPHIC SCOPE

The area of this Association's primary concern shall include such neighborhoods and properties located in three legal tracts of property and additional property bounded as follows: Legal tract number one shall be AW0267 Glasscock, G.W. Sur., consisting of 1.0 acres. Legal tract number two shall be AW0267 - Glasscok, G.W. Sur., consisting of 4.83 acres. Legal tract number three shall be AW0267 Glasscock, G.W. Sur., MH Serial #0555187G, Title # 163329, Label # DLSS004605B, consisting of 62.734 acres. Legal tracts one, two and three shall be known collectively as "A.E. Martin Property". From the northern most point of the A.E. Martin Property,

the northern border shall run parallel to Old Settler's Boulevard to 1460 and continue 750 feet due east of FM 1460. The eastern border shall run north and south and shall be 750 feet due east and parallel of FM 1460. In addition, the southern most boundary shall be located 1000 feet south of Old Settler's Boulevard on FM 1460 and run due east from such point on FM 1460 to the eastern boundary line and due west 500 feet from FM 1460 from which point the boundary shall turn north and travel parallel to FM 1460 until such time as the boundary intersects Old Settler's Boulevard. A map of the Association's primary concern is hereby attached as Exhibit "A"

#### V. MEMBERSHIP

1. Membership in the Association is open to all adult individuals:
  - i. Living within the area defined in Article IV or
  - ii. Owning property within the area defined in Article IV, or
  - iii. Having an economic interest in property within the area defined in Article IV.
2. The privilege of holding office, introducing motions, and voting shall be limited to active members of the Association.
3. Members who are unable to attend may vote on agenda items by written proxy.
4. The Association's membership list shall not be sold or otherwise released.

#### VI. MEMBERSHIP MEETINGS

1. An annual meeting of members shall be held in February to hear reports, to elect members to the Board, and to collect dues.
2. Special meetings of members may be called by the Board, or by 3 active members, to transmit information, discuss issues, vote on resolutions proposed by the Board, or other appropriate purposes.

#### VII. BOARD AND OFFICER(S)

1. The Board is empowered to conduct all affairs of the Association, including election of (an) officer(s) from its membership, except those reserved to members in Article VI.
2. The Board shall be composed of 3 active members of the Association elected by the members to three-year staggered terms. Directors are eligible for re-election to a second term only, but may be re-elected as a Director after one year off the Board.
3. The Board shall meet within two weeks after the Annual Meeting at the call of the outgoing Chair (or other member selected by the Annual Meeting), who shall preside until a new chair is elected. Vacancies in an office or on the Board may be filled by the Board to serve until the next annual meeting.

4. The officer(s) shall consist of a Chair and such other officers as the Board may determine. They shall be selected for a one-year term, and take office immediately upon selection.
5. Meetings of the Board may be called as needed by the Chair or by two Board members.
6. The affirmative votes of two Board members are required for any official action. The Chair may vote only to break a tie, and must do so.
7. The Board shall have the power to recruit and name such persons as are necessary to carry out the goals of the Association and policies of the Board.

#### VIII. DUES

1. The fiscal and organizational year of the Association shall run from January 1 through December 31.
2. Annual dues will be determined by the Board and will be payable at the beginning of the Association year.
3. The Board may waive dues of eligible persons wishing to work in the Association, when payment is judged by the Board to be an undue hardship.

#### IX. AMENDMENTS

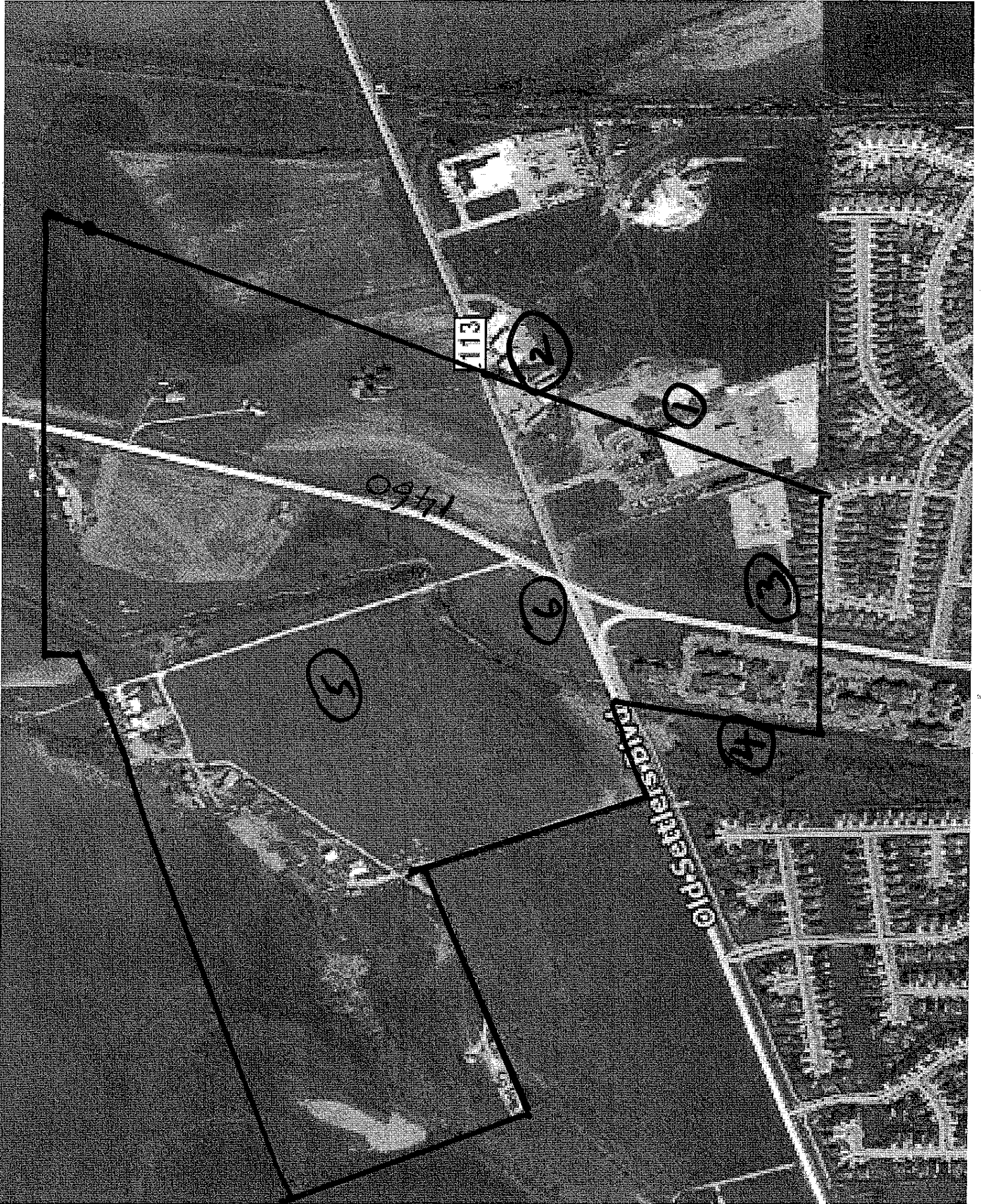
These by-laws may be amended by a majority vote of members in attendance at any meeting of members, provided proposed changes were sent to all active members with the notification of the meeting.

#### X. DISSOLUTION

Upon dissolution of the Association, no member or other person shall receive any assets of the Association. Such assets are permanently dedicated to a tax-exempt purpose. After all debts are paid, remaining assets shall be distributed to an organization which is tax-exempt under provisions of Section 501 (c) (3) of the Internal Revenue Code.

These Bylaws shall be effective as of November 30, 2006





Applicant  
Response  
07249

# LOCKE LIDDELL & SAPP LLP

ATTORNEYS & COUNSELORS

100 CONGRESS AVENUE  
SUITE 300  
AUSTIN, TEXAS 78701-4042

AUSTIN ■ DALLAS ■ HOUSTON ■ NEW ORLEANS ■ WASHINGTON D.C.

Phone: (512) 305-4700  
Fax: (512) 305-4800  
www.lockeliddell.com

Direct Number: (512) 305-4707  
E-mail: cbast@lockeliddell.com

June 7, 2007

**VIA HAND-DELIVERY**

Ms. Audrey Martin  
Texas Department of Housing  
and Community Affairs  
221 West 11<sup>th</sup> Street  
Austin, TX 78701

Re: Bluffs Landing Senior Village (Round Rock)  
TDHCA No.: 07249

Dear Audrey:

We represent the applicant for tax credits for the above-referenced project. The applicant received a letter of support from RR Vista Neighborhood Association and received 24 points on its application for quantifiable community participation. The Round Rock Housing Authority (the "Housing Authority") has challenged the award of points for that letter, and this correspondence presents a response to the challenge.

The applicant believes the points were correctly awarded and that the challenge presents no legitimate reasons to disqualify the support letter.

Specifically, the applicant notes the following:

- The Housing Authority argues that, because the neighborhood organization was formed immediately prior to the TDHCA deadline, the applicant must have assisted with the organization of the entity. This is incorrect. When negotiating for acquisition of the property, the applicant contacted neighboring landowners to inquire about the existence of a neighborhood organization. He was told that none existed but that the surrounding community had long desired to form a neighborhood organization. The 1460/3406 corridor in Round Rock is targeted for growth. Current residential owners in the area have large tracts of land, much like a rural area. As the community grows, the neighbors and landowners with commercial tracts can influence the growth by joining together in a neighborhood organization. Thus, RR Vista Neighborhood Association used the pending tax credit application as an impetus to pursue a previously held goal. The applicant gave the property owners the TDHCA requirements for quantifiable community participation, and the neighborhood organization hired attorney Blake Rue to assist with the documentation and support letter.

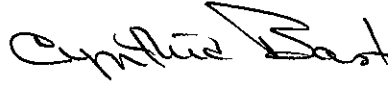
- The Housing Authority complains that the officers of the neighborhood organization do not live within the organization's boundaries. The organization includes as its members individual homeowners and property owners of residential and commercial tracts. Those members elected officers in accordance with the organization's bylaws. Nothing in the TDHCA rules requires the officers to live within the boundaries of the neighborhood organization.
- The Housing Authority challenges that the neighborhood organization's letter does not include a list of members. The organization's bylaws, included with the support letter, describe the members. No list of members is required by TDHCA rules.
- The Housing Authority alleges that RR Vista Neighborhood Association has the power of taxation, which is inconsistent with its statutes as a 501(c)(3) tax-exempt organization. Pursuant to its bylaws, the neighborhood organization does not have the power of taxation. Rather, the bylaws list taxation as one of the areas of concern to the neighbors that the organization is authorized to address. Moreover, the bylaws of the organization do not state that it will be a 501(c)(3) tax-exempt entity. Rather, they say that the assets of the organization will be distributed to a 501(c)(3) organization upon the neighborhood association's dissolution.
- The Housing Authority questions the inclusion of persons with an "economic interest" in the area as members of the organization. Nothing in the TDHCA rules require a neighborhood organization to be composed exclusively of homeowners. Thus, property owners with an economic investment in the area are legitimate members of the Association.
- The Housing Authority questions the logic by which the neighborhood organization's boundaries were established. Again, the organization created its own boundaries, in consultation with its attorney. The applicant does not know why the organization chose certain boundaries, but the organization is clearly entitled to do so.
- Finally, the Housing Authority questions the fact that the organization is not listed on a database maintained by the City of Round Rock. As a somewhat new entity, RR Vista Neighborhood Association may not have been incorporated to this list yet. Nothing in the TDHCA rules requires the organization to be on a City list.

When advised of the challenge, the neighborhood organization offered to write a letter to more clearly state its history and composition. A copy of that letter is enclosed. We trust this package provides a sufficient response to the Housing Authority's challenges and that the applicant will continue to qualify for quantifiable community participation points by virtue of the RR Vista Neighborhood Association support letter.

Ms. Audrey Martin  
June 7, 2007  
Page 3

If you need additional information, please feel free to contact me.

Sincerely,

  
Cynthia L. Bast  
(Saf)

CLB:saf

Enclosure

cc: Colby Denison

## *RR Vista Neighborhood Association*

*1016 Mopac Circle, Ste. 102*

*Austin, Texas 78746*

June 1, 2007

Audrey Martin  
TDHCA  
HTC Program Administrator  
475-3872 / 475-0764 FAX  
[audrey.martin@tdhca.state.tx.us](mailto:audrey.martin@tdhca.state.tx.us)  
RE: Bluffs Landing Senior Village (TDHCA #07249) QCP Support Letter Challenge

Dear Ms Martin,

In response to the challenge by the Round Rock Housing Authority, we offer the following response. RR Vista Neighborhood Association was formed for the purposes described in its bylaws as stated below:

"to maintain and improve the quality of residential life in Round Rock, Texas, within the boundaries of the Association. Areas of concern include, but are not limited to: zoning and land use, public services, including streets, drainage, water and sewer lines, traffic and neighborhood and family health and safety; taxation, property maintenance, restoration, and improvement."

As permitted under Section V of our Bylaws, Rachael Knox and I are permitted to be members of the Association because we have an economic interest in properties within the stated boundaries of the Association as defined by Section IV of the Bylaws. Mr. Trotter, the third Board member, is a part owner of two properties within the Association boundaries. Mr. Trotter has been a part owner of the properties for the last 15 plus years. The board members do not live within the boundaries of the Association. Section VII of the Bylaws dictate that the board of directors are to be elected by the members. The election of the board of directors was held at a meeting of the Association by the Members; again pursuant to the bylaws. Votes were cast by proxy and in person by members living inside and outside the neighborhood. Notice of the Association meeting was provided in the newspaper and in postings in the neighborhood and the Round Rock public library. Mr. Blake Rue, legal counsel for the Association, attended the meeting and is responsible for all required filings, procedures and other legal requirements to be adhered to by the Association.

The Bluffs Landing senior housing project was presented during the membership meeting and approved by the Board. As stated earlier, public notice of the meeting was given to the general public and hence stakeholders within the Association boundaries in the form of a newspaper postings and flyers. Membership is open to property owners (residential and commercial), economic interest holders, such as people who rent, manage property and people who live within the boundaries of the Association.

Article II of our Bylaws states that the Association lists taxation as an "area of concern," and is meant to be an example of local issues upon which the Association would form opinions. The Association has no power of taxation nor any ability to tax as claimed in the challenge.

Our geographic boundaries include people owning homes, renting apartments, rural land, agricultural land, businesses and commercial property. Our Association is in an area of transition where farmland and rural life is being transformed and developed into a more urban character. Our Association has a real interest in how this transition occurs (in particular the areas around the intersection of Old Settlers Blvd. and 1460) as it affects the quality of life within the boundaries, property values, lifestyle, safety and traffic. The rural character of the area also explains the small number of homes as most homeowners own large tracts of land. The eight acre tract on which the Bluffs Landing is to be developed is a portion of a 63 acre property (which if converted into a subdivision would include approximately 250 homes). Ms. Martin and her family have lived and farmed/ranched on this 63 acre property for years. Ms. Martin who is in support of the project will continue to live within the neighborhood which is a further testament to the support of the project. Furthermore, all future individuals eligible to become a member of the Association will be encouraged to join.

The Developer did not assist us in creating the Association. The Developer described the Bluffs Landing project and informed me that neighborhood support is very important in the review and approval of affordable housing development funded by the Texas Department of Housing and provided the Association's legal counsel with a link to your website. *Because we wanted to facilitate this type of development in our area (in specific a senior housing facility such as Bluff Landing) and because we have wanted a voice to impact the changes occurring in our area, we decided to make our neighborhood an official organization.* The Association was made official by filing documents with the Secretary of State in the fall of 2006, we look forward to growing the initial membership base and receiving more input from current stakeholders and future stakeholders who will live, work and have an economic interest in the growing area.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Hunter", with a stylized flourish extending to the right.

Kevin Hunter

# Challenge

## 07257



# Nacogdoches Housing Authority

715 Summit

Nacogdoches, Texas 75961

City and County Section 8  
Housing Choice Voucher Program  
936 569-1131



Sandy Oaks & Park Crest  
Public Housing Communities  
936 569-1131

Audrey Martin  
Competitive HTC Program Administrator  
TDHCA  
P.O. Box 13941  
Austin, Texas 78711-3941

June 1, 2007

Regarding: Penalties for TDHCA Number 07257, Orange Palm Garden Apartment Homes

Dear Ms Martin,

While researching the deficiency notice concerning our city resolution on Tower Village application 07123, I reviewed the TDHCA imaged file of 2006 application 060132 and came across the enclosed letter from Live Oak Environmental Consultants that made me believe that Marc Caldwell was a person affiliated with that project. I knew that Lankford Interests were building that project and failed to meet some deadline last year that had to be appealed to the TDHCA Board. I looked at Marc Caldwell's 2007 application 07257 and saw that all the Lankford Interests participants for construction, management and social services were the same as in the 060132 application. So I looked up Lankford Interests on the internet and found the enclosed Development Team at <http://www.lankfordinterests.com/index.swf> . I've been told that applicants who have had to appeal to the TDHCA Board in the previous year may be subject to penalty in the next year application cycle. I believe Marc Caldwell should be subject to those penalties as an affiliate of Lankford Interests and having been involved in the 060132 project.

Sincerely,

NACOGDOCHES HOUSING AUTHORITY  
Robert Crow  
Executive Director



## Live Oak Environmental Consultants

2714 CYPRESS POINT - MISSOURI CITY, TEXAS 77459 • (281) 499-6709 • FAX (281) 261-0452

February 14, 2006

Mr. Marc Caldwell  
Nacogdoches Vista Pines Apartment Homes, LP  
4900 Woodway, Suite 750  
Houston, Texas 77056

Re: Phase I Site Assessment Proposal  
Undeveloped Property-Proposed Site of the Nacogdoches Vista Pines Apartment Homes  
Nacogdoches, Texas 75961

Dear Mr. Caldwell:

Live Oak Environmental Consultants is pleased to offer the following Phase I Site Assessment Proposal for the referenced site. The Phase I Assessment consists of the generation of a report which includes the following:

### Site Inspection

- Site, Area, and Grounds Descriptions
- Description of any hazardous materials observed, including Hydrocarbons, PCB's, Chemicals, suspect lead-based paint, and suspect Asbestos containing materials
- Site Photographs
- Interviews of Knowledgeable Persons

### Prior Uses of Property

- Environmental Chain of Title (Optional)
- Coles Directory/City Directory Research (as available)
- Sanborn Fire Insurance Maps (as appropriate/available)
- Review and Reproduction of Historical Aerial Photographs

### Public Records

- Area Topography, Hydrology, and Geology Research
- Texas Commission on Environmental Quality (TCEQ/TNRCC) Database Search including Brownfields and VCP
- Oil and Gas Well Research and Review
- RCRA-Resource Conservation and Recovery Act Database Search
- LPST-Leaking Petroleum Storage Tanks Database Search
- UST-Underground Storage Tank Database Search
- ERNS-Emergency Response Notification System Database Search
- HAZMAT-Fire Department Hazardous Materials Response Team Records Search
- CERCLA-Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) Database Search

All database searches meet or exceed specifications as stated in ASTM Standard Practice E 1527-00 for Environmental Site Assessments: Phase I Environmental Site Assessment Process.



The cost for generation of the Phase I Report (two original copies) which includes the above information is not expected to exceed \$1400.00 plus \$130.00 expenses. A 50 Year Environmental Chain of Title can be supplied at an additional charge of \$125.00 per title, however it is/they are not recommended at this time. This pricing includes up to two hours of consultation to address any concerns or recommendations contained in the Report.

Turn-around time for data research, compilation, and publication of the report and supporting documentation for this project is estimated to be 11-13 working days from the date of project approval. If this proposal meets with your approval, please fax us a signed copy of this authorization letter. Live Oak will initiate Phase I activities immediately upon receipt of your authorization.

Thank you for the opportunity to work with you on this project. If you have any questions or require any additional information, please call.

Sincerely,  
Live Oak Environmental Consultants  
TNRCC LPST Corrective Action Specialist License No. RCAS00533  
Texas Department of Health Asbestos Management Planner Organization License No. 20-0052

Gary W. Martens, P.G.  
President

TNRCC LPST Corrective Action Project Manager License No. CAPM01226  
Texas Department of Health Licensed Asbestos Inspector/Management Planner License No. 20-5328

50 Year Chain of Title Yes \_\_\_\_\_ No \_\_\_\_\_

Agreed to on this 14TH day of FEB, 2006

By: \_\_\_\_\_

Title: MANAGER G.P.

Firm: NACOGDOCHES VISTA PINES APARTMENT HOMES, L.P.

Address: 4900 WOODWAY #750

HOU, TX 77070

Phone: 713.626.9655 Fax: 713.621.4947



## Development Team

---

Principle, Michael Lankford has over 20 years of experience beginning with sales to building a successful brokerage and development firm. Mr. Lankford's diverse background includes development of neighborhood retail centers, multi-family apartments and build-to-suit pad sites. In 1996, Mr. Lankford became involved in the IRS Section 42 Low Income Housing Tax Credit (LIHTC) program, acting as a development consultant and/or developer in over 700 LIHTC units.

Marc Caldwell is responsible for Development Services, which includes identifying cities/areas of need to develop financially feasible Housing Tax Credit (HTC) properties. Mr. Caldwell works closely with the identified cities in education city officials and city staff regarding the HTC program, thereby insuring the application and development process is a coordinated effort. He also works with state government officials to garner support for the developments.

