

2012 Competitive Housing Tax Credit (HTC) Challenges

The attached table titled, **Status Log of 2012 Competitive Housing Tax Credit Challenges Received and Determinations Made as of June 13, 2012** (“Status Log”), summarizes the status of challenges received on or before June 13, 2012. The challenges were made against Applications in the 2012 Application Round. The Status Log and corresponding imaged challenges are provided on the website. Due to the large number of challenges received this year, the Status Log will not be complete as of the initial posting to the website and will be updated as the Department makes determinations.

All challenges are addressed pursuant to §50.10(d) of the 2012 Qualified Allocation Plan and Rules (“QAP”), which states that the Department will address information or challenges received from unrelated entities to a specific 2012 active Application, utilizing a preponderance of the evidence standard, as stated in paragraphs (1) – (4) of this subsection, 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 and is received by the Department no later than June 13, 2012:

- (1) Within fourteen (14) business days of the receipt of the Application Challenges deadline, the Department will post all information and challenges received (including any identifying information) to the Department’s website.
- (2) Within seven (7) business days of the Application Challenges deadline, the Department will notify the Applicant related to the information or challenge. The Applicant will then have seven (7) business days to respond to all information and challenges provided to the Department.
- (3) Within fourteen (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.
- (4) Nothing herein shall serve to limit the authority of the Board to apply discretion for good cause to the fullest extent lawfully permitted.

Please note that a challenge is not eligible pursuant to this section if it is not made against a specific active 2012 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 Board, challenges relating to the awarded/inactive Application are not eligible under this section.

To the extent that the Applicant related to the challenge responds to the eligible 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 §50.10(c) of the 2012 QAP, as is the case with all point reductions and terminations. To the extent that the evidence does not confirm a challenge, a memo relating to the challenge will be saved in the Application file. The table attached reflects a summary of all such challenges received and determinations made as