Tammy Maret, Mr. Lankford's Assistant and Contracts Administrator, is responsible for the processing of Application Documents and the Coordination and Distribution of Due Diligence Documentation necessary for negotiations and closings of the various partnerships. Ms. Maret maintains impeccable monthly draw records for Lankford Interests, LLC and Lankford Construction, LLC. She also handles daily office operations and assists each individual on an as needed basis.



Applicant  
Response  
07257

**Del Mar Development, LLC**

June 13, 2007

Audrey Martin  
Competitive HTC Program Administrator  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup>  
Austin, TX 78711

Audrey,

Thank you for the opportunity to respond to this challenge. The challenge contends my application, #07257 for Orange Palm Garden Apartment Homes, should be subject to penalties that may have been assessed to project number 060132, Vista Pines Apartment Homes in Nacogdoches Texas, because, as the challenge contends, I was "affiliated" with that project. The challenge sites two items. First, a letter from Live Oak Environmental Consultants that has my name on it, and that appeared in the TDHCA imaged file for #060132. And second, the Lankford Interests website that lists me as a development team member. The information I will provide in this response will show that I am not affiliated with #060132, explain the two items submitted by the challenge, and establish that my application #07257 is NOT subject to any penalties that may have been assessed to #060132.

The section of the QAP that addresses penalties is 49.9 (i)(27)(A), and states that penalties will be imposed on the Applicant. It is very clear in the use of this term. I have included the relevant portion of this section of the QAP here:

*(27) Scoring Criteria Imposing Penalties*

*(A) Penalties will be imposed on an Application if the Applicant has requested an extension of a Department deadline, and did not meet the original submission deadline, relating to Developments receiving a housing tax-credit commitment made in the Application Round preceding the current round.*

Also, please note the definitions of both Applicant and Affiliate:

**Applicant**--Any Person or Affiliate of a Person who files a Pre-Application or an Application with the Department requesting a Housing Credit Allocation.

**Affiliate**--An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other Person, and specifically shall include parents or subsidiaries. Affiliates also include all General Partners, Special Limited Partners and Principals with an ownership interest unless the entity is an experienced developer as described in §49.9(i)(21)(B) of this title.

Not only am I not the applicant for #060132, I am not an affiliate, owner, or any other relation to that project. I am not listed in the Nacogdoches application on the participants list, commitment letters, the applicant and developer ownership chart, certification pages, or authorization pages, or any other part of the application, and certainly don't have any Control of the project.

4900 Woodway, Suite 750  
Houston, Texas 77056  
713-626-9655 ~ 713-621-4947 fax

**Del Mar Development, LLC**

Moreover, if you look at the participants list, commitment letters, the applicant and developer ownership chart, certification pages, and authorization pages for my application #07257, you will not find any similarities to the same items in the #060132 application.

Now to the items listed in the challenge.

Item 1, The letter from Live Oak Environmental:

The letter from Live Oak is a proposal for work on the Nacogdoches project, and my name appears on it inadvertently. The same company, Live Oak Environmental, had done work the previous year on an application called Timber Point Apartment Homes in Lufkin Texas, which Mike Lankford's company and my company co-developed. Live Oak mistakenly assumed that Mike and I were co-developing the Nacogdoches project as well and that it would be appropriate to prepare the proposal with my name on it. You'll notice that the signature accepting the proposal is Mr. Lankford's, who did not notice who the proposal was initially addressed to. Because Mr. Lankford and I had co-developed a different project the year before, it's easy to understand how the environmental company could have inadvertently included my name on a proposal.

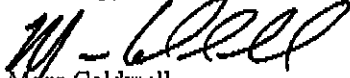
Item 2, The Lankford Interests website that lists me as a Development Team Member:

Unfortunately, the Development Team List section of that website has not been updated in several years. I was a part of the Development Team for Lankford Interests when I first began work in this industry, but have had my own development company called Del Mar Development, LLC since 2002, and I have worked as an independent company since then. I am not an owner, director, officer, or employee of Lankford Interests. A further indication that the website is dated appears in the number of units listed in Mr. Lankford's bio. It says that he has been involved in over 700 units, when in fact, after confirming this with his office; he has been involved with 1,158 units to date. That's 458 new units since the last update! Obviously a number of years ago and nothing that should indicate that Del Mar Development, LLC was affiliated with the #060132 application.

I trust that I have addressed the two items listed in the challenge with a common sense explanation that will allow you to come to only one conclusion. That I am NOT an Applicant on #060132, and therefore my application #07257 is NOT subject to any penalty that may have been assessed to that project.

If additional information is required please contact me.

Sincerely,



Marc Caldwell

President

Del Mar Development, LLC

4900 Woodway, Suite 750  
Houston, Texas 77056  
713-626-9655 ~ 713-621-4947 fax

4900 Woodway, Suite 750  
Houston, Texas 77056  
Phone: 713-626-9655  
Fax: 713-621-4947

**Del Mar Development, LLC**

# Fax

<b>To:</b> Audrey Martin	<b>From:</b> Marc Caldwell
<b>Fax:</b> 512-475-0764	<b>Date:</b> 6-13-07
<b>Phone:</b>	<b>Pages:</b> 3, Including Cover
<b>Re:</b>	<b>CC:</b>

- Urgent     For Review     Please Comment     Please Reply     Please Recycle

Audrey,

Here is my response to the challenge on #070257 Orange Palm Garden Apartment Homes.

Thank you,

Marc Caldwell



# Challenge 07282



## DEVELOPMENT COMPANY, LLC

April 19, 2007

Ms. Robbye Meyer  
Director of Multifamily Production  
Texas Department of Housing  
& Community Affairs  
P.O. Box 13941  
Austin, Texas 78711-3941

RECEIVED  
APR 20 REC'D  
LIHTC

Re: Challenge regarding points awarded to TDHCA #07282

Dear Ms. Meyer:

This letter challenges points awarded to the above-mentioned application. The first challenge relates to the award of 1 point for the project being in a Qualified Census Tract with Revitalization. The second challenge relates to the award of 24 points for the support letter received from Comunidad in Action.

Regarding the first challenge, the application in question requested one point for being in a QCT that is targeted for revitalization according to a Community Revitalization Plan. In support of this request, the applicant submitted the required TDHCA form, as well as the Consolidated Plan for the City of Midland. Most of the pages submitted from the Consolidated Plan (which were different pages than those indicated on the TDHCA form) did not indicate a targeted geographic area but rather generally indicated the need for more affordable rental units. The one page that references a specific geographic area (page 27) is from the Action Plan for the 2005/2006 Program Year, which arguably doesn't cover the current year. Further, while that page references certain CDBG Selected Target Areas, neither the 2004 or the 2005 targeted areas contain the proposed site. The site is in a much larger low to moderate income neighborhood, which—the applicant points out—is in need of public capital improvements, but this hardly rises to the level of a geographic area targeted for revitalization.

The second challenge concerns the QCP certification received from Comunidad in Action. Although the President of Comunidad (which translates to "Community") in Action submitted a certification that the organization is a neighborhood group rather than a broader based community organization, the group's Statement of Authority indicates that its boundaries encompass the "the Midland CDBG delineated area," which is a city-wide area. This statement, as well as the broader statement of purpose that the organization is a "grass roots organization committed to promote involvement and awareness of economic and community development issues" clearly suggests that this group is a community organization, as opposed to a group of people who live "near one another" as the QAP defines a neighborhood organization. Indeed, the Applicant's own Affirmative Fair Housing Marketing Plan, which was submitted in Volume 7, Tab 2, Part F, confirms that this group is a community organization that will provide supportive

services to the residents of the proposed development. The Affirmative Fair Housing Marketing Plan reads "Comunidad in Action provides tutoring services, computer classes, and English as a Second language class." Clearly, this applicant's own statements contradict the certification from Comunidad in Action that it is a neighborhood group rather than a broader based community organization. Moreover, if this group will receive compensation for providing services to the proposed development, it is not surprising that it willingly provided a support letter for this application.

Therefore, the Applicant should not have received QCP points for a support letter from this organization because the QAP specifically excludes community organizations such as this one from the definition of a neighborhood group. The QAP also excludes organizations whose boundaries are county or city wide. Here, the Midland CDBG delineated area most likely consists of the entire city, since CDBG funds can be used anywhere within the city's jurisdiction. The name of this organization alone—Community in Action—confirms that this group represents a much larger community than the immediate one that surrounds the site.

We respectfully request that TDHCA reconsider these points awarded based on the foregoing. We appreciate your time in considering this request. Please do not hesitate to contact me with any questions or concerns. I can be reached at 512-328-3232 ext. 66 or at [janines@mciver.com](mailto:janines@mciver.com)

Sincerely,

DMA DEVELOPMENT COMPANY, LLC

A handwritten signature in black ink, appearing to read "Sisak", with a large, stylized initial "S" that loops around the first part of the name.

Janine Sisak  
Vice President/General Counsel

Applicant  
Response  
07282

May 2, 2007

Audrey M. Martin  
Texas Department of Housing & Community Affairs  
P.O. Box 13941  
Austin, Texas 78711-3941

**Re: Challenge to TDHCA #07282 (Palermo Apartments)**

Dear Ms. Martin,

The partnership has carefully reviewed the challenge sent by the DMA Development Company, LLC against the Palermo Apartments, TDHCA #07282. We respectfully enclose the following response and supporting materials to such challenge:

**1. Project located in QCT with Revitalization**

As specifically noted in the City of Midland's Consolidated Plan for Community Development & Housing Funds (the "Revitalization Plan"), Palermo is located in a "low income area" which is a targeted area for revitalization. This target area was selected by the City in an effort to achieve greater impact neighborhood stabilization and revitalization. And as noted in the Revitalization Plan, public capital improvements and other development projects, which include more affordable rental units, are directed at sites within this targeted area. Palermo is clearly located in the targeted area that is defined in the Revitalization Plan. Further, additional information was requested by TDHCA on this issue in a deficiency notice, and subsequently approved by TDHCA after further review.

**2. Support letter from Comunidad in Action**

Comunidad in Action is clearly a neighborhood organization. As defined in the QAP, a neighborhood organization is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood.

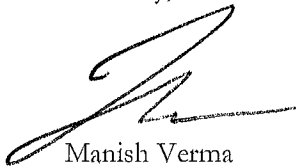
Comunidad has a defined boundary, as attached, which is clearly not a city wide area. Palermo is located within this boundary. Comunidad also has active members who live and reside within this boundary. Finally, Comunidad in Action will not be providing supportive services to the project, as was noted in the Affirmative Fair Housing Marketing Plan – their name was listed by mistake in this plan. Comunidad in Action will not be receiving any compensation from the applicant in reference to this development.

Comunidad in Action has met all the requirements of a neighborhood organization, and has made all the certifications, as noted in the attached, which would qualify them as a neighborhood organization, including certifying that they are not a broader based "community" organization.

TDHCA approved Comunidad in Action as a neighborhood group prior to the challenge, and as evidenced here, Comunidad in Action meets all the requirements to receive the QCP points for this application.

Should you need any further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Manish Verma', with a stylized flourish at the end.

Manish Verma  
Authorized Representative  
CIS Palermo Homes, LP



ACP



OPTIONAL FORM FOR QUALIFIED NEIGHBORHOOD ORGANIZATIONS TO SUBMIT TO TDHCA FOR QUANTIFIABLE COMMUNITY PARTICIPATION

Texas Department of Housing and Community Affairs (TDHCA)

Certify to each requirement by checking each box as required and accurately filling in all blanks. All attachments must be included in QCP submission package.

[X] This organization is submitting this form and attachments regarding the following proposed application:

Development Name: Palermo TDHCA #: 07282
Development Location: SEC of Gist Ave. and Wayside Drive, 79701
Development City: Midland Development County: Midland

[X] The person signing this form has the authority to sign on behalf of this organization.

Organization Name: Comunidad in Action
Signer Name and Title: Vicky Hailey, President
Signer Mailing Address: P. O. Box 50008
Signer City: Midland Signer Zip Code: 79710
Signer Day Telephone: (432) 682-3565 Signer Fax:
Signer Evening Telephone: (432) 682-3565 Signer E-Mail: vicky.hailey@sbcglobal.net

[ ] This organization is also providing the following additional contact and information for our organization:

Second Contact Name:
2nd Contact Day Phone: 2nd Contact Fax:
2nd Contact Evening Phone: 2nd Contact E-Mail:

[X] This organization certifies that the boundaries of this organization include the proposed Development site in its entirety. These boundaries were in effect as of December 1, 2006 and were not annexed after December 1, 2006. This organization acknowledges that annexations after December 1, 2006 are not considered eligible boundaries and a site that is only partially within the boundaries as of December 1, 2006 will not satisfy the requirement that the boundaries contain the proposed Development site.

[X] This organization certifies that this is an organization comprised of persons living near one another within the organization's defined boundaries and that it has a primary purpose of working to maintain or improve the general welfare of the neighborhood. This organization further certifies that it is a (must check on of the following boxes):

- [ ] Homeowners Association
[ ] Property Owners Association
[ ] Resident Council and our members occupy the existing development
[X] Other (Describe: Unincorporated Non-profit Association

[X] This organization certifies that it is not a broader based "community" organization; an organization that has no members other than board members; a chamber of commerce; a community development corporation; a church; a school related organization; a Lion, Rotary, Kiwanis, or similar organizations; a Habitat for Humanity; a Boys and Girls Clubs; a charity; a public housing authority; a or any governmental entity; or a resident council whose members do not currently occupy the proposed development.



- This organization acknowledges that this form and attachments must be submitted no later than March 1, 2007 if the form (and enclosures) is relating to an application which submitted a pre-application or April 2, 2007 if the form (and enclosures) is relating to an application which did not submit a pre-application].

This organization certifies that it was: (choose one box and attach documentation)

- On record, as of December 1, 2006, with county in which the development is proposed to be located. (Attach documentation from the county as proof).
- On record, as of December 1, 2006, with The Secretary of State as an incorporated entity in good standing (Attach documentation from the Secretary of State as proof)
- On record, effective December 1, 2006, with The Texas Department of Housing and Community Affairs (the "Department"). As permitted under the Qualified Allocation Plan, submitted with this package is a letter from the city stating that the organization was on record with the city as of December 1, 2006. (Attach letter from the city).
- On record, effective December 1, 2006, with The Texas Department of Housing and Community Affairs (the "Department"). As permitted under the Qualified Allocation Plan, this organization submitted a request to become on record with the Department prior to February 15, 2007 and the Department approved the request (No attachment necessary).

- This organization certifies that it was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2007 Housing Tax Credit application round; the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; the Applicant, Developer or any employee or agent of any Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance); and that the Applicant, Developer or any employee or agent of any Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter).

This organization certifies that we: (choose only one box and clearly and concisely state at least one or more reason(s) for the organization's support; use additional sheets, as needed.)

- Support the application for Competitive Housing Tax Credits referenced above for the following reasons  
 Comunidad in Action gladly supports any efforts to improve this area of the Midland community.  
 CIS's plans for the Palermo Development will address affordable housing needs in the area.

- Oppose the application for Competitive Housing Tax Credits referenced above for the following reasons:  
 \_\_\_\_\_  
 \_\_\_\_\_

- This organization acknowledges that this completed form and required attachments must be submitted to Multifamily Director, Attention: Neighborhood Input, Texas Department of Housing and Community Affairs, P.O. Box 13941 (MC 332-10), Austin TX 78711-3941. For overnight or courier delivery use the following physical address: 221 East 11<sup>th</sup> Street, Austin TX 78701-2410. Do not use P.O. Box address for overnight or courier delivery. Form and Attachments may also be faxed to 512.475.0764 or toll free at 800-733-5120.



This organization certifies that all certifications contained herein are true and accurate. (Authorized Signatory must sign below):

Vicky Hailey  
(Authorized Signatory)

2-28-07  
(Date)

Vicky Hailey  
(Printed Name)

President  
(Title)

# Challenge 07291

**REED PARQUE LIMITED PARTNERSHIP**

800 Bering Drive, Suite 410, Houston, Texas 77057  
Phone: (713) 978-7768 FAX: (713) 978-7775

**RECEIVED**

JUL 05 2007

**DEPUTY ED.**

July 3, 2007

VIA DHL & EMAIL

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing  
and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

**Received**

JUL - 5 2007

Re: Cypress Creek Apartments (TDHCA # 07291)  
Response to O'Connor & Associates  
Letter of June 27, 2007

Dear Mr. Gerber:

This is in response to O'Connor & Associates' letter of June 27, 2007, to TDHCA in response to our previous letters in opposition to this project dated May 3, 2007, May 31, 2007, and our letter of June 13, 2007, providing a negative critique of the market study by O'Connor & Associates, as amended, submitted to TDHCA on the referenced project. Please consider the following:

Reed Parque Townhomes Occupancy. Although O'Connor is generally correct in citing a history of physical occupancy at Reed Parque in the range of 92% to 96% over time based on our submitted annual reports to TDHCA, we stand by our statements in our letters of May 3<sup>rd</sup> and May 31<sup>st</sup> referring clearly in each context to economic occupancy at Reed Parque never having exceeded 90% in any given year. Reed Parque was originally underwritten by TDHCA in 1998 assuming 92.5% economic occupancy based on setting aside 50 units for tenants at 50% AMHI, 115 units at 60% AMHI and 27 market units. However, we have never had more than 74 units occupied by 60% AMHI tenants and have never completely filled our market units. Physical occupancy over 90% has been attained by "over-leasing" to tenants at 50% AMHI or less, but we have never realized our TDHCA underwriting target of 92.5% of gross potential rental income.

Otherwise, Reed Parque is still a first-class property with a good location. And we have been holding our own, thus far, only by having a share of Section 8 voucher tenants at higher rents sufficient to offset the shortfall in 60% AMHI and market rate renters. Without these voucher tenants, Reed Parque's financial viability would be in jeopardy. But there is a fixed market limit on Section 8 tenants who are prone to move to the next new TC project.

Shortage of 60% AMHI Tenants. Our 9% TC project experience illustrates the shortage ("negative demand"?) among 60% AMHI tenants seeking housing in this area. From June, 2006, through June, 2007 (13 months), Reed Parque moved in 85 new tenants, of which 63 were at 50% AMHI or less, two at market rent and only 20 were 60% AMHI tenants. (During the same period, our own Scott Street Townhomes moved in 26 new tenants and only six were 60% AMHI families.) If Reed Parque hasn't had more success renting its 60% AMHI units in

seven years since construction in 2000, it's inconceivable that Cypress Creek, with 90% of its projected gross rental income coming from 60% AMHI tenants, could do much better across the street. It is disappointing that O'Connor failed to address on this key issue relating to the feasibility of Cypress Creek Apartments.

Cullen Park Rent-Up History. The O'Connor response letter states incorrectly that we made no mention of Cullen Park in our letter of May 3<sup>rd</sup>. In fact, we did talk about Cullen Park in both that letter and in our latest letter to TDHCA critiquing the rent study. To repeat the story, Cullen Park is one of four nearby Priority One 4% TC bond projects with 240 units using 50% AMHI-capped rents with the right to rent all units to 60% AMHI households. Spurred primarily by this significant price advantage, Cullen Park and the other bond deals (Bellfort Pines, Peninsula and Parkside Point) did enjoy successful rent-up periods, and by collectively offering 1,028 units for 60% AMHI tenants at discounted rents, they were able to capture a lion's share of the 60% AMHI area tenant market. We also noted that Bellfort Pines, Peninsula and Parkside Point still enjoy high occupancies, while Cullen Park at last count had 60 to 70 vacancies and is rumored to be in financial distress.

The O'Connor analysts repeat often the historical rent-up histories of current projects as evidence of a strong TC market. However, with the documented limited growth in income-eligible households in the area, particularly for 60% AMHI tenants, the market has reached the saturation point. Frankly, it is naïve to portray this past performance as indication of future performance of any proposed new project.

No Sewer Line. O'Connor's analysts now concede that there is no sewer line serving the proposed project site, contrary to their statement in the original report that sewer service was, in fact, available. The O'Connor report supporting the same developer's approved 2006 application for tax credits on Reed Road Seniors Residential (TDHCA # 060217) across the street, also stated that sewer service was available, which it was not. In prior years TDHCA required TC applications to include independent "utility availability letters". If this is no longer a practice and TDHCA relied on the O'Connor market study statements about sewer service being available in 2006, it awarded tax credits to Reed Road Seniors using misinformation and is being asked to do it again on Cypress Creek Apartments.

We understand that the applicant has now applied to the City of Houston for HOME program funding in the amount of \$4.25 million to make room in its development budget to install a 1.33 mile sewer line extension to serve Reed Road Seniors and, presumably, the Cypress Creek construction site. However, there were no "offsite costs" budgeted for this in either application. Nor was there any third party engineer documentation of offsite costs and certifications included with either application as specified by TDHCA's Real Estate Analysis Rules.

Whether the O'Connor analysts were misinformed about this information or overlooked checking it out, the fact remains that their statement on sewer service availability was incorrect.

Turnover Survey. We appreciate O'Connor's effort, finally, to do a definitive survey to determine the actual turnover at 39 sample area apartments of all types in the surrounding area of the proposed project site. Whereas in their subject market study they used the same 65%

turnover rate attributed to IREM as they have in the past. However, we did our own comprehensive survey of the same properties and propose the following revisions:

- Add the turnover data on our own three properties to the surveyed sample cited in our letter to Tom Gouris dated June 13<sup>th</sup> (Reed Parque Townhomes, Scott Street Townhomes and Missionary Village Apartments), given these properties' close comparability to Cypress Creek and certain turnover data accuracy.
- Delete 7100 Alameda, AMLI Medical Center, Archstone Medical Center, and Harvest Hill from the survey as these four properties cater heavily to Medical Center employees, students, patients and families and/or have a heavy concentration of corporate units with short-term occupancies and reflecting unrepresentative turnovers. Moreover, their generally higher income-level tenants do not contribute to the turnover demand pool for TC projects.
- Correct the over-stated turnover findings on Cambridge Village (from 87% to 31%), Concord Del Rio (from 104% to 52%), Mainridge (from 114% to 68%), and Palomino Place (from 176% to 32%). (Explanation for these revisions is as noted in Attachment A, "Key Turnover Interview Results".)
- Raise the turnover ratios on Park Yellowstone (from 29% to 42%) and on Norma's Plaza (from 23% to 35%) to conform to the information we obtained from the developers of these projects as reported in our letter of June 13<sup>th</sup>.
- Raise the turnover ratios on 2111 Holly Hall (from 25% to 32%), on Villas at Coronado (from 14% to 18%) and on Wilshire Park (from 39% to 44%) to conform to the information we obtained from the site management of these projects.

After reflecting these changes, the average turnover for the revised list of 39 sample properties (now 42 properties including the three additional properties referenced above) becomes 40% instead of the 53% concluded from the O'Connor data reported in their letter of June 27<sup>th</sup>. Please see the attached chart "Revised Turnover Survey Results", Attachment B.

We sympathize with the O'Connor analysts in the difficulty of obtaining accurate turnover information solely through telephone inquiries with site staff. Therefore, we took the approach of visiting and having face-to-face interviews with most of the larger properties and those indicated as having unusually high turnover compared to our own experience. But we also made phone calls and confirmed much of the same information gathered by O'Connor. We would be pleased to meet with O'Connor's analysts to compare notes on this data.

Although O'Connor states in their letter that "35% is inaccurate and unrepresentative of turnover in the market", this refined survey should be convincing to demonstrate the validity of using a turnover rate of not more than 40%.

Renter Percentage. The O'Connor defense for choosing not to use the 33.34% Claritas renter percentage they acknowledge applies to the specific submarket seems to be grasping at straws. O'Connor's only stated specific objection to use of the flat Claritas renter percentage for all income bands is their view that this would underestimate the renter rate for low-income households. Well, if they believe the Harris County relative renter percentage by income

levels are also valid for this submarket, then the submarket-specific 33.34% Claritas number could simply be adjusted and proportioned on the same basis as follows:

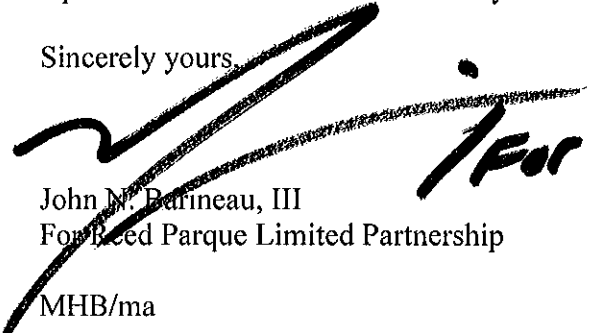
<u>Household Income</u>	<u>Harris County Renter Percentage</u>	<u>Proportioned Allocation</u>	<u>Adjusted Claritas Renter Percentage</u>
Below \$15,000	67.77%	151.6%	50.54%
\$15,000 – 24,999	64.20%	143.6%	47.88%
\$25,000 – 34,999	58.60%	131.1%	43.71%
\$35,000 – 49,999	48.40%	108.3%	36.17%
\$50,000 plus	<u>26.67%</u>	<u>55.2%</u>	<u>18.40%</u>
Totals	44.70%	100.0%	33.34%

Substituting this adjusted-by-income level Claritas data in calculating the percentage of eligible renters using the methodology used on the bottom of page 7 of O'Connor's letter of response would produce a "Total Household Percent Eligible to Rent" of 12.33% instead of the 16.53% indicated using only the county-wide Harris County renter percentages.

Recalculated Demand. Finally, all we can say is that by using a fact-based turnover percentage of 40% and the reallocated-by-income level Claritas renter percentage of 33.34%, as shown above, the capture rate for Cypress Creek plus the unstabilized Oakmoor and Lansborough projects would exceed TDHCA's maximum 25% required to approve marketability for a new family TC project.

I hope that you and your colleagues at TDHCA will be open to consider this information thoughtfully and objectively before deciding whether to allocate tax credits for Cypress Creek Apartments. Please let me know if you have any further questions.

Sincerely yours,

  
John M. Barineau, III  
For Reed Parque Limited Partnership

MHB/ma

attachments: Attachment A, Key Turnover Interview Results  
Attachment B, Revised Turnover Survey Results

cc: Tom Gouris, Director of Real Estate Analysis  
Members of the Governing Board

**APARTMENT TURNOVER SURVEY**  
**KEY TURNOVER INTERVIEW RESULTS**

Following are the interview results of Reed Parque Limited Partnership's (RPLP) independent turnover survey conducted on June 28<sup>th</sup> and 29<sup>th</sup> and July 2<sup>nd</sup> of most of the properties included in O'Connor's June 27, 2007, letter sent to TDHCA's Tom Gouris. RPLP's interviewers included personnel from Radney Management & Investments Inc., managing agent for Reed Parque Townhomes, specifically Tammy Bonner (Manager of Occupancy and Compliance), Christine Ramirez (Operations Coordinator), Mary Ainsworth (Executive Assistant to Chairman) and Mark Barineau (President – Eastern Division). Interviewers can be reached at (713) 425-2969. Both personal site visits and telephone interviews were conducted to verify turnover percentages and to conclude whether information adjustments were necessary to that reported by O'Connor & Associates. These interviewers concluded several significant adjustments were warranted to the O'Connor turnover survey data and adjustments can be found as follows:

**2111 Holly Hall** – Information obtained by Mary Ainsworth via telephone 6/28/07 from Derek (713-799-2111). Derek stated the turnover rate at 32% was higher than the 25% verified by O'Connor. Revised survey now reflects this higher turnover percentage.

**7100 Almeda Apartments** – Information obtained by Tammy Bonner and Christine Ramirez via site visit 6/28/07 with Penny Ainsworth (713-795-4332), Property Manager. Ms. Penny Ainsworth stated the annual turnover agreed with the O'Connor rate of 69%. However, she did state that approximately 10% of the property's units were comprised of short-term leases (three months or less) to accommodate this isolated market which caters to highly transient medical center traffic (e.g., patients and their families, interns, doctors on fellowships, etc.). Revised survey now excludes this property, given incomparability to family properties which have longer term leases (12 months).

**AMLI Medical Center** – Information obtained by Tammy Bonner and Christine Ramirez via site visit 6/29/07 and reconfirmed via telephone 7/2/07 with Russell McClure (713-550-1000), Property Manager, that management company does not release turnover information. Mr. McClure specifically mentioned O'Connor & Associates was not provided the property's turnover information; the property discloses only limited occupancy information to O'Connor and other market analysts. Revised survey now excludes this property, given turnover information is unavailable.

**Archstone Medical Center** – After two unsuccessful site visits by Tammy Bonner and Christine Ramirez on 6/28/07 and 6/29/07, Mark Barineau contacted Patricia Torres (713-799-4000), Property Manager, via telephone on 7/2/07 and confirmed the annual turnover as reported to O'Connor was correct at 81%. However, she did further clarify that approximately 10% of the property was short-term leases which attributed to this high turnover ratio, same as at 7100 Almeda Apartments referenced above. Revised survey now excludes this property, given incomparability to family properties with long-term leases.

**Cambridge Village Apartments** – Property managed by Radney Management & Investments, Inc., same managing agent used by Reed Parque Limited Partnership. Confirmed data with Tammy Bonner (713-425-2938) on 7/2/07 that turnover rate is actually 31%, as opposed to O'Connor's higher rate of 87%. Ms. Bonner provided actual leasing activity for the year 2006 (precisely 95 new leases were executed last year). Revised survey now reflects this lower turnover percentage.

**Catalina Village (formerly Concord @ Del Rio)** -- Information obtained by Tammy Bonner and Christine Ramirez via site visit 6/28/07 with Taylor Cauthon (713-747-7238), Assistant Manager. Mr. Cauthon confirmed the turnover rate to be 52%, as opposed to O'Connor's higher rate of 104%. Revised survey now reflects this lower turnover percentage.



**Harvest Hill Apartments** – Information obtained by Tammy Bonner and Christine Ramirez via site visit 6/28/07 with Jennifer Rawls (713-799-9046), Assistant Manager, and via telephone contact 6/29/07 with Nina Kirtley, Property Supervisor. Ms. Kirtley confirmed the turnover rate to be 68%, as opposed to O'Connor's rate of 71%. However, she did state that approximately 25% of the property was comprised of short-term leases (three months) which accentuate this high turnover ratio, same as at 7100 Alameda Apartments and Archstone Medical Center referenced above. Revised survey now excludes this property, given incomparability to family properties with long term leases.

**Mainridge Apartments** – Information obtained by Tammy Bonner and Christine Ramirez via site visit 6/28/07 with Brianna Shipp (713-664-6028), Property Manager. Ms. Shipp confirmed the turnover rate to be 68%, as opposed to O'Connor's rate of 114%. Revised survey now reflects this lower turnover percentage.

**Norma's Plaza** – Based on telephone interview with property's developer, Tom Scott, during the week of June 4<sup>th</sup>. Mr. Scott confirmed property experiencing turnover at 35%, as opposed to O'Connor's rate of 23%. Mr. Scott can be reached at (713) 785-1005. Revised survey now reflects this higher turnover percentage.

**Palomino Place Apartments** – Based on the site visit and interview with Property Manager Rhonda Witson (713-721-3471), Ms. Witson indicated that the 176% turnover reported by O'Connor was way too high. However, Ms. Witson would not release any more specific information. After confirming that this project was primarily project-based Section 8, it was decided to adjust its turnover in the survey to 32% to equal the average turnovers of the five other Section 8 projects reported by O'Connor in their survey with Anna Dupree at 24%, Bellfort Park at 47%, Chateau Village at 32%, Royal Palms East at 38% and Scott Plaza at 28%.

**Park Yellowstone** – Based on telephone interview with property's developer, Tom Lord, during the week of June 4<sup>th</sup>. Mr. Lord confirmed property experiencing turnover at 42%, as opposed to O'Connor's rate of 29%. Mr. Lord can be reached at (713) 526-9470. Revised survey now reflects this higher turnover percentage.

**Villas at Coronado** – Information obtained by Mary Ainsworth via telephone 6/28/07 from Sheila (713-667-0200). Sheila stated the turnover rate at 18% was higher than the 14% verified by O'Connor. Revised survey now reflects this higher turnover percentage.

**Wilshire Park** – Information obtained by Mary Ainsworth via telephone 6/28/07 from Reg Prawl (713-666-3877), Property Manager. Reg stated the turnover rate at 44% was higher than the 39% verified by O'Connor. Revised survey now reflects this higher turnover percentage.

Revised Turnover Survey Results						
	Property	Class	# Units	O'Connor Survey	Revised Survey	Remarks on Revisions
1	2111 Holly Hall	B	569	25%	32%	Revised per Attachment A
2	7100 Alameda	A	348	69%		Deleted from survey per Attachment A
3	AMLI Medical Center	A	334	54%		Deleted from survey per Attachment A
4	Anna Dupree	U	150	24%	24%	No change
5	Archstone Medical Center	A	654	81%		Deleted from survey per Attachment A
6	Ardmore	C	82	51%	51%	No change
7	Ashley Park	B	284	85%	85%	No change
8	Bellfort Park	U	64	47%	47%	No change
9	Bellfort Pines	B	248	24%	24%	No change
10	Cambridge Village	D	304	87%	31%	Revised per Attachment A
11	Chateau Village	C	150	32%	32%	No change
12	Concord Del Rio (Catalina Village)	B	288	104%	52%	Revised per Attachment A
13	Cullen Park	B	240	30%	30%	No change
14	El Mundo Park	A	192	41%	41%	No change
15	Harvest Hill	B	336	71%		Deleted from survey per Attachment A
16	Lakes of 610	A	276	37%	37%	No change
17	The MacGregor	A	224	43%	43%	No change
18	Mainridge	C	264	114%	68%	Revised per Attachment A
19	Meadow Ridge	B	312	77%	77%	No change
20	Missionary Village	U	160		25%	Added to survey per June 13th letter
21	Norma's Plaza	B	80	23%	35%	Revised per Attachment A
22	Palomino Place	C	272	176%	32%	Revised per Attachment A
23	Park Yellowstone	B	210	29%	42%	Revised per Attachment A
24	Parkside Point	B	260	23%	23%	No change
25	Parque del Oro	A	224	43%	43%	No change
26	Peninsula	B	280	15%	15%	No change
27	Plaza del Oro	A	66	55%	55%	No change
28	Promenade at Hermann Park	A	320	56%	56%	No change
29	Reed Parque Townhomes	B	192		41%	Added to survey per June 13th letter
30	Royal Palms East	U	126	38%	38%	No change
31	San Marin	A	212	51%	51%	No change
32	San Melia	A	252	17%	17%	No change
33	Scotland Yard	B	678	53%	53%	No change
34	Scott Plaza	U	150	28%	28%	No change
35	Scott Street Townhomes	B	96		31%	Added to survey per June 13th letter
36	Simmons Gardens (Srs.)	B	120	15%	15%	No change
37	Spanish Village	D	126	38%	38%	No change
38	Versailles Park	A	224	46%	46%	No change
39	Villas at Coronado	A	334	14%	18%	Revised per Attachment A
40	Westridge Gardens	B	256	28%	28%	No change
41	Wilmington House	C	107	56%	56%	No change
42	Wilshire Park	B	184	39%	44%	Revised per Attachment A
	<b>Average</b>		<b>10,248</b>	<b>53%</b>	<b>40%</b>	

Applicant  
Response  
07291



**O'Connor & Associates**  
2200 North Loop W., # 200  
Houston, Texas 77018  
713-686-9955

July 13, 2007

Mr. Tom Gouris  
Director of Real Estate Analysis  
Texas Department of Housing & Community Affairs  
211 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

Dear Mr. Gouris: The following information is presented in response to the letter dated July 3, 2007 submitted by Mr. John Barineau in regards to the Cypress Creek at Reed Road development (HTC # 07291) located in the 2900 block of Reed Road, Houston, TX 77051.

We understand you are wrapping up your position on this project in the next few days, so we are writing you as brief a response as possible in the interest of time.

Economic versus physical occupancy: Occupancies stated in the market study and in subsequent correspondence are physical occupancies. Reed Parque and Cullen Park are property specific anomalies in this apartment market with lower occupancy levels. Other tax credit or otherwise rent-restricted properties report high occupancies and the market as a whole has occupancy levels higher than the rest of Houston. The recent soft performance of Reed Parque (referring to sub-92.5% economic occupancy and the inability to fill units in certain income ranges) does not appear to be indicative of the market as a whole.

Cullen Park: Our letter dated June 27, 2007 said that Reed Parque Limited Partnership did not address the lease up period of Cullen Park in their letter dated May 3, 2007. Reed Parque Limited Partnership did address the property in a different context, but not the lease up.

Peninsula: Kathryn Koepke spoke to on-site staff at this property today (July 13, 2007). According to on-site staff, Peninsula's rents are restricted at the 50% level and are not able to rent to households earning above 50% of the AMHI. The July 3, 2007 letter says they rent to households earning up to 60% AMHI, which is incorrect. Therefore, Peninsula does not capture "the lion's share of the 60% of the AMHI area tenant market," as Mr. Barineau states in his most recent letter.

As stated previously, we also do not agree with the methodology and therefore conclusions of the Vogt Williams study, which Mr. Barineau cites when he refers to negative demand for 60% AMHI units. Our findings support positive demand for this income band.

Sewer Line: It is our understanding that a sewer line will be in place prior to the development of Cypress Creek at Reed Road, as well as the previously approved Mariposa at Reed Road. We acknowledged our mis-statements in the reports, but we assume adequate utilities will be available at the sites and that these projects cannot be developed without such utilities. How exactly these utilities are made available are outside the scope of our report and our market study.

conclusion. We understand from the developer of the proposed Cypress Creek that they amended their application to reflect the appropriate off-site costs, which Mr. Barineau states is not in the application. We did not independently confirm this.

Turnover survey: Our survey was based only on primary market area properties. Therefore, we do not exclude properties in one region of the primary market area. We were not able to obtain turnover information from some of Radney Management's properties and feel that given the Reed Parque Partnership's interest in lowering the overall turnover, this presents a potential conflict of interest for us to use the information they provide in their opposition letters.

We stand by our renter percentages and demand calculations as they are consistent with our firm's methodology for tax credit market studies. Thank you for your time and consideration.

Respectfully submitted by,



---

**Kathryn Koepke**  
Manager, Research & Consulting

# Challenge

## 07295

# WILHOIT PROPERTIES, Inc.

May 4, 2007

Brooke Boston  
Texas Department of Housing & Community Affairs  
Housing Tax Credit Dept.  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

Re: Challenge to TDHCA Number 07295,  
Bluestone Apartments, Mabank, Texas

Dear Brooke:

After a full review of the above referenced application for 9% Housing Tax Credits, I would like to submit the following challenge.

The applicant has submitted Community Support Letters other than Quantifiable Community Participation that I feel should be reviewed and rejected for the following reasons.

1. The American Legion Cedar Creek Post 310 submitted a letter of support; however, it is not located within the city limits of Mabank. Since this group is not located within the city where the applicant's property is located, it cannot be considered a Community Group and thus should be disqualified.
2. The applicant listed a support letter from the Friends of the Tri-County Library but the letterhead was from the Tri-County Library. Since the library conducts "Educational Activities" it is not eligible within the Selection Criteria shown on Page 43 of the 2007 QAP §49.9 (i)(16) "Demonstration of Community Support other than Quantifiable Community Participation" and thus should be disqualified. This section has been attached for your review.
3. The applicant submitted a support letter from the Mabank Fire Department. This letter was signed by Ricky Myrick, Fire Chief who is an employee of the City of Mabank. The Mabank Fire Department is a part of the City of Mabank and should be considered a "Governmental Entity" as shown on Page 43 of the 2007 QAP §49.9 (i)(16) "Demonstration of Community Support other than Quantifiable Community Participation" and thus be disqualified. This section has been attached for your review.

Please contact my office with any questions or comments.

Cordially,



Paul Holden

16188 Oak Grove Road  
Office: (512) 970-8250

e-mail: [pholden@austin.rr.com](mailto:pholden@austin.rr.com)

Austin, TX 78610  
Fax: (512) 295-6317

## 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

paragraph. Areas qualifying under any one of the subparagraphs (A) - (G) of this paragraph will receive 4 points. An Application may only receive points under one of the subparagraphs (A) - (G) of this paragraph.

(A) A geographical Area which is an Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD at the time of Application submission (§2306.127).

(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the first day of the Application Acceptance Period. (General Appropriation Act, Article VII, Rider 6; §2306.127)

(C) the Development is located in a county that has received an award as of November 15, 2006, within the past three years, from the Texas Department of Agriculture's Rural Municipal Finance Program or Real Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.

(D) the Development is located in a census tract which has a median family income (MFI), as published by the United States Bureau of the Census (U.S. Census), that is higher than the median family income for the county in which the census tract is located. This comparison shall be made using the most recent data available as of the date the Application Round opens the year preceding the applicable program year. Developments eligible for these points must submit evidence documenting the median income for both the census tract and the county. These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(E) the proposed Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and is proposed to be located in an elementary school attendance zone of an elementary school that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. The date for consideration of the attendance zone is that in existence as of the opening date of the Application Round and the academic rating is the most current rating determined by the Texas Education Agency as of that same date. (§42(m)(1)(C)(vii))

(F) the proposed Development will expand affordable housing opportunities for low-income families with children outside of poverty areas. This must be demonstrated by showing that the Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and that the census tract in which the Development is proposed to be located has no greater than 10% poverty population according to the most recent census data. (§42(m)(1)(C)(vii)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(15) **Exurban Developments (Development characteristics).** (§2306.6725(a)(4); §42(m)(1)(C)(i)) Applications may qualify to receive 7 points if the Development is not located in a Rural Area and has a population less than 100,000 based on the most current Decennial Census

(16) **Demonstration of Community Support other than Quantifiable Community Participation:** If an Applicant requests these points on the self scoring form and correctly certifies to the Department that there are no neighborhood organizations that meet the Department's definition of Neighborhood Organization pursuant to §49.9(i)(2)(A)(iv) of this title and 12 points were awarded under paragraph (2) of this subsection, then that Applicant may receive two points for each letter of support submitted from a community or civic organization that serves the community in which the site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. The community or civic organization must provide some documentation of its existence in the community to include, but not be limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that are not active in the area that includes the location of the Development will not be counted. For purposes of this item, community and civic organizations do not include neighborhood organizations, governmental entities, taxing entities or educational activities. Letters of support received after March 1, 2007, will not be accepted for this item. Two points will be awarded for each letter of support submitted in the Application, not to exceed 7 points. Should an Applicant elect this option and the Application receives letters in opposition by March 1, 2007, then two points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community. At no time will the Application, however, receive a score lower than zero for this item.

(17) **Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits:** The Application may receive 7 points if the proposed Development is located in a census tract in which there are no other existing developments supported by housing tax credits. Applicant must provide evidence of the census



**THE AMERICAN LEGION**  
CEDAR CREEK POST 310



903-887-3532  
113 LEEWAY

**GUN BARREL CITY, TEXAS 75156**

February 19, 2007

Robbye Meyer  
Director of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Tx 78701

Re: The Bluestone  
Highway 198 at Manning St/Paschall St.  
TDHCA # 07295

Dear Ms. Meyer:

We would like to express our support for the above-referenced project which we understand is pending before your agency for an award of tax credits.

The Cedar Creek American Legion Post 310 is an organization active in Mabank, Texas. The purposes of the American Legion are as follows.

To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in the Great Wards; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and goodwill on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

One of the main purposes of our organization is to assist veterans and their families in anyway we can. Affordable housing is high on the list of their needs.

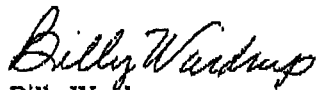
Not only are we supportive of this development, but so are other community organizations and the City itself. One of the concerns when developing new housing is that it is located on a convenient and accessible site with nearby services, businesses and amenities. The development that is proposed in this application is located on an ideal

site, along Highway 198, and is surrounded by multiple businesses and employers. New, affordable housing will greatly assist the lower income families of Mabank, and assist in making a community even stronger.

Again, we are very pleased to lend our support to this affordable housing community and ask that you give it favorable consideration for an allocation of housing tax credits. If you need additional information, you may contact me at (903) 887 3532.

Sincerely

Cedar Creek American Legion Post 310



Billy Wardrup,  
Finance Officer

**TRI-COUNTY LIBRARY**  
132 E. Market St.  
P. O. Box 1770  
Mabank, Texas 75147

February 28, 2007

Robbye Meyer  
Director of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

Dear Ms Meyer:

We would like to express our support for the above-referenced project which we understand is pending before your agency for an award of tax credits.

The Friends of the Tri-County Library is an organization active in Mabank, Texas. We work to support the Tri-County Library, a library which serves the residents of Henderson, Kaufman and Van Zandt Counties, including numerous Mabank residents. Although one of the primary purposes of our organization is that of fundraising for the library, we also strive to form a relationship between the library and our surrounding communities to foster literacy, educational growth and enlightenment.

The library, located in Mabank, is often the meeting place for area organizations, and many groups offer programs held at the library. Currently, with tax season upon us, the Tri-County Library is the meeting place for residents needing free assistance with their tax returns. The Tri-County Library is also very interested in helping those unable to read standard print due to visual, physical or reading disabilities and assists in setting up talking books program and books in Braille.

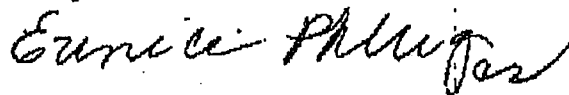
The Friends of the Tri-County Library organization regularly holds events with the goal of raising funds for the library, so that it may continue to offer the best *free* services possible to our community residents. Our most recent event was a community rummage sale, an event which many Cedar Creek residents participated in by either donating goods or purchasing goods at the sale.

The Tri-County Library, and the Friends, seek to provide educational resources and enlightenment to residents of Mabank no matter what their income. This proposed tax credit development will provide much needed affordable housing to Mabank and Cedar Creek Lake area residents struggling to provide even the most basic of necessities. The services that are proposed are close to our heart as well: Homebuyer and Credit Counseling, GED Preparation and Workforce Development are all services provided to assist the residents of the development, to provide them with educational tools and resources they might not have ever had available to them.

We fully support this development, and would be pleased to see it awarded an allocation of tax credits.

Please feel free to contact me directly, should you need additional information.

Sincerely,



Eunice Pflug President  
Friends of Tri-County Library



Claire Stout  
Library Director  
903 887 9622

**MABANK FIRE DEPARTMENT**

P.O. Box 1233  
Mabank, TX 75147  
Phone: 903 887 4747

For Emergency Call 911  
Fax: (903) 887 4750

February 27, 2007

Robbysa Mayer

Director of Multifamily Finance Production Division

Texas Department of Housing and Community Affairs

221 East 11<sup>th</sup> Street

Austin, TX 78701

RE: *The Bluestone*

*Highway 198 at Manning St/Paschall St.*

**TDHCA #07295**

Dear Ms. Meyer:

We would like to express our support for the above-referenced project which we understand is pending before your agency for an award of tax credits.

The Mabank Volunteer Fire Department most definitely meets the definition of a community or civic organization in Mabank, Texas. Our primary purpose is to provide adequate fire protection and education to the residents of Mabank, and other communities in the area as needed.

There is a definite need in Mabank, and the surrounding communities within the Cedar Creek area, for affordable housing. This proposed development will help alleviate the immediate housing needs of our residents. The services that have been proposed, such as homebuyer/credit counseling and GED Preparation, will help ensure that the residents of our communities will become better financially prepared.

The location of the development, along Highway 198 in southern Mabank, is an ideal location for current residents of all of the communities in the area. The Cedar Creek Lake community is made up of numerous small cities, including not only Mabank, but also cities such as Gun Barrel City, Seven Points, Eustace, Payne Springs, Enchanted Oaks, and Kemp. Although the development will certainly have an enormous impact on Mabank, this centrally located location will help alleviate the needs of all of these communities.

Again, we are very pleased to lend our support to this affordable housing community and ask that you give it favorable consideration for an allocation of housing tax credits. If you need additional information, you may contact me at (903) 887-4747.

Sincerely,  
Ricky Myrick, Fire Chief

Mabank Volunteer Fire Dept.



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### City of Mabank

129 East Market Street P. O. Box 293 Mabank, TX 75147	(903) 887-3241
City Council Meeting: 1st Tuesday, 7:00 PM General Law City - Council elected at-large NCTCOG Member Henderson & Kaufman counties	

#### City Council

<b>Larry Teague *</b> Mayor P. O. Box 252 Mabank, TX 75147 (B) (903) 887-6501 (G) (903) 887-3241	<b>Johnny Adams</b> Mayor Pro Tem 305 W. Mount Vernon Mabank, TX 75147 (B) (903) 887-2436 (G) (903) 887-3241	<b>Jeff Norman</b> P.O. Box 705 Mabank, TX 75147	<b>Dennis N. Terry</b> P. O. Box 222 Mabank, TX 75147 (G) (903) 887-3241
<b>Judy Junell</b> P.O. Box 691 Mabank, TX 75147	<b>Tim Johnson</b> 206 S. Canton Street Mabank, TX 75147 (B) (903) 887-3241		

\* NCTCOG Voting Representative

#### Administrative Officials

<b>Louann Confer</b> City Secretary 129 East Market Street P. O. Box 293 Mabank, TX 75147 (G) (903) 887-3241	<b>Groom &amp; Groom, PC</b> City Attorney 129 East Market Street P. O. Box 293 Mabank, TX 75147 (G) (903) 887-3344	<b>Ronnie Tuttle</b> Director of Public Works 129 East Market Street P. O. Box 293 Mabank, TX 75147 (G) (903) 887-3241	<b>Alex Smith</b> Police Chief 129 East Market Street P. O. Box 293 Mabank, TX 75147 (G) (903) 887-8500
<b>Ricky Myrick</b> Fire Chief 129 East Market Street P. O. Box 293 Mabank, TX 75147 (G) (903) 887-4747	<b>Sandra L. Rowan</b> Municipal Court Judge 129 East Market Street P. O. Box 293 Mabank, TX 75147 (G) (903) 887-8500	<b>Dick Murphy</b> Tax Collector 129 East Market Street P. O. Box 293 Mabank, TX 75147 (G) (972) 932-4331	

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 Main Operator: (817) 640-3300 | Fax: (817) 640-7806

Applicant  
Response  
07295



2201 Northland Drive  
Austin, Texas 78756

Voice (512) 450-0933  
Fax (512) 450-1097  
elleen@betcodev.com

May 15, 2007

Texas Department of Housing and Community Affairs  
Audrey Martin  
Competitive HTC Program Administrator  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: Response to Challenge to TDHCA Number 07295, Bluestone Apartments, Mabank, Texas

Ms. Martin:

**Challenge Received:**

1. The American Legion Cedar Creek Post 310 submitted a letter of support; however, it is not located within the city limits of Mabank. Since this group is not located within the city where the applicant's property is located, it cannot be considered a Community Group and thus should be disqualified.

**Challenge Response:**

Mabank is geographically and psychologically considered to be a part of the Cedar Creek Lake Area community:

Gun Barrel City, **Mabank**, Seven Points, Tool, Kemp, Caney City, Enchanted Oaks, Eustace, Log Cabin, Malakoff, Payne Springs, Star Harbor and Trinidad all have the distinction of being a part of the Cedar Creek Lake community.

(The Greater Cedar Creek Lake Area Chamber of Commerce website, [www.cclake.net](http://www.cclake.net))

The American Legion Cedar Creek Post 310 membership is made up of residents of all of the cities which make up the Cedar Creek Lake community.

The 2007 QAP does not specifically define community as the area within a city's defined "city limits," or assert that a "Community Group" must serve only the City where it is located. Furthermore, the headquarters of the American Legion Post 310 are located less than two and one-half miles from the proposed site location, regardless of its Gun Barrel City mailing address.

The QAP concludes that "letters of support from organizations that are not active in the area that includes the location of the Development will not be counted." The American Legion Cedar Creek Post 310 is most certainly active in the area that includes the location of the development, as documented by the supporting information provided with the application materials.



**Challenge Received:**

2. The applicant listed a support letter from the Friends of the Tri-County Library but the letterhead was from the Tri-County Library. Since the library conducts "Educational Activities" it is not eligible within the Selection Criteria shown on Page 43 of the 2007 QAP §49.9 (i)(16) "Demonstration of Community Support other than Quantifiable Community Participation" and thus should be disqualified. This section has been attached for your review.

**Challenge Response:**

The group which provided the Community Support letter is indeed the Friends of the Tri-County Library, despite the letterhead used for the letter.

The activities conducted by the Tri-County Library are irrelevant to the awarding of points under 2007 QAP §49.9 (i)(16), as the community/civic organization providing the letter of support is the Friends of the Tri-County Library, not the Library itself. The Friends of the Tri-County Library is a voluntary community-based fund-raising and marketing organization, and does not itself provide "educational activities" in any form to any group. While it may be argued that a library provides educational services through its promotion of literacy, the Tri-County Library is also used for a broad range of community activities, such as providing a location for community groups to gather and residents to offer assistance such as free tax advice (see documentation provided with application).

Despite the assertion of the challenge, the 2007 QAP does not require an organization to place their support letter on organizational letterhead. Claire Stout, a member of the Friends of the Tri-County Library, is also the Library Director. Both Ms. Stout and the organization's President, Ms. Eunice Pflug, signed the support letter, thus explaining the letterhead used in the return of the letter.

**Challenge Received:**

3. The applicant submitted a support letter from the Mabank Fire Department. This letter was signed by Ricky Myrick, Fire Chief who is an employee of the City of Mabank. The Mabank Fire Department is a part of the City of Mabank and should be considered a "Governmental Entity" as shown on Page 43 of the 2007 QAP §49.9 (i)(16) "Demonstration of Community Support other than Quantifiable Community Participation" and thus be disqualified. This section has been attached for your review.

**Challenge Response:**

The Mabank Volunteer Fire Department is a fire department made solely of volunteer community members serving a 125 square mile service area covering portions of Henderson, Kaufman and Van Zandt Counties in Mabank and its vicinity.

The Mabank VFD, a 501(c)3 non-profit, is organizationally and operationally independent of the City. The City, at its discretion, has historically provided a portion of the VFD's funding. Volunteer fire departments, as opposed to "city departments," receive no guarantee of yearly funding from the city and are not governmental or taxing entities, but non-profit community based organizations.

Chief Myrick is involved with the fire department strictly as a volunteer. According to City Administrator Louann Confer, he is not employed by the City in that capacity and receives no pay from the City of Mabank for his duties as Fire Chief. Along with his volunteer position with the fire department, Chief Myrick's full-time employment is as the City's Park Superintendent, a position for which he receives city pay and benefits. His employment with Mabank's Park Department has no bearing on the Community Support points requested under §49.9 (i)(16) of the 2007 QAP.

Due to the information presented, we respectfully ask that you find these challenges invalid, and award the points requested under §49.9 (i)(16) of the 2007 QAP to this application.

Please feel free to contact me should you have questions or need additional clarification or documentation. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Eileen Manes".

Eileen Manes

*Director of Development*

## About Cedar Creek Lake



Cedar Creek Lake is located approximately one hour southeast of Dallas, Texas. It is one of the most popular areas in Northeast Texas for those seeking lake activities, lake living and leisure. Cedar Creek Lake was voted Winner of D Magazine's "Worth the Commute" in its November, '01 issue, featuring Best Places to Live. Many of the Lake's residents do commute, and proclaim the hundred mile round trip well worth the serenity they experience upon returning home to the Lake at the end of a work day. The shoreline of Cedar Creek Lake is also a popular spot for "week-enders" who have purchased vacation/weekend homes that they can enjoy the year round.

Surrounded by thirteen incorporated communities, Cedar Creek Lake offers diverse lodging, dining, retail, RV sites and water sports all located on or near the shoreline of beautiful Cedar Creek Lake. Besides retail and specialty shops, antique shopping and flea markets abound in the towns that border the Lake. Gun Barrel City, Mabank, Seven Points, Tool, Kemp, Caney City, Enchanted Oaks, Eustace, Log Cabin, Malakoff, Payne Springs, Star Harbor and Trinidad all have the distinction of being a part of the Cedar Creek Lake community. Combined population is approximately 75,000 residents and growing fast. Great festivals/local celebrations with a friendly hometown atmosphere are ongoing throughout the year, as well as great fishing and boating!

Cedar Creek Lake business owners make leisure activities attractive by offering Jet Ski and other watercraft rentals, RV Parks, Marinas, Golf Courses, Country Clubs, Bowling, Drag Racing, Bingo and much more. Dining runs the gamut from fast food to waterfront restaurants to locally owned and operated establishments that have been in business for years. Area attractions such as First Monday in Canton, Texas Freshwater Fisheries in Athens and Purts Creek State Park in Eustace are all short drives from Cedar Creek Lake.

One of the most picturesque places on Cedar Creek Lake is Tom Finley Park. Nestled under huge shade trees, you'll find plenty of quiet time for reading a book, fun time for children to play on the shore of the lake or in the smaller lagoon area, and family time to enjoy grilling hamburgers and hot dogs for a superb picnic outing. Bring your beach towels, blankets and lawn chairs, a volleyball net, frisbee or horseshoes. This day use waterfront park sits conveniently on the Highway 334 causeway between Seven Points and Gun Barrel City, with an adjacent boat ramp. From Thanksgiving through New Year's Day, the entire Park is transformed into "Christmas Island" where dozens of area merchants place beautiful lighted displays for your drive-through or strolling enjoyment.



The Greater Cedar Creek Lake Area Chamber of Commerce boasts four active Economic Development Corporations - Gun Barrel City, Mabank, Seven Points and Kemp - who invite and encourage new businesses in their respective cities and the area. The school districts include Mabank, Kemp, Trinidad, Malakoff and Eustace.

If you are considering a move to the area, we have numerous realtors that would be happy to assist you in finding the perfect home, whether you're looking for water front, off water, new, used or custom built. There's something for every taste and pocketbook.

If you're planning a great casual vacation or weekend getaway, come enjoy a stay in a cabin, RV Park, motel or bed & breakfast at Cedar Creek Lake. Our sunsets and sunrises are spectacular!

**Please come and enjoy the lake!**

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# Cedar Creek Pilot

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Published: September 27, 2006 10:55 am



## 'Trick or Treat' golf tourney planned

The American Legion Auxiliary and Sons of the American Legion of Post 310 in Gun Barrel City will be hosting a fund raiser golf tournament Oct. 26 at Course in Peeltown.

Money raised will go to the Scottish Rites and area children and youth.

This will be a "Trick or Treat" golf tournament, which means lots of fun. For example, one hole will be played with a putter as a driver, and of course to putt.

There will be many holes with a variety of tricks. There will still be the serious holes such as the longest drive, closest to the pin and five 'Hole-in-One' ranging from trips to \$10,000.

Early registration is \$40. No experience is necessary.

Sponsors and donations are welcome.

For more information call Marcia at 903-887-3532, Byron at 903-340-1546, Tom at 903-880-6630 or Benny at 903-451-2974.

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# Cedar Creek Pilot

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Published: September 01, 2006 03:22 pm



## American Legion Auxiliary plans spaghetti supper

Dinner and karaoke set for Saturday

Members of the American Legion Auxiliary, Unit 310, are holding a spaghetti dinner Sept. 9 to raise money to support their Cancer Fund activities.

In the past, the Auxiliary Cancer Fund has assisted local women with the purchase of specially designed hats, scarves and/or hairpieces during their chemotherapy treatment to help them live a "more normal" life during the days during and following their treatments. They have additionally assisted by providing funds to help cover the cost of gasoline needed to drive to treatments and the extra cost of medications for men and women in the community.

Unit #310 has also donated generously to the Bridge Breast Cancer Center whose mission is to save lives by linking low-income, uninsured or underinsured individuals to diagnostic and treatment services for breast cancer; as well as the M.D. Anderson Cancer Center.

Following the spaghetti dinner (5-7 p.m.) an evening of Karaoke by Fred will be held (7 p.m. until "7") Cost for the dinner is \$6 which will include a heaping serving of spaghetti, salad, bread and dessert in the dining room.



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### Photos

Res



Ann Coleman will help with the cooking and her husband Fred will entertain with karaoke. **Courtesy photo/** (Click for larger image)



# Cedar Creek Pilot

## Thanks for the support

— Letter to the editor,

The American Legion Post 310 wishes to thank all who attended our First Annual Hot Dog Celebration on July 22.

Our various service organizations distributed information to those interested in joining, horseshoe matches were held, KCKL broadcast live from our location, and most importantly money was raised to help fund our 2006 Christmas Food Baskets for the needy in our area.

"Thank-yous" also go to Brookshires of Mabank and radio station KCKL.

Jim Kennerk, Chaplain Post 310.

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# Cedar Creek Pilot

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Published: July 20, 2006 02:00 pm



## Celebrate the Hot Dog

American Legion Post 310 will host a National Hot Dog Month event on Saturday, July 22 from noon until 6 p.m. Proceeds will start their annual Christmas Food Baskets fund.

Members from all of the Post's service organizations will be providing information concerning membership to those interested in joining The American Legion, the American Legion Auxiliary, the American Legion Riders or the Sons of the American Legion.



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## Friends support the library

— To the Editor,

Officers and members of the Friends of the Tri-County Library recently presented a check from their rummage sale to Tri-County Library Director Claire Stout. The library and its Friends group would like to thank all the Cedar Creek citizens who participated in this fundraising effort either by making donations to the sale or purchasing items. Your generous contributions helped us make this a very successful sale and let us all show our continuous support for this fine library.

Because much of the ongoing daily work at the library is done by volunteers, this is a good place for anyone who has a little free time to volunteer their time and talents to a good cause. Just call the Tri-County Library at 903-887-9622 to discuss how you can volunteer.

To honor someone or memorialize anyone, you may donate money for a book, movie or audiotape, and we'll include it in our Memorial Bank that's kept on display for this purpose.

Eunice Pflug

President, Friends of the Tri-County Library

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# Cedar Creek Pilot

## Library needs more volunteers

— To the Editor,

The Friends of the Tri-County Library are proud to welcome the new sign recently installed. We sincerely hope that this will assist potential patrons in locating our excellent library. Our thanks go out to Alene Gibbs for her help in getting this sign which was done and put up by David Pratt.

If you haven't been on Market Street in Mabank recently, drop by real soon and stop in the library for a good look around. You will be welcomed.

Our next meeting of the Friends of the Tri-County Library will be held in the Community Room at the library at 4 p.m. Monday, Sept. 11. All current members and all interested in maintaining this library are urgently invited to come to this important meeting, at which we will elect new officers and discuss plans for the upcoming year. We need all the ideas and input that we can have in order to help our library as it continues to grow and expand its programs. Our annual dues are only \$25, or you may pay \$2 monthly on your water bill. We invite you to join us.

As you may already be aware, the library has only three employees: Library Director Claire Stout, Assistant Director Anita Holt and new staff person Betty Files. While these ladies do an excellent job, they depend very heavily on volunteer help. We are very proud of the volunteers that we currently have working, but are in desperate need of additional volunteers. There are lots of varied jobs that need to be done that require very little training and we are sure you can do them. So if you are interested in a position to donate two or three or more hours a week to this fine organization, please call the library at 903-887-9622 or stop by and we will be happy to sign you up.

Please consider actively joining our organization, the Friends of the Tri-County Library, as we continue to assist the library in every way we can, and consider donating a few hours of your time by signing up as a volunteer. You will truly find both of these actions a reward.

Sincerely,

Eunice Pflug, President

Friends of the Tri-County Library

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2201 Northland Drive  
Austin, Texas 78756

Voice (512) 450-0933  
Fax (512) 450-1097  
eileen@betcodev.com

May 25, 2007

Texas Department of Housing and Community Affairs  
Audrey Martin  
Competitive HTC Program Administrator  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

*RE: Response to follow up question; Friends of the Tri-County Library, TDHCA #07295, Bluestone*

Ms. Martin:

I am in receipt of your follow-up question regarding the funding sources for both the Friends of the Tri-County Library and the Tri-County Library itself for the above referenced application.

After a discussion with Ms. Claire Stout, Library Director, I have obtained the following information regarding the funding of the Tri-County Library. The Library is a city- and county-sponsored library, receiving a large portion of funds from both the City of Mabank and Kaufman County. Historically the library has also received funding from the State of Texas through programs such as the Lone Star Program. The Library also engages in fundraising activities on its own to supplement the annual budget, with events such as the Library Benefit and Cowboy Dinner scheduled for June 9. Memorial donations and gifts to the library also form a portion of their funding. The Tri-County Library is organized as a 501(c)3 not-for-profit organization.

Organized completely separately from the Tri-County Library, the Friends of the Library operate by their own bylaws and leadership. The Friends of the Library is organized as a fundraising group, and receive funds through both fundraising and collection of membership dues. Events such as the recent Friends of the Tri-County Library Rummage Sale, for which donations of items to sell were solicited from Cedar Creek Lake area residents, raised funds which were then presented to the Tri-County Library: "Officers and members of the Friends of the Tri-County Library recently presented a check from their rummage sale to Tri-County Library Director Claire Stout" ("Friends support the library." Cedar Creek Pilot, 22 February 2007).

In summary, The Friends of the Tri-County Library are organized separately from the Tri-County Library and are a membership fundraising group. The Tri-County Library is organized separately from the Friends of the Tri-County Library and is a city- and state-sponsored library. The Tri-County Library does not rely on funds raised by the Friends of the Tri-County Library to operate; the funds donated through the Friends are utilized to supplement the budget, and are similar in nature to memorial donations or gifts from library benefactors.

Please feel free to contact me should you require further information to satisfy this challenge.

Thank you,

A handwritten signature in black ink that reads "Eileen Manes". The signature is written in a cursive, flowing style.

Eileen Manes  
Director of Development

Cc: Claire Stout, via fax (903) 887-3396

## THE FRIENDS OF THE TRI-COUNTY LIBRARY

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May 30, 2007

Texas Dept. of Housing and Community Affairs  
Audrey Martin  
Competitive HTC Program Administrator  
221 E. 11th Street  
Austin, TX 78701

RE: Friends of the Tri-County Library funding: TDHCA #07295, Bluestone HTC Application

Ms. Martin:

BETCO-Cedar Creek Housing, LP submitted an application to the Housing Tax Credit program with a letter of support from the Friends of the Tri-County Library. It is my understanding that this letter has been challenged by another applicant and that the TDHCA is interested in information regarding the source of funds for our organization.

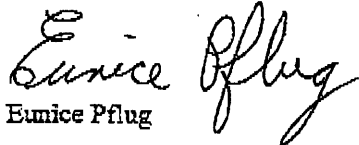
The Friends of the Tri-County Library was organized in order to raise funds to assist the Tri-County Library. The Friends is an organization separate from the Library itself. In order to fulfill our mission of fundraising for the library, we collect membership dues and organize various fundraisers, such as our recent Rummage Sale, throughout the year. The Friends of the Tri-County Library operate under our own bylaws and under the leadership of elected officials.

The Library on the other hand, receives City of Mabank and Kaufman County funds, as well as various state funds, and the generous donations of patrons throughout the Cedar Creek Lake area. The Tri-County Library is organized as a 501(c)3 organization, entirely separate from the organization of the Friends.

The Friends of the Tri-County Library is a community organization, striving to ensure a high quality of life for the residents of Henderson, Kaufman and Van Zandt Counties. We ask that you award the points requested for our letter of support in the above reference application.

Please feel free to contact me should you have any questions.

Sincerely,

  
Eunice Pflug

# Challenge 07302

May 23, 2007

Ms. Audrey Martin  
Multifamily Finance Production  
Texas Department of Housing and Community Affairs  
PO Box 13941  
Austin, TX 78711

RE: Challenge to 2007 HTC Application 07302, Casa Alton

Dear Ms. Martin:

Please accept this letter as a formal challenge to application 07302, Casa Alton. In this application, it appears that the applicant has elected 6 points under Section 49.9(i)(11) for the 2007 Affordable Housing Needs Score. According to our research, the Casa Alton development site is located within the City of Alton, and should have received 4 points for this item instead of 6.

According to the place-level data from the *2007 Housing Tax Credit Site Demographics Characteristics as of April 12, 2007 Board Meeting*, 6 points may be elected for developments in Alton North (See Attachment 1). As also highlighted here, developments in Alton should receive 4 points.

In Volume 4, Tab 13, of application 07302, it confirms that the applicant considers the development site to be in Alton North (See Attachment 2). As such, the applicant elected 6 points for "Housing Needs Characteristics" in Volume 4, Tab 1 (Attachment 3).

However, according to our research, this development site is currently located within the city limits of the City of Alton.

The map from Volume 2, Tab 3, shows that the site is located on the west side of Trosper Rd. and approximately west of Diamond Head Avenue (Attachment 4). I have also included a flood zone map with the site location outlined, as found in Volume 3, Tab 2, of application 07302 (Attachment 5).

In 2000, this location was outside of the City of Alton and within the Alton North CDP. A map from the US Census website depicting the 2000 places and census tracts is attached, with the 07302 site marked in blue (Attachment 6).

However, according to the US Census's 2005 city and town information, the site is located within the City of Alton. A map from the US Census website depicting the 2005 cities and towns is attached, with the 07302 site marked in blue (Attachment 7).

We have also included a letter from the David Deleon, Planning Director with the City of Alton, that confirms that the 07302 development site is indeed located within the city limits of the City of Alton (Attachment 8). The letter includes a map with the land tract of the site outlined in orange with the proposed 07302 site plan outlined in yellow. For clarification, I have also printed out the first page of the site purchase contract contained in Volume 3, Tab 2, of application 07302 confirming that the site is located in tract 42-4, the same tract that Mr. Deleon references in his letter. I have also included the site plan from Volume 2, Tab 4, of application 07302 confirming the outline of the development site with the map from the letter. Furthermore, I have included the

zoning letter from Mr. Deleon with the City of Alton that was included in Volume 3, Tab 2, of application 07302 that certifies that the development site is zoned per the City of Alton's Comprehensive Zoning Plan.

According to guidance received from the Department, the current location of the development site should be used for both the Affordable Housing Needs Score and the 2x per Capita items. Email documentation of this guidance is included as Attachment 9. It specifically states that "Although 2000 census data is used, the current location of the development should be used for both items."

Alton North is a Census Designated Place, which by definition is an unincorporated area. Because the 07302 site is now located in an incorporated area known as Alton, it cannot be considered as being within a CDP.

Based on this information, application 07302 should have elected and received 4 points under Section 49.9(i)(11) for the 2007 Affordable Housing Needs Score because the proposed development site is currently located within the City of Alton. This should be a deduction of 2 points, as they should not have elected 6 points because the site is not located in the Alton North CDP.

We respectfully request that TDHCA review this matter and reconsider the AHNS points awarded to application 07302.

Please contact me at (512) 789-1295 if you have any questions.

Regards,



Alyssa Carpenter  
Ph: (512) 789-1295  
Fax: (512) 233-2269  
Email: ajcarpen@gmail.com

**Attachments:**

1. Page from *2007 Housing Tax Credit Site Demographics Characteristics as of April 12, 2007 Board Meeting* with Alton North and Alton highlighted.
2. Page from Volume 4, Tab 13, of application 07302 with Alton North circled.
3. Page from Volume 4, Tab 1, of application 07302 with Housing Needs Characteristics score highlighted.
4. Page from Volume 2, Tab 3, of application 07302 with map of area and site designated as a star.
5. Page from Volume 3, Tab 2, of application 07302 with site outlined.
6. Map from the US Census website depicting the 2000 places and census tracts with the 07302 site marked in blue.
7. Map from the US Census website depicting the 2005 cities and towns with the 07302 site marked in blue.
8. Letter from City of Alton confirming 07302 development site is located within the city limits of the City of Alton. First page of the property contract for development site from Volume 3, Tab 2, of application 07302. Site plan from Volume 2, Tab 4, of application 07302. Zoning letter from Volume 3, Tab 2, of application 07302.
9. April 23, 2007, email from Audrey Martin clarifying that a development should use its current location for AHNS and 2x per Capita items.

ATTACHMENT 1

Region	Place	County	Also Type-Rural or Urban/Exurban (1)	2000 Census Population	Affordable Housing Need Score (2) Eligible for Exurban Points (3)	HTC Units in Place	Place Per Capita TX Per Capita (4) % Per Cap > 2x TX Per Cap (5)	CDP	Status Changed from Previous Analysis
3	Allen	Collin	Urb./Exurb.	43554	6 Yes	94	0.19	No	
3	Alma	Ellis	Rural	302	7 No	0	0	No	
13	Alpine	Brewster	Rural	5786	7 No	92	2.04	Yes	
4	Alto	Cherokee	Rural	1190	5 No	32	3.43	Yes	
11	Alto Bonito	Starr	Rural	569	4 No	0	0	No	Yes
11	Alton	Hidalgo	Rural	4384	4 No	106	1.66	No	
11	Alton North	Hidalgo	Rural	5051	6 No	0	0	No	Yes
3	Alvarado	Johnson	Rural	3286	5 No	24	0.84	No	
6	Alvin	Brazoria	Urb./Exurb.	21413	6 Yes	246	1.46	No	
3	Alvord	Wise	Rural	1007	7 No	0	0	No	
1	Amarillo	Potter	Urb./Exurb.	173627	6 No	1434	1.05	No	
6	Ames	Liberty	Rural	1079	5 No	0	0	No	
1	Amherst	Lamb	Rural	791	5 No	9	1.51	No	
6	Anahuac	Chambers	Rural	2210	6 No	0	0	No	
8	Anderson	Grimes	Rural	257	4 No	0	0	No	
7	Anderson Mill	Williamson	Urb./Exurb.	8953	6 Yes	0	0	No	Yes
12	Andrews	Andrews	Rural	9652	6 No	24	0.35	No	
6	Angleton	Brazoria	Rural	18130	6 No	248	1.78	No	
3	Angus	Navarro	Rural	334	5 No	0	0	No	
3	Anna	Collin	Rural	1225	7 No	0	0	No	
3	Annetta	Parker	Rural	1108	7 No	0	0	No	
3	Annetta North	Parker	Rural	467	7 No	0	0	No	
3	Annetta South	Parker	Rural	555	7 No	0	0	No	
4	Annona	Red River	Rural	282	7 No	0	0	No	
2	Anson	Jones	Rural	2556	4 No	0	0	No	
13	Anthony	El Paso	Urb./Exurb.	3850	4 Yes	60	1.99	No	Yes
1	Anton	Hockley	Rural	1200	4 No	0	0	No	
5	Appleby	Nacogdoch	Rural	444	6 No	0	0	No	
8	Aquilla	Hill	Rural	136	7 No	0	0	No	
10	Aransas Pass	San Patricio	Rural	8138	5 No	100	1.57	No	
2	Archer City	Archer	Rural	1848	5 No	0	0	No	
6	Arcola	Fort Bend	Rural	1048	6 No	0	0	No	
3	Argyle	Denton	Urb./Exurb.	2365	5 Yes	0	0	No	
3	Arlington	Tarrant	Urb./Exurb.	332969	6 No	2989	1.11	No	
4	Arp	Smith	Rural	901	4 No	0	0	No	
11	Arroyo Alto	Cameron	Rural	320	4 No	0	0	No	Yes
11	Arroyo Colorado Est	Cameron	Rural	755	7 No	0	0	No	Yes
11	Arroyo Gardens-La T	Cameron	Rural	732	4 No	0	0	No	Yes
11	Asherton	Dimmit	Rural	1342	7 No	0	0	No	
2	Aspermont	Stonewall	Rural	1021	5 No	0	0	No	
6	Atascocita	Harris	Urb./Exurb.	35757	6 Yes	0	0	No	Yes
4	Athens	Henderson	Rural	11297	5 No	156	1.71	No	
4	Atlanta	Cass	Rural	5745	5 No	0	0	No	
3	Aubrey	Denton	Rural	1500	7 No	0	0	No	
3	Aurora	Wise	Rural	853	7 No	0	0	No	
7	Austin	Travis	Urb./Exurb.	656562	6 No	8316	1.61	No	
10	Austwell	Refugio	Rural	192	7 No	0	0	No	

10	Alice	Jim Wells	Rural	19010	5	Yes	196	1.378	No	
10	Alice Acres	Jim Wells	Rural	491	4	No	0	0	No	Yes
3	Allen	Collin	Urb./Exurb.	43554	6	Yes	94	0.188	No	
3	Alma	Ellis	Rural	302	7	No	0	0	No	
13	Alpine	Brewster	Rural	6786	7	No	92	2.065	Yes	
4	Alto	Cherokee	Rural	1190	5	No	32	3.474	Yes	
11	Alto Bonito	Starr	Rural	569	4	No	0	0	No	Yes
11	Alton	Hidalgo	Rural	4384	4	No	106	1.881	No	
11	Alton North	Hidalgo	Rural	5051	6	No	0	0	No	Yes
3	Alvarado	Johnson	Rural	3288	5	No	24	0.845	No	
6	Alvin	Brazoria	Urb./Exurb.	21413	6	Yes	304	1.821	No	
3	Alvord	Wise	Rural	1007	7	No	0	0	No	
1	Amarillo	Potter	Urb./Exurb.	173627	8	No	1434	1.085	No	
6	Ames	Liberty	Rural	1079	5	No	0	0	No	
1	Amherst	Lamb	Rural	791	5	No	9	1.531	No	
6	Anahuac	Chambers	Rural	2210	8	No	0	0	No	
8	Anderson	Grimes	Rural	257	4	No	0	0	No	
7	Anderson Mill	Williamson	Urb./Exurb.	8953	6	Yes	0	0	No	Yes
12	Andrews	Andrews	Rural	9652	6	No	24	0.355	No	
6	Angleton	Brazoria	Rural	18130	6	No	248	1.798	No	
3	Angus	Navarro	Rural	334	5	No	0	0	No	
3	Anna	Collin	Rural	1225	7	No	0	0	No	
3	Annetta	Parker	Rural	1108	7	No	0	0	No	
3	Annetta North	Parker	Rural	467	7	No	0	0	No	
3	Annetta South	Parker	Rural	555	7	No	0	0	No	
4	Annona	Red River	Rural	282	7	No	0	0	No	
2	Anson	Jones	Rural	2556	4	No	0	0	No	
13	Anthony	El Paso	Urb./Exurb.	3850	4	Yes	60	2.016	Yes	
1	Anton	Hockley	Rural	1200	4	No	0	0	No	
5	Appleby	Nacogdoches	Rural	444	6	No	0	0	No	
8	Aquilla	Hill	Rural	136	7	No	0	0	No	
10	Aranzas Pass	San Patricio	Rural	8138	5	No	100	1.585	No	
2	Archer City	Archer	Rural	1848	5	No	0	0	No	
6	Arcola	Fort Bend	Rural	1048	6	No	0	0	No	
3	Argyle	Denton	Urb./Exurb.	2365	5	Yes	0	0	No	
3	Arlington	Tarrant	Urb./Exurb.	332669	6	No	2969	1.12	No	
4	Arp	Smith	Rural	901	4	No	0	0	No	
11	Arroyo Alto	Cameron	Rural	320	4	No	0	0	No	Yes
11	Arroyo Colorado Estates	Cameron	Rural	755	7	No	0	0	No	Yes
11	Arroyo Gardens-La Tina	Cameron	Rural	732	4	No	0	0	No	Yes
11	Asherton	Dimmit	Rural	1342	7	No	0	0	No	
2	Aspermont	Stonewall	Rural	1021	5	No	0	0	No	
6	Atascocita	Harris	Urb./Exurb.	35757	6	Yes	0	0	No	Yes
4	Athens	Henderson	Rural	11287	5	No	156	1.732	No	
4	Atlanta	Cass	Rural	5745	5	No	0	0	No	
3	Aubrey	Denton	Rural	1500	7	No	0	0	No	
3	Aurora	Wise	Rural	853	7	No	0	0	No	
7	Austin	Travis	Urb./Exurb.	656562	6	No	8064	1.577	No	
10	Austwell	Refugio	Rural	192	7	No	0	0	No	
4	Avery	Red River	Rural	462	6	No	0	0	No	
4	Avinger	Cass	Rural	464	7	No	0	0	No	
3	Azie	Tarrant	Urb./Exurb.	9800	5	Yes	140	1.891	No	
6	Bacliff	Galveston	Urb./Exurb.	6962	7	Yes	0	0	No	Yes
3	Bailey	Fannin	Rural	213	7	No	0	0	No	



**Application Self Score**

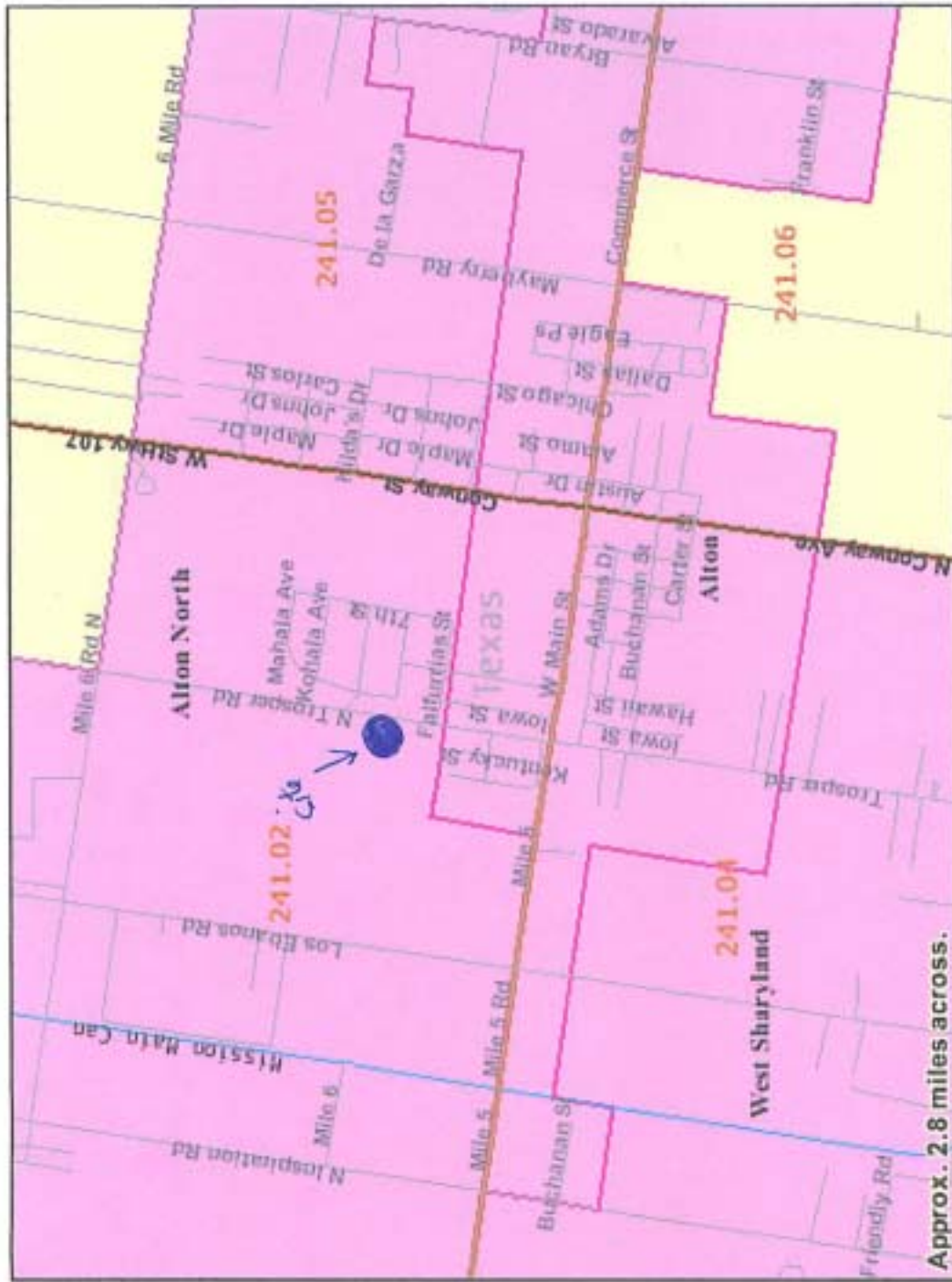
**Instructions:** Complete the following form and indicate all points requested for this Application. All evidence as required by §49.9(i) must be submitted as outlined in the *Application Submission Procedures Manual*.

§49.9(i)	ASPM Tab #	Point Category	Points Requested
(1)	2	Financial Feasibility of the Development (28 points)	28
(2)		Quantifiable Community Participation (Points Not Requested in Self Score)	N/A
(3)	3	The Income Levels of Tenants of the Development (22 Point Maximum)	22
(4)	4	The Size of the Units (Development Characteristics) (20 Points Maximum for Part A and B combined)	20
(5)	5	The Commitment of Development Funding by Local Political Subdivisions (18 Points Maximum)	18
(6)		The Level of Community Support from State Elected Officials (Points Not Requested in Self Score)	N/A
(7)	6	The Rent Levels of the Units (12 Points Maximum)	12
(8)	7	The Cost of the Development by Square Foot (Development Characteristics) (10 Points)	10
(9)	8	The Services to be Provided to Tenants of the Development (8 Points Maximum for Part A and B Combined)	8
(10)	N/A	Rehabilitation or Reconstruction (7 Points)	0
(11)	N/A	Housing Needs Characteristics (7 Points Maximum)	6
(12)	9	Development Includes the Use of Existing Housing as part of a Community Revitalization Plan (Development Characteristics) (7 Points)	0
(13)	10	Pre-Application Participation Incentive Points (6 Points)	6
(14)	11	Development Location (4 Points)	4
(15)	N/A	Exurban Developments (Development characteristics) (7 Points)	0
(16)	12	Demonstration of Community Support other than Quantifiable Community Participation (To be awarded points, points must be requested by checking the box, but points are not added into Total Self Score)	<input type="checkbox"/>
(17)	13	Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits (7 Points)	7
(18)	14	Tenant Populations with Special Housing Needs (4 Points)	4
(19)	15	Length of Affordability Period (4 Points Maximum)	4
(20)	16	Site Characteristics (+4 Points Maximum for Part A and B Combined. Note: may be as low as -5 Points)	4
(21)	17	Development Size (3 Points)	0
(22)	18	Qualified Census Tracts with Revitalization (1 Point)	0
(23)	19	Sponsor Characteristics (2 Points)	0





ATTACHMENT 6



- Boundaries**
- State
  - '00 County
  - '00 Census Tract
  - '00 Place
  - '00 Place
- Features**
- Major Road
  - Street
  - Stream/Waterbody
  - Stream/Waterbody

US Census  
2000 Census tracts - blocks

# ATTACHMENT 7



US Census  
2005 Cities - towns

ATTACHMENT 9



# CITY OF ALTON

*City On The Grow*

205 West Main Ave. Alton, Texas

May 22, 2007

RE: Trospers Rd. Development

To Whom It May Concern:

The City of Alton confirms based on the attached map, that the proposed development along N. Trospers Rd. (42-4) is inside of the city's current city boundaries.

If anyone has any further questions regarding this matter, please call me at (956) 581-2733.

Sincerely,

*David Deleon*

David Deleon  
Planning Director  
City of Alton  
"City on the Grow"

A handwritten signature in black ink, appearing to read "David Deleon", written over a light blue horizontal line.

**Proposed Casa Alton TDHCAB 07302  
Development**



### UNIMPROVED PROPERTY CONTRACT

1. **PARTIES:** CARLOS L. GUERRA; and EUGENIO BOTELLO(Seller) agrees to sell and convey to NATIONAL FARM WORKERS SERVICE CENTER, INC., a Texas corporation(Buyer) and Buyer agrees to buy from Seller the property described below.
2. **PROPERTY:** A TRACT OF LAND OUT OF THE SOUTH 26.00 ACRES OUT OF LOT 42-4, WEST ADDITION TO SHARYLAND, HIDALGO COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED IN ATTACHED EXHIBIT 'A', known as \_\_\_\_\_, or as described on attached exhibit together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships (the Property).
3. **SALES PRICE:**

A.	Cash portion of Sales Price, payable by Buyer at closing \$22,000.00 Per acre based on survey.	Estimate \$ <u>439,780.00</u>
B.	Sum of all financing described below (excluding any loan funding fee or mortgage insurance premium)	\$ <u>0</u>
C.	Sales Price (Sum of A and B)	\$ <u>439,780.00</u>
4. **FINANCING:** Not Applicable
5. **EARNEST MONEY:** in five business days of execution of this contract by both parties, Buyer shall deposit \$10,000.00 as non-refundable earnest money of which \$1,000.00 is the option fee described below with FIDELITY NATIONAL TITLE CO., as escrow agent, at 515 CONGRESS AVE., Suite 1310, Austin, Texas 78701. All earnest money will be credited to the sales price. If Buyer fails to deposit the earnest money as required by this contract, Buyer will be in default.
6. **TITLE POLICY AND SURVEY:**
  - A. **TITLE POLICY:** Seller shall furnish to Buyer at Seller's and Buyer's equal expense an owner policy of title insurance (the Title Policy) issued by FIDELITY NATIONAL TITLE CO. (the Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
    - (1) Restrictive covenants common to the platted subdivision in which the Property is located.
    - (2) The standard printed exception for standby fees, taxes and assessments.
    - (3) Liens created as part of the financing described in Paragraph 4.
    - (4) Utility easements created by the dedication deed or plat of the subdivision in

Initialed for identification by Buyer \_\_\_\_\_ and Seller \_\_\_\_\_







February 16, 2007.

Ms. Monica Poss.

Dear Ms. Poss,

This letter certifies that the Southeast part of the Lot 42-4 West Addition to Sharyland is currently zoned Residential Division 3 as per City of Alton Comprehensive Zoning Plan.

Should you have any questions regarding this matter, please call me at (956) 581-2733.

Sincerely,

*David Deleon*

David Deleon  
Planning and Zoning Director  
City of Alton

ATTACHMENT 9



alyssa carpenter <ajcarpen@gmail.com>

## AHNS and 2x per Capita Questions

Audrey Martin <audrey.martin@tdhca.state.tx.us>

Mon, Apr 23, 2007 at 4:19 PM

To: alyssa carpenter <ajcarpen@gmail.com>

Cc: brenda.hull@tdhca.state.tx.us, Robbye Meyer <rmeyer@tdhca.state.tx.us>

Alyssa,

The municipality in which the development is now located should be used for AHNS and 2X per capita. Although 2000 census data is used, the current location of the development should be used for both items. Please let me know if this changes anything for one of your applications.

As for 07153, according to my records a threshold review has not been performed.

Please let me know if you have any other questions.

Thanks,

Audrey M. Martin

Competitive HTC Program Administrator

Texas Department of Housing and Community Affairs

Ph: (512) 475-3872

Fax: (512) 475-0764

[audrey.martin@tdhca.state.tx.us](mailto:audrey.martin@tdhca.state.tx.us)

[Quoted text hidden]

Applicant  
Response  
07302



# Rufino Contreras Affordable Housing Corporation, Inc.

908 E. 5th Street, Suite 201, Austin, TX 78702- Tel. (512) 474-5003 Fax- (512) 474-5010  
a subsidiary corporation of the National Farm Workers Service Center, Inc.

May 25, 2007

Ms. Audrey Martin  
Multifamily Finance Division  
Texas Department of Housing and Community Affairs  
PO Box 13941  
Austin, TX 78711

Re: Challenge to 2007 HTC Application 07302, Casa Alton

Dear Ms Martin,

Please accept this letter as a response to the challenge to the above referenced application. Casa Alton should be considered to be located in Alton North, not Alton, and receive the 6 points requested in the application for Affordable Housing Needs Score.

The challenge argues that the proposed site, on northwest corner of Trospers Road and proposed Oxford Street is in the City of Alton and not in Alton North according to the US Census's 2005 city and town information. We argue that this source of information is not valid in determining the place or area in which a site is located.

There is not a single instance of the TDHCA referring applicants to US Census 2005 data and there are at least four instances in the 2007 Qualified Allocation Plan and Rules and at least three instances in the Reference Manual which refer to the most recent decennial census (i.e. the 2000 Census) as the source of data:

- §49.3 (11) (A) defines Area as the geographic area contained within the boundaries of...Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census. (Exhibit A)
- §49.6 (g) states that...the Board will not allocate housing tax credits for a...Development located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tracts as established by the U.S. Census Bureau for the most recent Decennial Census. (Exhibit B)
- §49.6 (h) (1) state that staff will only recommend a 30% increase in Eligible Basis if...(2) The Development is located in a Qualified Census Tract that has less than 40% Housing Tax Credit Units per households in the tract as established by the U.S. Census Bureau for the most recent Decennial Census. (Exhibit C)
- §49.8 (i) (15) states that applications may qualify to receive 7 points if the Development is not located in a Rural Area and has a population less than 100,000 based on the most current Decennial Census. (Exhibit D)
- The 2007 Reference Manual List of Items on the TDHCA website directs applicants to go to <http://qct.huduser.org/index.html> in order to find Qualified Census Tracts and Difficult Development Areas. This web page is a Qualified Census Tract Generator that states that the





# Rufino Contreras Affordable Housing Corporation, Inc.

908 E. 5th Street, Suite 201, Austin, TX 78702- Tel. (512) 474-5003 Fax- (512) 474-5010  
a subsidiary corporation of the National Farm Workers Service Center, Inc.

2007 QCTs are based on new metropolitan area geography and a new, more detailed tabulation of household income at the census tract level from the 2000 Census. (Exhibit E)

- The Reference Manual also directs applicants to the 2007 Housing Tax Credit Site Demographic Characteristics as of 4/12/2007 Board Meeting – Place Level. This document states that a site located outside the boundaries of a place (*as designated by the 2000 U.S. Census*) will use the Affordable Housing Needs Score of the place whose boundary is closest to the site. (Exhibit F)
- The Reference Manual also directs applicants to the 2007 Housing Tax Credit Site Demographic Characteristics as of April 12, 2007 Board Meeting - Tract Level. This document lists the 2000 U.S. Census as the tract data source. (Exhibit G)

In addition to the references to the Decennial Census in the QAP and Reference Manual, the TDHCA staff accepted a response to a deficiency notice to application #060047, stating that the same site should be considered in Alton North, not the City of Alton. A copy of the deficiency and response are attached as well.

The TDHCA, by referencing the 2000 Census and the Decennial Census as a source of information regarding HTC applications, not only implies that this is a valid source for determining the Area where a site is located but also states such:

§49.3 (11) (A) The geographic area contained within the boundaries of:

- (i) An incorporated place or
- (ii) Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.

The QAP does not specify which of these two options, or definitions, takes precedence. Though the site where 07302 is proposed to be developed has been annexed into City of Alton boundaries in the recent past, it is also in the Alton North CDP as established by the 2000 census. In essence both definitions are true. However, given that we are relying upon the Reference Manual (and thus the 2000 Census) for other data, we cannot include our site in Alton without invalidating all of the other data we rely upon for application purposes.

If the TDHCA required applicants use the most recent site location boundaries in determining Area, updated on an annual basis as cities annex land block by block, then all data pertaining to these Areas would need to be updated as well. For instance, changing the geographical boundaries of any Area would necessitate a change in that place's population, HTC units in place, Place Per Capita/TX Per Capita, and possibly the Area Type. These new boundaries would also result in changes regarding the items previously mentioned in the QAP, namely issues such as determining census tracts that have more than 30% Housing Tax Credit Units per household, Eligible Basis, and Exurban points. Since this data is not updated on an annual basis, the TDHCA and the applicants rely on more static data, namely the decennial census, to keep all statistics pertinent.

If we were to designate Alton and not Alton North as our development's Area, the information cited in the Reference Manual for Alton would not apply to our site location. For example, the Reference Manual states that Alton has a population of 4,384. That population statistic does not include the





## Rufino Contreras Affordable Housing Corporation, Inc.

908 E. 5th Street, Suite 201, Austin, TX 78702- Tel. (512) 474-5003 Fax- (512) 474-5010  
a subsidiary corporation of the National Farm Workers Service Center, Inc.

geographical area where our proposed development would be located, does not include the people who live on land annexed by the City of Alton since 2000. If we were to designate Alton and not Alton North as our Area, ALL data we would draw from the Reference Manual would be irrelevant to the geographical location of our project. Therefore, it is the Alton North data in the Reference Manual that most accurately reflects the population and housing characteristics of our geography.

Based on this information, we request that application 07302 receive 6 points for the 2007 Affordable Housing Needs Score.

Sincerely,

Jean Coburn  
Project Manager



# EXHIBIT A

## 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(4) **Applicable Fraction**--The fraction used to determine the Qualified Basis of the qualified low-income building, which is the smaller of the Unit fraction or the floor space fraction, all determined as provided in the Code, §42(c)(1).

(5) **Applicable Percentage**--The percentage used to determine the amount of the Housing Tax Credit for any Development (New Construction, Reconstruction, and/or Rehabilitation), as defined more fully in the Code, §42(b).

(A) For purposes of the Application, the Applicable Percentage will be projected at :

- (i) 40 basis points over the current applicable percentage for 70 percent present value credits, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department, or
- (ii) 15 basis points over the current applicable percentage for 30 percent present value credits, pursuant to §42(b) of the Code for the month in which the Application is submitted to the Department.

(B) For purposes of making a credit recommendation at any other time, the Applicable Percentage will be based in order of priority on:

- (i) The percentage indicated in the Agreement and Election Statement, if executed; or
- (ii) The actual applicable percentage as determined by the Code, §42(b), if all or part of the Development has been placed in service and for any buildings not placed in service the percentage will be the actual percentage as determined by Code, §42(b) for the most current month; or
- (iii) The percentage as calculated in subparagraph (A) of this paragraph if the Agreement and Election Statement has not been executed and no buildings have been placed in service.

(6) **Applicant**--Any Person or Affiliate of a Person who files a Pre-Application or an Application with the Department requesting a Housing Credit Allocation. (§2306.6702)

(7) **Application**--An application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material. (§2306.6702)

(8) **Application Acceptance Period**--That period of time during which Applications for a Housing Credit Allocation from the State Housing Credit Ceiling may be submitted to the Department as more fully described in §49.9(a) and §49.21 of this title. For Tax-Exempt Bond Developments this period is the date the Volume 1 and 2 are submitted or the date the reservation is issued by the Texas Bond Review Board, whichever is earlier, and for Rural Rescue Applications this is that period of time stated in the Rural Rescue Policy.

(9) **Application Round**--The period beginning on the date the Department begins accepting Applications for the State Housing Credit Ceiling and continuing until all available Housing Tax Credits from the State Housing Credit Ceiling (as stipulated by the Department) are allocated, but not extending past the last day of the calendar year. (§2306.6702)

(10) **Application Submission Procedures Manual**--The manual produced and amended from time to time by the Department which sets forth procedures, forms, and guidelines for the filing of Pre-Applications and Applications for Housing Tax Credits.

(11) **Area**--

(A) The geographic area contained within the boundaries of:

- (i) An incorporated place or
- (ii) Census Designated Place (CDP) as established by the U.S. Census Bureau for the most recent Decennial Census.

(B) For Developments located outside the boundaries of an incorporated place or CDP, the Development shall take up the Area characteristics of the incorporated place or CDP whose boundary is nearest to the Development site.

(12) **Area Median Gross Income (AMGI)**--Area median gross household income, as determined for all purposes under and in accordance with the requirements of the Code, §42.

(13) **At-Risk Development**--a Development that: (§2306.6702)

(A) has received the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, rental assistance payment, or equity incentive under at least one of the following federal laws, as applicable:

- (i) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. §17151);
- (ii) Section 236, National Housing Act (12 U.S.C. §1715z-1);
- (iii) Section 202, Housing Act of 1959 (12 U.S.C. §1701q);
- (iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. §1701s);
- (v) the Section 8 Additional Assistance Program for housing Developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;
- (vi) the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development;
- (vii) Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. §§1484, 1485, and 1486); or
- (viii) Section 42, of the Internal Revenue Code of 1986 (26 U.S.C. §42), and



# EXHIBIT B

## 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

Applications are not subject to these Housing Tax Credit limitations, and Tax-Exempt Bond Developments will not count towards the total limit on tax credits per Applicant. The limitation does not apply (§2306.6711(b)):

(1) to an entity which raises or provides equity for one or more Developments, solely with respect to its actions in raising or providing equity for such Developments (including syndication related activities as agent on behalf of investors);

(2) to the provision by an entity of "qualified commercial financing" within the meaning of the Code (without regard to the 80% limitation thereof);

(3) to a Qualified Nonprofit Organization or other not-for-profit entity, to the extent that the participation in a Development by such organization consists only of the provision of loan funds, grants or social services; and

(4) to a Development Consultant with respect to the provision of consulting services, provided the Development Consultant fee received for such services does not exceed 10% of the fee to be paid to the Developer (or 20% for Qualified Nonprofit Developments), or \$150,000, whichever is greater.

### (e) Limitations on the Size of Developments.

(1) The minimum Development size will be 16 Units if the Development involves Housing Tax Credits. The minimum Development size will be 4 Units if the funding source only involves the Housing Trust Fund or HOME Program.

(2) Rural Developments involving any New Construction (excluding New Construction of non-residential buildings) will be limited to 76 Units. Rural Developments involving only Rehabilitation do not have a size limitation.

(3) Developments involving any New Construction (excluding New Construction of non-residential buildings), that are not Tax-Exempt Bond Developments, will be limited to 252 Total Units, wherein the maximum Department administered Units will be limited to 200 Units. Tax-Exempt Bond Developments will be limited to 252 Total Units. These maximum Unit limitations also apply to those Developments which involve a combination of Rehabilitation, Reconstruction, and New Construction. Developments that consist solely of acquisition/Rehabilitation or Rehabilitation only may exceed the maximum Unit restrictions.

(4) For those Developments which are a second phase or are otherwise adjacent to an existing tax credit Development unless such proposed Development is being constructed to provide replacement of previously existing affordable multifamily units on its site (in a number not to exceed the original units being replaced, unless a market study supports the absorption of additional units) or that were originally located within a one mile radius from the proposed Development, the combined Unit total for the Developments may not exceed the maximum allowable Development size, unless the first phase has been completed and has attained Sustaining Occupancy (as defined in §1.31 of this title) for at least six months.

(f) **Limitations on the Location of Developments.** Staff will only recommend, and the Board may only allocate, housing tax credits from the Credit Ceiling to more than one Development from the Credit Ceiling in the same calendar year if the Developments are, or will be, located more than one linear mile apart as determined by the Department. If the Board forward commits credits from the following year's allocation of credits, the Development is considered to be in the calendar year in which the Board votes, not in the year of the Credit Ceiling. This limitation applies only to communities contained within counties with populations exceeding one million (which for calendar year 2007 are Harris, Dallas, Tarrant and Bexar Counties). For purposes of this rule, any two sites not more than one linear mile apart are deemed to be "in a single community." (§2306.6711) This restriction does not apply to the allocation of housing tax credits to Developments financed through the Tax-Exempt Bond program, including the Tax-Exempt Bond Developments under review and existing Tax-Exempt Bond Developments in the Department's portfolio. (§2306.67021)

(g) **Limitations of Development in Certain Census Tracts.** Staff will not recommend and the Board will not allocate housing tax credits for a Competitive Housing Tax Credit or Tax Exempt Bond Development located in a census tract that has more than 30% Housing Tax Credit Units per total households in the census tract as established by the U.S. Census Bureau for the most recent Decennial Census unless the Applicant:

(1) In an area whose population is less than 100,000;

(2) Proposes only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings); or,

(3) Submits to the Department an approval of the Development referencing this rule in the form of a resolution from the governing body of the appropriate municipality or county containing the Development. For purposes of this paragraph, evidence of the local government approval must be received by the Department no later than April 2, 2007 (or for Tax-Exempt Bond Developments no later than 14 days before the Board meeting where the credits will be committed). These ineligible census tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

# EXHIBIT C

## 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

(h) **Limitations on Developments Proposing to Qualify for a 30% increase in Eligible Basis.** Staff will only recommend a 30% increase in Eligible Basis:

(1) If the Development proposing to build in a Hurricane Rita Gulf Opportunity Zone (Rita GO Zone), which was designated as a Difficult to Develop Area as determined by HB4440, is able to be placed in service by December 31, 2008 (or date as revised by the Internal Revenue Service) as certified in the Application; or,

(2) The Development is located in a Qualified Census Tract that has less than 40% Housing Tax Credit Units per households in the tract as established by the U.S. Census Bureau for the most recent Decennial Census. Developments located in a Qualified Census Tract that has in excess of 40% Housing Tax Credit Units per households in the tract are not eligible to qualify for a 30% increase in Eligible Basis, which would otherwise be available for the Development site pursuant to the Code, §42(d)(5)(C), unless the Development is proposing only Reconstruction or Rehabilitation (excluding New Construction of non-residential buildings). These ineligible Qualified Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(i) **Rehabilitation Costs.** Developments involving Rehabilitation must establish that the Rehabilitation will substantially improve the condition of the housing and will involve at least \$12,000 per Unit in direct hard costs (including site work, contingency, contractor profit, overhead and general requirements) unless financed with TX-USDA-RHS in which case the minimum is \$6,000.

(j) **Unacceptable Sites.** Developments will be ineligible if the Development is located on a site that is determined to be unacceptable by the Department.

(k) **Appeals and Administrative Deficiencies for Site and Development Restrictions.** An Application or Development found to be in violation under subsections (a) - (h) of this section will be notified in accordance with the Administrative Deficiency process described in §49.9(d)(4) of this title. They may also utilize the appeals process described in §49.17(b) of this title.

### §49.7. Regional Allocation Formula; Set-Asides; Redistribution of Credits.

(a) **Regional Allocation Formula.** As required by §2306.111(d), Texas Government Code, the Department uses a regional distribution formula developed by the Department to distribute credits from the State Housing Credit Ceiling to all urban/exurban areas and rural areas. The formula is based on the need for housing assistance, and the availability of housing resources in those urban/exurban areas and rural areas, and the Department uses the information contained in the Department's annual state low income housing plan and other appropriate data to develop the formula. This formula establishes separate targeted tax credit amounts for rural areas and urban/exurban areas within each of the Uniform State Service Regions. Each Uniform State Service Region's targeted tax credit amount will be published on the Department's web site. The regional allocation for rural areas is referred to as the Rural Regional Allocation and the regional allocation for urban/exurban areas is referred to as the Urban/Exurban Regional Allocation. Developments qualifying for the Rural Regional Allocation must meet the Rural Development definition. At least 5% of each region's allocation for each calendar year shall be allocated to Developments which are financed through TX-USDA-RHS, that meet the definition of a Rural Development, do not exceed 76 Units if proposing any New Construction (excluding New Construction of non-residential buildings), and have filed an "Intent to Request 2007 Housing Tax Credits" form by the Pre-Application submission deadline. These Developments will be attributed to the Rural Regional Allocation in each region where they are located. Developments financed through TX-USDA-RHS's 538 Guaranteed Rural Rental Housing Program will be considered under this set-aside. Any Rehabilitation or Reconstruction of an existing 515 development that retains the 515 loan and restrictions, regardless of the source or nature of additional financing, will be considered under this set-aside. Commitments of 2007 Housing Tax Credits issued by the Board in 2006 will be applied to each Set-Aside, Rural Regional Allocation, Urban/Exurban Regional Allocation and TX-USDA-RHS Allocation for the 2007 Application Round as appropriate.

(b) **Set-Asides.** An Applicant may elect to compete in as many of the following Set-Asides for which the proposed Development qualifies: (§2306.111(d))

(1) At least 10% of the State Housing Credit Ceiling for each calendar year shall be allocated to Qualified Nonprofit Developments which meet the requirements of the Code, §42(h)(5). Qualified Nonprofit Organizations must have the Controlling interest in the Qualified Nonprofit Development applying for this Set-Aside. If the organization's Application is filed on behalf of a limited partnership, the Qualified Nonprofit Organization must be the controlling managing General Partner. If the organization's Application is filed on behalf of a limited liability company, the Qualified Nonprofit Organization must be the controlling Managing Member. Additionally, a Qualified Nonprofit Development submitting an Application in the nonprofit set-aside must have the nonprofit entity or its nonprofit affiliate or subsidiary be the Developer or a co-Developer as evidenced in the development agreement. (§2306.6729 and §2306.6706(b))

# EXHIBIT D

## 2007 Housing Tax Credit Program Qualified Allocation Plan and Rules

paragraph. Areas qualifying under any one of the subparagraphs (A) - (G) of this paragraph will receive 4 points. An Application may only receive points under one of the subparagraphs (A) - (G) of this paragraph.

(A) A geographical Area which is an Economically Distressed Area; a Colonia; or a Difficult Development Area (DDA) as specifically designated by the Secretary of HUD at the time of Application submission (§2306.127).

(B) a designated state or federal empowerment/enterprise zone, urban enterprise community, or urban enhanced enterprise community. Such Developments must submit a letter and a map from a city/county official verifying that the proposed Development is located within such a designated zone. Letter should be no older than 6 months from the first day of the Application Acceptance Period. (General Appropriation Act, Article VII, Rider 6; §2306.127)

(C) the Development is located in a county that has received an award as of November 15, 2006, within the past three years, from the Texas Department of Agriculture's Rural Municipal Finance Program or Real Estate Development and Infrastructure Program. Cities which have received one of these awards are categorized as awards to the county as a whole so Developments located in a different city than the city awarded, but in the same county, will still be eligible for these points.

(D) the Development is located in a census tract which has a median family income (MFI), as published by the United States Bureau of the Census (U.S. Census), that is higher than the median family income for the county in which the census tract is located. This comparison shall be made using the most recent data available as of the date the Application Round opens the year preceding the applicable program year. Developments eligible for these points must submit evidence documenting the median income for both the census tract and the county. These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(E) the proposed Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and is proposed to be located in an elementary school attendance zone of an elementary school that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. The date for consideration of the attendance zone is that in existence as of the opening date of the Application Round and the academic rating is the most current rating determined by the Texas Education Agency as of that same date. (§42(m)(1)(C)(vii))

(F) the proposed Development will expand affordable housing opportunities for low-income families with children outside of poverty areas. This must be demonstrated by showing that the Development will serve families with children (at least 70% of the Units must have an eligible bedroom mix of two bedrooms or more) and that the census tract in which the Development is proposed to be located has no greater than 10% poverty population according to the most recent census data. (§42(m)(1)(C)(vii)) These Census Tracts are outlined in the 2007 Housing Tax Credit Site Demographic Characteristics Report.

(15) **Exurban Developments (Development characteristics).** (§2306.6725(a)(4); §42(m)(1)(C)(i)) Applications may qualify to receive 7 points if the Development is not located in a Rural Area and has a population less than 100,000 based on the most current Decennial Census

(16) **Demonstration of Community Support other than Quantifiable Community Participation:** If an Applicant requests these points on the self scoring form and correctly certifies to the Department that there are no neighborhood organizations that meet the Department's definition of Neighborhood Organization pursuant to §49.9(i)(2)(A)(iv) of this title and 12 points were awarded under paragraph (2) of this subsection, then that Applicant may receive two points for each letter of support submitted from a community or civic organization that serves the community in which the site is located. Letters of support must identify the specific Development and must state support of the specific Development at the proposed location. The community or civic organization must provide some documentation of its existence in the community to include, but not be limited to, listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that are not active in the area that includes the location of the Development will not be counted. For purposes of this item, community and civic organizations do not include neighborhood organizations, governmental entities, taxing entities or educational activities. Letters of support received after March 1, 2007, will not be accepted for this item. Two points will be awarded for each letter of support submitted in the Application, not to exceed 7 points. Should an Applicant elect this option and the Application receives letters in opposition by March 1, 2007, then two points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community. At no time will the Application, however, receive a score lower than zero for this item.

(17) **Developments in Census Tracts with No Other Existing Developments Supported by Tax Credits:** The Application may receive 7 points if the proposed Development is located in a census tract in which there are no other existing developments supported by housing tax credits. Applicant must provide evidence of the census

# Qualified Census Tract Table Generator

This page allows you to generate Low-Income Housing Tax Credit (LIHTC) Qualified Census Tract (QCT) tables for individual counties, individual metropolitan areas, nonmetropolitan parts of individual States, all counties in a single State, the complete table for all metropolitan areas, and the complete table for all nonmetropolitan parts of States. Simply click the appropriate button below.

Geocoded lists of all Qualified Census Tracts are available in WinZip-archived dBase files. | [2006](#) | [2007](#) |

## Notes on 2007 QCTs

The 2007 QCTs are based on new metropolitan area geography and a new, more detailed tabulation of household income at the census tract level from the 2000 Census. See the latest [Designation Notice](#) for information on the application of new metropolitan area geography. An explanation of the new, more detailed tabulation of household income at the census tract level from the 2000 Census used to designate the 2007 QCTs, and a downloadable data file, are available [here](#).

Excel spreadsheets containing the [data](#) used to designate the 2007 QCTs are available [here](#). The designation [algorithm](#) can be read [here](#).

### Select Individual County/Metro Area/Nonmetro State Table

Select Year:

2006

2007 [Generate Complete Metro Table](#)

The Complete Metro Table is available as an Adobe Acrobat (\*.PDF) file formatted for optimal printing. | [2006](#) | [2007](#) |

Select Year:

2006

2007 [Generate Complete Nonmetro Table](#)

The Complete Nonmetro Table is available as an Adobe Acrobat (\*.PDF) file formatted for optimal printing. | [2006](#) | [2007](#) |

### Difficult Development Area Tables

Select Year:

2006 (updated to include changes related to the Gulf Opportunity Zone Act of 2005)

2007

[Generate DDA Tables](#)

The Difficult Development Area tables are available as Adobe Acrobat (\*.PDF) files formatted for optimal printing.

| [Metro DDAs 2006](#) | [Nonmetro DDAs 2006](#) | | [Metro DDAs 2007](#) | [Nonmetro DDAs 2007](#)

To determine the census tract number for a particular address, visit the [HUD User GIS Service -- Low-Income Housing Tax Credit Qualified Census Tract \(QCT\) Locator](#), or for Guam and Northern Marianas Island locations, the [Small Business Administration \(SBA\) HUB Zone Locator](#).

# EXHIBIT F



## 2007 Housing Tax Credit Site Demographic Characteristics as of 04/12/2007 Board Meeting

### Place Level - Sorted by Place

**Instructions:**

A site located outside the boundaries of a place (as designated by the 2000 U.S. Census) will use the Affordable Housing Need Score of the place whose boundary is closest to the site.

If information for a specific place is not included in the table, then contact TDHCA's Division of Policy and Public Affairs at (512) 475-3976. All other questions relating to scoring an application should be submitted in writing to Jason Burr via email at [jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us).

**Notes:**

(1) These area designations may be updated when TX-USDA-RHS releases the 2007 areas eligible for funding or applicants may petition TDHCA to update the "Rural" designation of a place within a metropolitan statistical area by providing a letter from a local official. Such letter must clearly indicate that the place has an incorporated area boundary that touches the boundary of another place with a population of over 20,000. Such petitions should be submitted to the TDHCA Division of Policy and Public Affairs via email at [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us) or fax at (512) 475-3746. To treat all applicants equitably, such letter must be provided to TDHCA prior to the commencement of the pre-application submission period for HTC applications. The results of such petitions will be posted on the HTC application updates portion of the website at <http://www.tdhca.state.tx.us/lihtc.htm> and any changes to the area designations will be e-mailed to the applicant contact e-mail addresses as listed in the application.

(2) QAP 49.9(i)(11), Affordable Housing Needs Score - The number represented for the place is the number of points that may be requested for a Competitive Housing Tax Credit Application for the 2007 Application Round.

(3) QAP 49.9(i)(15), Exurban Points - The "Yes" or "No" in this column for each place indicates whether a Competitive Housing Tax Credit Application in the place is eligible for Exurban points.

(4) QAP 49.5(a)(7), 2X Per Capita - A "Yes" in this column for a place indicates that the place violates the 2X per capita limitation; a "No" indicates that the place does not violate the 2X per capita limitation. HTC Unit Data is based on Board approvals through 12/14/2006. Population data is based on Texas State Data Center 06 Population Estimate. A site located outside the boundaries of an incorporated place will use the County HTC per capita. The HTC per capita status of the Census Designated Places (CDP) shown in the table below is based on the county per capita.

Region	Place	County	Area Type-Rural or Urban/ Exurban (1)	2000 Census Population	Affordable Housing Need Score (2) Eligible for Exurban Points (3)	HTC Units in Place	Place Per Capita/ TX Per Capita PI Per Cap > 2x TX Per Cap (4)	CDP	Status Changed from Previous Analysis
8	Abbott	Hill	Rural	300	5 No	0	0 No		
1	Abernathy	Hale	Rural	2839	5 No	24	1.17 No		
2	Abilene	Taylor	Urb./Exurb.	115930	6 No	823	0.97 No		
11	Abram-Perezville	Hidalgo	Rural	5444	7 No	0	0 No	Yes	
12	Ackerly	Dawson	Rural	245	5 No	0	0 No		
3	Addison	Dallas	Urb./Exurb.	14166	5 Yes	0	0 No		
1	Adrian	Oldham	Rural	159	7 No	0	0 No		
13	Agua Dulce (El Paso)	El Paso	Rural	738	4 No	0	0 No	Yes	
10	Agua Dulce (Nueces)	Nueces	Rural	737	6 No	0	0 No		
10	Airport Road Additio	Brooks	Rural	132	4 No	0	0 No	Yes	
11	Alamo	Hidalgo	Urb./Exurb.	14760	4 Yes	290	2.25 Yes		
9	Alamo Heights	Bexar	Urb./Exurb.	7319	5 Yes	0	0 No		
4	Alba	Wood	Rural	430	7 No	0	0 No		
2	Albany	Shackelford	Rural	1921	6 No	40	2.98 Yes		
6	Aldine	Harris	Urb./Exurb.	13979	4 Yes	120	1.13 No	Yes	
3	Aledo	Parker	Rural	1726	6 No	0	0 No		
10	Alfred-South La Pal	Jim Wells	Rural	451	4 No	0	0 No	Yes	
10	Alice	Jim Wells	Rural	19010	5 Yes	196	1.36 No		
10	Alice Acres	Jim Wells	Rural	491	4 No	0	0 No	Yes	

# EXHIBIT G



## 2007 Housing Tax Credit Site Demographic Characteristics as of April 12, 2007 Board Meeting Tract Level - Sorted by County then Tract

Tract Data Source: U.S. Census 2000

The complete tract identifier used by the Census Bureau is below provided (i.e. 48001950600). The first five digits are the state and county code. The remaining six digits are the tract code. Often in general use, only the tract code is shown with a decimal prior to the final two digits. For example, the above referenced tract would be shown as 9506.00.

Applicants may petition TDHCA to update the unit concentration data if they believe that the number of HTC units in the tract is in error. Such petition must be provided to the TDHCA Division of Policy and Public Affairs via email at [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us) or fax at (512) 475-3746 prior to the commencement of the pre-application submission period for HTC applications. The results of such petitions will be posted on the HTC application updates portion of the website at <http://www.tdhca.state.tx.us/htc.htm> and any changes to the area designations will be e-mailed to the applicant contact e-mail addresses as listed in the application.

**Notes:**

- (1) QAP §49.9(i)(14)(D), Tract MFI > County MFI Points - If "Yes", the Application is eligible for points pursuant to this section.
- (2) QAP §49.9(i)(14)(F), Developments Outside of Poverty Areas - If "Yes", the Application is eligible for points pursuant to this section.
- (3) QAP §49.9(i)(17), Developments Located in Census Tracts with No Other HTC Developments - If "Yes", the Application is eligible for points pursuant to this section.
- (4) QAP ineligibility item 49.6(g): If "Yes", New Construction Applications are ineligible for Housing Tax Credits unless the Applicant submits to the Department an approval of the Development referencing this rule in the form of a resolution from the governing body of the appropriate municipality or county containing the Development by the required deadlines outlined in the QAP.
- (5) For QAP ineligibility item 49.6(h), if "Yes", not eligible for the 130% Eligible Basis Increase.

Tract ID	County	2000 Tract Median Family Income	2000 County Median Family Income	Eligible for §49.9(i)(14)(D) Tract MFI > County MFI Points (1)	2000 Tract Population	2000 Tract Poverty Population	Eligible for Poverty < 10% Points? (2)	Eligible for §49.9(i)(17)? (3)	Ineligible Tract? (4)	Ineligible For 130% Basis Boost? (5)
48001950100	Anderson	38571	37513	Yes	4449	626	No	No	no	no
48001950200	Anderson	40391	37513	Yes	3371	509	No	Yes	no	no
48001950300	Anderson	40278	37513	Yes	738	117	No	Yes	no	no
48001950400	Anderson	57788	37513	Yes	14381	3	Yes	Yes	no	no
48001950500	Anderson	31223	37513	No	3954	981	No	No	no	no
48001950600	Anderson	37769	37513	Yes	6363	1127	No	Yes	no	no
48001950700	Anderson	26736	37513	No	2353	677	No	No	no	no
48001950800	Anderson	37319	37513	No	4955	815	No	No	no	no
48001950900	Anderson	40071	37513	Yes	8744	995	No	No	no	no
48001951000	Anderson	38264	37513	Yes	5801	804	No	No	no	no
48003950100	Andrews	56406	37017	Yes	1525	151	Yes	Yes	no	no
48003950200	Andrews	39816	37017	Yes	5607	822	No	No	no	no
48003950300	Andrews	29211	37017	No	3519	753	No	Yes	no	no

# Challenge 07306

**Audrey Martin**

---

**From:** George Vaults [gvaults22@sbcglobal.net]  
**Sent:** Tuesday, June 19, 2007 2:03 PM  
**To:** audrey.martin@tdhca.state.tx.us  
**Subject:** Concerns for Greater Zion Missionary Baptist Church  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Ms. Martin,

I am George Vaults, a member, Deacon, former Co-Chairman of Deacons, former Chairman of Trustees and former Administrative Assistant of the Greater Zion Missionary Baptist Church, located at 3202 Trulley Avenue, Houston, TX of which Rev. L. David Punch is pastor.

Rev. L. David Punch, Orviss Young, Chairman of Deacons, and Robert Sutton - Co Chairman of Deacons, entered into an illegal sale of the church's 7.5 lots to TKNet. LLC, borrower and the Royal Oaks Banks lender, without the approval of the church's membership. Also, a competitive housing tax credit, pre-application, TA1 had been submitted for \$565,000.

My concern is how can a lending institution lend money and approve a tax credit application to the Pastor, Chairman, and Co-Chairman without the approval of the church.

Please contact me via email at [gvaults22@sbcglobal.net](mailto:gvaults22@sbcglobal.net).

Thank you,

George U. Vaults



**Received**

JUL - 9 2007

**FAX COVER SHEET**

**TO:** Ms. Audrey Martin  
**FROM:** George Vaults  
**RE:** Greater Zion Missionary Baptist Church  
**DATE:** July 9, 2007

Ms. Martin,

Please see the attached. Also, please ask for a copy of the minutes where the church voted to sell the 7.5 lots.

Thank you,  
George Vaults

Please call 713-939-4738 if entire fax was not received. Thank you!

14 pages

FILED  
In the Office of the  
Secretary of State of Texas

APR 22 1994

Corporations Section

ARTICLES OF INCORPORATION

OF

GREATER ZION MISSIONARY BAPTIST CHURCH OF HOUSTON

We the undersigned natural persons over the age of eighteen (18), acting as incorporators, adopt the following Articles of Incorporation of Greater Zion Missionary Baptist Church of Houston, referred to as the "Corporation", under the Texas Non-Profit Corporation Act, referred to as the "Act".

ARTICLE I  
NAME

The name of the Corporation is Greater Zion Missionary Baptist Church of Houston.

ARTICLE II  
NONPROFIT CORPORATION

The Corporation is a nonprofit corporation. Upon dissolution, all of the Corporation's assets shall be distributed to the State of Texas or an organization exempt from taxes under Internal Revenue Code Section 501(c)(3) for one or more purposes that are exempt under the Texas franchise tax. The Corporation shall be the successor to an unincorporated association named Greater Zion Missionary Baptist Church located in Houston, Texas. The incorporators have been authorized to execute these Articles of Incorporation by the consent of a majority of the members of the unincorporated association.

ARTICLE III  
DURATION

The Corporation shall continue in perpetuity.

ARTICLE IV  
PURPOSES

The purposes for which the Corporation is organized are exclusively for the engaging in religious worship or promoting the spiritual development or well-being of individuals and related activities in support thereof.

## ARTICLE V POWERS

Except as otherwise provided in these Articles, the Corporation shall have all of the powers provided in the Act. Moreover, the Corporation shall have all implied powers necessary and proper to carry out its express powers. The Corporation may pay reasonable compensation to its members for services rendered to or for the corporation in furtherance of one or more of its purposes set forth above.

## ARTICLE VI RESTRICTIONS AND REQUIREMENTS

The Corporation shall not pay dividends or other corporate income to its members or officers or otherwise accrue distributable profits or permit the realization of private gain. The Corporation shall have no power to take any action prohibited by the Act. The Corporation shall not have the power to engage in any activities, except to an insubstantial degree, that are not in furtherance of the purposes set forth above.

The Corporation shall have no power to take any action that would be inconsistent with the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3) and related regulations, rulings, and procedures. The Corporation shall have no power to take any action that would be inconsistent with the requirements for receiving tax deductible charitable contributions under Internal Revenue Code Section 170(c)(2) and related regulations, rulings and procedures. Regardless of any other provision in these Articles of Incorporation or state law, the Corporation shall have no power to:

1. Engage in activities or use its assets in manners that are not in furtherance of one or more exempt purposes, as set forth above and defined by the Internal Revenue Code and related regulations, rulings and procedures, except to an insubstantial degree.
2. Serve a private interest other than one that is clearly incidental to an overriding public interest.
3. Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, except as provided by the Internal Revenue Code and related regulations, rulings and procedures.
4. Participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The prohibited activities include the publishing or distributing of statements and any other direct or indirect campaign activities.

5. Have objectives that characterize it as an "action organization" as defined by the Internal Revenue Code and related regulations, rulings and procedures.

6. Distribute its assets on dissolution other than for one or more exempt purposes; on dissolution, the Corporation's assets shall be distributed to the state government for a public purpose, or to an organization exempt from taxes under Internal Revenue Code Section 501(c)(3) to be used to accomplish the general purposes for which the Corporation was organized.

7. Permit any part of the net earnings of the Corporation to inure to the benefit of any private shareholder or member of the Corporation or any private individual.

8. Carry on an unrelated trade or business except as a secondary purpose related to the Corporation's primary, exempt, purposes.

**ARTICLE VII  
MEMBERSHIP**

The Corporation shall have one class of members as provided in the bylaws of the Corporation. The management of the Corporation is to be vested in the members.

**ARTICLE VIII  
INITIAL REGISTERED OFFICE AND AGENT**

The street address of the initial registered office of the Corporation is 1100 Louisiana, Suite 4200, Houston, Texas 77002. The name of the initial registered agent at this office is Anthony W. Hall, Jr.

**ARTICLE IX  
MANAGEMENT VESTED IN MEMBERS**

The management of this Corporation is vested in its members, not in a board of directors.

The Corporation shall have the following officers: Pastor, Financial Secretary and Treasurer. The qualifications, manner of selection, duties, terms and other matters relating to the officers shall be provided in the bylaws.

**ARTICLE X  
GOVERNANCE BETWEEN MEETINGS OF THE MEMBERS**

Between meetings of the members, the Corporation will be governed by the Pastor, Deacons and Trustees as provided for in the bylaws.

**ARTICLE XI  
INDEMNIFICATION**

The Corporation shall not indemnify a person who was, is, or is threatened to be made a named defendant or respondent in litigation or other proceedings because the person is or was a director or other person related to the Corporation.

**ARTICLE XII  
CONSTRUCTION**

All references in these Articles of Incorporation to statutes, regulations, or other sources of legal authority shall refer to the authorities cited, or their successors, as they may be amended from time to time.

**ARTICLE XIII  
INCORPORATORS**

The name and address of each incorporator is:

<u>Name</u>	<u>Address</u>
Rev. Gerald M. Daw	1815 Millbury Drive Missouri City, Texas 77489
W.J. Allums	3028 Webster Avenue Houston, Texas 77004
Albert Deckard	3009 Wichita Houston, Texas 77004
Earlie Dudley	1702 Wentworth Houston, Texas 77004
Eston S. Kenney	3523 Wentworth Houston, Texas 77004
Herbert Thomas, Sr.	3511 Wyoming Houston, Texas 77021
Orviss L. Young	11002 Leitrim Way Houston, Texas 77047

ARTICLE XIV  
ACTION BY WRITTEN CONSENT

Action may be taken by use of signed written consents by the number of members or Deacons and Trustees whose vote would be necessary to take action at a meeting at which all such persons entitled to vote were present and voted. Each written consent must bear the date of signature of each person signing it. A consent signed by less than all of the members or Deacons and Trustees is not effective to take the intended action unless consents, signed by the required number of persons, are delivered to the Corporation within 60 days after the date of the earliest dated consent delivered to the Corporation. Delivery must be made by hand, or by certified or registered mail, return receipt requested. The delivery may be made to the Corporation's registered office, registered agent, principal place of business, transfer agent, registrar, exchange agent, or an officer or agent having custody of books in which the relevant proceedings are recorded. If the delivery is made to the Corporation's principal place of business, the consent must be addressed to the Pastor or principal executive officer.

The Corporation will give prompt notice of the action taken to persons who do not sign consents. If the action taken requires documents to be filed with the secretary of state, the filed documents will indicate that the written consent procedures have been properly followed.

A telegram, telex, cablegram, or similar transmission by a member, director, or committee member, or photographic, facsimile, or similar reproduction of a signed writing is to be regarded as being signed by the member or Deacon or Trustee.

ARTICLE XV

*1 yr / 89 day Report*  
*Annual Report*

We execute these Articles of Incorporation on April 19, 1994.

*Rev. Gerald M. Dew*  
Rev. Gerald M. Dew

*W.J. Allums*  
W.J. Allums

*Albert Beckard*  
Albert Beckard

*Earlie Dudley*  
Earlie Dudley

*Esten S. Kenney*  
Esten S. Kenney

*Herbert Thomas, Sr.*  
Herbert Thomas, Sr.

*Orviss L. Young*  
Orviss L. Young



**The State of Texas**  
**Secretary of State**

**CERTIFICATE OF AMENDMENT**

**FOR**

**GREATER ZION MISSIONARY BAPTIST CHURCH OF HOUSTON  
CHARTER NUMBER 01310280**

THE UNDERSIGNED, AS SECRETARY OF STATE OF THE STATE OF TEXAS,  
HEREBY CERTIFIES THAT THE ATTACHED ARTICLES OF AMENDMENT FOR THE ABOVE  
NAMED ENTITY HAVE BEEN RECEIVED IN THIS OFFICE AND ARE FOUND TO  
CONFORM TO LAW.

ACCORDINGLY THE UNDERSIGNED, AS SECRETARY OF STATE, AND BY VIRTUE  
OF THE AUTHORITY VESTED IN THE SECRETARY BY LAW, HEREBY ISSUES THIS  
CERTIFICATE OF AMENDMENT.

DATED MAR. 2, 1995

EFFECTIVE MAR. 2, 1995



6.30

## ARTICLES OF AMENDMENT

## Greater Zion Missionary Baptist Church of Houston

Greater Zion Missionary Baptist Church of Houston, a Texas nonprofit corporation subject to the Texas Non-Profit Corporation Act, has adopted an amendment to its Articles of Incorporation filed on April 22, 1994 as stated in these Articles of Amendment.

I  
NAME

The name of the Corporation is Greater Zion Missionary Baptist Church of Houston.

II  
SUBSTANCE OF AMENDMENT

Article IX of the Articles of Incorporation is amended to read as follows:

The management of this Corporation is vested in the Pastor, Officers, Deacons and Trustees as provided for in the Bylaws by majority vote.

The Corporation shall have the following Officers: Pastor, Financial Secretary and Treasurer. The qualifications, manner of selection, duties, terms and other matters relating to the Officers shall be provided in the Bylaws.

III  
PROCEDURE OF ADOPTION OF AMENDMENT

The management of the affairs of the Corporation is vested in the members pursuant to Article 1396-2.14 Section C of the Revised Civil Statutes. The amendment was adopted at a meeting of members held on Sunday, February 26, 1995. The amendment received at least



two-thirds of the votes that members who were present at the meeting were entitled to cast.

I am an Officer of the Corporation and I hereby execute this Articles of Amendment on behalf of the Corporation on this 26th day of February, 1995.

Greater Zion Missionary Baptist  
Church of Houston

By: 

Rev. Gerald M. Daw  
Pastor

# **Section IV**

## ***\*Church By-Laws***

# Church By-Laws

## Article I

### *Name*

Greater Zion Missionary Baptist Church of Houston.

## Article II

### *Membership*

A. The membership of the Greater Zion Missionary Baptist Church of Houston, Texas referred to herein as the "church" shall consist of all persons whose names appear on the Church Membership Roll. All authority not herein vested in these by-laws is reserved in and to the church and the church reserves the right at anytime to amend, supplement, or revoke in whole or in part these By-Laws.

B. Persons may be received into the membership by any of the following means:

- 1. By Baptism
- 2. By Letter
- 3. By Christian Experience
- 4. By Restoration
- 5. By Watch Care

*\*each new member shall complete the New Member Orientation class prior to being added to the church membership roll.*

C. Membership may be terminated in the following manner:

- 1. Upon the death of a member.
- 2. Upon the issuance of a church letter of dismissal.
- 3. Upon the withdrawal of fellowship by the church from a member as provided by the Holy Scriptures.
- 4. Upon the withdrawal of fellowship by a member from the church.

## Article III

### *Pastor*

A. The Pastor shall preach the Gospel, teach the Word, administer the ordinances, officiate at the homegoing services of members, and watch over and care for the whole flock. The Pastor shall have full charge of the spiritual welfare of the membership and the stated services of public worship, and is the chief administrator of the church's fiscal affairs.

- HDP, INC. ID: 713-939-6232 JUL 09 07 13:21 NO.001 P.12
- B. The Pastor shall be an ex-officio member of all ministries, auxiliaries, committees, teams, and staffs of the church. The Pastor or his appointee shall serve as Chairman of the Board/President of any other corporation/organization created by the church.
  - C. The Pastor shall be elected by the church by a majority vote and shall continue as Pastor until his retirement, resignation, death, or dismissal by a majority vote of the church.

## Article IV *Deacons*

- A. There shall be a staff of Deacons numbering not less than three (3). The Deacons shall be proved, ordained, and assigned by the Pastor to their ministry according to the Word of God.
- B. As the need arises, the Pastor shall direct the church to submit the names of potential candidates for the Deacon ministry. The Pastor shall conduct personal interviews with the potential candidates in order to determine their qualifications for the ministry, their understanding of the magnitude of the ministry, and their willingness to serve in the ministry. After the interviews and prayerful consideration, the Pastor shall make known to the church the list of brothers that shall be placed on probation (*trial*).
- C. Those brothers selected by the church and approved by the Pastor to serve in the Deacon's Ministry must meet the physical and Spiritual qualifications as listed in the Word of God. Upon meeting the qualifications and having a successful interview, the brothers will be placed on probation (*trial*) for a period of not more than eighteen (18) months. During which time they will undergo rigorous training and preparation for the ministry. At the end of this period, the brothers may or may not be ordained and appointed to a specific area/s of ministry by the Pastor.
- D. The Deacon's Ministry shall in every way serve to assist the Pastor, act as leaders during prayer meetings and in periods of public devotional services. They shall conduct regular visitation to the sick and shut-in members and assist the Pastor in caring for the entire membership through the Deacon Family Ministry Plan.
- E. The Deacon's Ministry shall promote and engage in evangelism, Christian education, and glorifying God. Deacons shall provide for the ordinances of the church and aid in their administration. Deacons shall also be faithful tithers and cheerful givers.
- F. The Deacon's Ministry members shall elect annually a Chairman, Co-Chairman, Secretary, and Treasurer for their ministry. Deacons shall meet regularly each month. Special meetings may be called by the Pastor. The Chairman (or Co-Chairman in the absence of the Chairman) may also call special meetings with Pastoral approval.
- G. Deacons shall have the privilege to use their office as long as they shall faithfully discharge their duties.

**Article V**  
**Trustees**  
*(Stewardship Ministry)*

- A. Trustees shall be recommend by the Pastor to the church for approval and then assigned by the Pastor to a specific area of ministry.
- B. Trustees shall be a member of the church in good and regular standing, honest, full of the Holy Spirit, financially stable, a tither, and a cheerful giver.
- C. Trustees shall ensure that the church's physical holdings are properly cared for and maintained. This includes but may not be limited to:
  - 1. The building and grounds
  - 2. All property (land)
  - 3. Mechanical equipment/appliances
  - 4. Motor vehicles
  - 5. Plumbing and electrical fixtures
- D. Trustees shall elect annually a Chairman and a Co-Chairman for their ministry.
- E. Trustees shall have the privilege to use their office as long as they shall faithfully discharge their duties.

**Article VI**  
**Church Officers**

- A. Pastor
- B. Finance Ministry Coordinator (formerly the Financial Secretary)
- C. Treasurer

*Note: The Pastor shall be selected according to the provision in "Article III Section C."  
The Finance Ministry Coordinator and the Treasurer shall be recommended by  
the Pastor to the church for approval annually.*

## **Article VII**

### ***Church Administration***

- A. The church shall conduct its day to day operations according to the church's Administrative Policies.
- B. The church shall manage its finances according to the church's Financial Management Policies.
- C. The church shall operate its ministries according to the church's Ministry Policies.
- D. The above policies shall be contained in a church manual that may be updated from time to time as the need arises.

## **Article VIII**

### ***Compensated Workers***

The Pastor, Administrative Assistant, Deacons, and Trustees shall have the authority to acquire the needed paid personnel for the work of the ministry, the building up of God's Kingdom, and the operation of the church.

Applicant  
Response  
07306

*Anderson Capital, LLC*

VIA FACSIMILE: (512) 475-1895

July 11, 2007

Ms. Audrey Martin  
P.O. Box 13941  
Austin, TX 78711-3941

Re: Challenge to TDHCA Number 07306, Zion Village Apartments

Dear Ms. Martin,

Please accept this letter as additional clarification of the documents presented on July 5, 2007 which certify Rev. L. David Punch, Pastor and Orviss L. Young, Chairman of Deacons/Church Treasurer held vested control and authority to transact Greater Zion Missionary Baptist Church business, and lawfully conveyed ownership of the proposed site for Zion Village Apartments to TK Net, LLC, General Partner for Village of Zion, L.P., applicant for TDHCA #07306

Clarification is presented below:

- The July 5, 2007 letter from Rev. Punch and Mr. Young provide certification to the fact.
- The December 22, 2006 church Resolution provides signature authority to the Pastor and Chairman of the Deacon Board, and provides "all authority for transacting financial business of the corporation."
- Article IX of the Articles of Incorporation dated April 19, 1994 states management of the corporation is vested in its members.
- The Articles of Amendment dated February 26, 1995 states the "Substance of Amendment" replaces Article IX of the April 19, 1994 Articles of Incorporation to read as follows: "The management of this Corporation is vested in the Pastor, Officers, Deacons and Trustees..." It goes on to state "The Corporation will have the following officers: Pastor, Financial Secretary and Treasurer."
- Article X of the Articles of Incorporation dated April 19, 1994 states "Between meetings of the members, the Corporation will be governed by the Pastor, Deacons and Trustees..." It is important to note there is no requirement for the number meetings of the membership per annum.
- Church By-Laws, Article II, A. states "The Pastor...is the chief administrator of the church's fiscal affairs."

*Anderson Capital, LLC*

347 Walnut Grove Lane  
Coppell, TX 75019

Phone: (972) 567-4630 Fax: (972) 462-8715



- Church By-Laws, Article II, B. states "The Pastor or his appointee shall serve as Chairman of the Board/President of any other corporation/organization created by the church."
- Church By-Laws, Article IV, E. states "Deacons shall provide for ordinances of the church and aid in their administration."
- Church By-Laws, Article IV, F. states "The Chairman [of the Deacons]...may also call special meetings with Pastor approval."
- Church By-Laws, Article VI confirms the church officers are "A. Pastor, B. Finances Ministry Coordinator (formerly the Financial Secretary) [and] C. Treasurer."

Based on the evidence provided as paraphrased herein, Greater Zion Missionary Baptist Church conducted business within the powers granted in the Church By-Laws and Amended Articles of Incorporation.

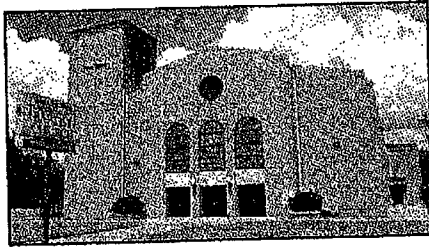
TK Net, LLC is the legal owner of the proposed development site of Zion Village Apartments.

Please contact me should you have any questions or concerns.

Respectfully submitted,



Terri L. Anderson  
President, Anderson Capital, LLC



# GREATER ZION MISSIONARY BAPTIST CHURCH

3202 Trulley Avenue • Houston, TX 77004  
Phone: (713) 659-7735 Fax: (713) 659-7733

**Reverend L. David Punch**  
*Pastor*

July 5, 2007

To Whom It May Concern:

The following individuals acting in capacity and by powers granted in the Bylaws of the Greater Zion Missionary Baptist Church are authorized to represent, negotiate and transact business on behalf of the Greater Zion Missionary Baptist Church.

Rev. L. David Punch, Pastor  
Orviss L. Young, Chairman of Deacons/Church Treasurer

The undersigned hereby certifies that they are duly elected and qualified Pastor, Chairman of Deacons/Church Treasurer of the books and records and seal of Greater Zion Missionary Baptist Church, a corporation fully formed pursuant to the laws of the State of Texas.

A True Record  
Attest

*Rev. L. David Punch*  
\_\_\_\_\_  
Pastor  
*Orviss L. Young*  
\_\_\_\_\_  
Chairman

*We are united to win the loss equip the saved, and glorify God through service, worship and praise.*

*Our vision is ministry and ministry meets need*



# GREATER ZION MISSIONARY BAPTIST CHURCH

3202 Trulley Avenue • Houston, TX 77004  
Phone: (713) 659-7735 Fax: (713) 659-7733

**Reverend L. David Punch**  
*Pastor*

## RESOLUTION

**Authorize Signature Pastor and Chairman of the Deacon Board to sign documents.**

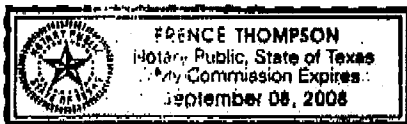
WHEREAS, the Officers of Greater Missionary Baptist Church, has determined that Orviss Young as Chairman of the Deacons and L. David Punch as Pastor shall assume signature and all authority for transacting financial business of the corporation.

BE IT RESOLVED, that the Pastor and Chairman of the Deacons shall act together be and hereby is and are authorized and directed to negotiate the specific terms in connection therewith and to execute and deliver on the behalf of corporation all such documents as many may be necessary or require by lender to evidence or secure the loan.

IN WITNESS WHEREOF, I have executed my name as Secretary and have hereunto affixed the corporate seal of the aboved-named Corporation this 22<sup>nd</sup> day of December 2006.

A True Record  
Attest

Secretary



GREATER ZION  
MISSIONARY BAPTIST CHURCH  
3202 TRULLEY AVENUE  
HOUSTON, TEXAS 77004  
PHONE: (713) 659-7735  
FAX: (713) 659-7733

*We are united to win the lost, equip the saved, and glorify God through service, worship and praise.*

*Our vision is ministry and ministry meets needs.*



The State of Texas  
Secretary of State

CERTIFICATE OF AMENDMENT

FOR

GREATER ZION MISSIONARY BAPTIST CHURCH OF HOUSTON  
CHARTER NUMBER 01310280

THE UNDERSIGNED, AS SECRETARY OF STATE OF THE STATE OF TEXAS,  
HEREBY CERTIFIES THAT THE ATTACHED ARTICLES OF AMENDMENT FOR THE ABOVE  
NAMED ENTITY HAVE BEEN RECEIVED IN THIS OFFICE AND ARE FOUND TO  
CONFORM TO LAW.

ACCORDINGLY THE UNDERSIGNED, AS SECRETARY OF STATE, AND BY VIRTUE  
OF THE AUTHORITY VESTED IN THE SECRETARY BY LAW, HEREBY ISSUES THIS  
CERTIFICATE OF AMENDMENT.

DATED MAR. 2, 1995

EFFECTIVE MAR. 2, 1995



## ARTICLES OF AMENDMENT

### Greater Zion Missionary Baptist Church of Houston

Greater Zion Missionary Baptist Church of Houston, a Texas nonprofit corporation subject to the Texas Non-Profit Corporation Act, has adopted an amendment to its Articles of Incorporation filed on April 22, 1994 as stated in these Articles of Amendment.

#### I NAME

The name of the Corporation is Greater Zion Missionary Baptist Church of Houston.

#### II SUBSTANCE OF AMENDMENT

Article IX of the Articles of Incorporation is amended to read as follows:

The management of this Corporation is vested in the Pastor, Officers, Deacons and Trustees as provided for in the Bylaws by majority vote.

The Corporation shall have the following Officers: Pastor, Financial Secretary and Treasurer. The qualifications, manner of selection, duties, terms and other matters relating to the Officers shall be provided in the Bylaws.

#### III PROCEDURE OF ADOPTION OF AMENDMENT

The management of the affairs of the Corporation is vested in the members pursuant to Article 1396-2.14 Section C of the Revised Civil Statutes. The amendment was adopted at a meeting of members held on Sunday, February 26, 1995. The amendment received at least

two-thirds of the votes that members who were present at the meeting were entitled to cast.

I am an Officer of the Corporation and I hereby execute this Articles of Amendment on behalf of the Corporation on this 26th day of February, 1995.

Greater Zion Missionary Baptist  
Church of Houston

By: 

Rev. Gerald M. Dew  
Pastor

DEC-30-2006 01:24 PM BRIDGETE JACKSONA

7136443319

P. 11

1100 MERCER STREET  
DALLAS, TX 75241-0000

Date: FEB 07 1989

GREATER ZION MISSIONARY BAPTIST  
CHURCH  
3202 TRULLEY AVENUE  
HOUSTON, TX 77004

Employer Identification Number:  
76-0119873  
Contact Person:  
EO TECHNICAL ASSISTOR  
Contact Telephone Number:  
(214) 767-3526

Accounting Period Ending:  
December 31  
Form 990 Required:  
No  
Addendum Applies:  
No

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in sections 509(a)(1) and 170(b)(1)(A)(i).

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. In the case of an amendment to your organizational document or bylaws, please send us a copy of the amended document or bylaws. Also, you should inform us of all changes in your name or address.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more you pay to each of your employees during a calendar year. This does not apply, however, if you make or have made a timely election under section 3121(w) of the Code to be exempt from such tax. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Since you are not a private foundation, you are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal excise taxes. If you have any questions about excise, employment, or other Federal taxes, please let us know.

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or

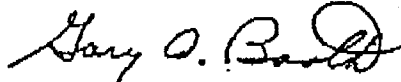
Letter 947(b)/cc:

-J-

GREATER ZION MISSIONARY BAPTIST

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



Gary O. Booth  
District Director

Letter 947(00/00)



WINDOW ON STATE GOVERNMENT

CAROLE KEETON STRAYHORN TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



Corporation Search Results

## Franchise Tax Certification of Account Status

### This Certification Not Sufficient for Filings with Secretary of State

Do **not** include a certification from this Web site as part of a filing with the Secretary of State for dissolution, merger, withdrawal, or conversion. The Secretary of State will reject a filing that uses the certification from this site.

To obtain a certificate that is sufficient for dissolution, merger, or conversion, see Publication 98-336d, Requirements to Dissolve, Merge or Convert a Texas Entity.

Certification of Account Status	Officers And Directors Information
Company Information:	<b>GREATER ZION MISSIONARY BAPTIST CHURCH ACRES HOMES</b> 1620 DOLLY WRIGHT ST HOUSTON, TX 77088-7713
Status:	<b>IN GOOD STANDING - EXEMPT CORPORATION</b>
Registered Agent:	CURTIS C LEWIS SR 1620 DOLLY WRIGHT HOUSTON, TX 77088
Registered Agent Resignation Date:	
State of Incorporation:	TX
File Number:	0150242201
Charter/COA Date:	August 21, 1998
Charter/COA Type:	Charter
Taxpayer Number:	32000905201

Carole Keeton Strayhorn  
Texas Comptroller of Public Accounts

Window on State Governmer  
Contact U  
Privacy and Security Polic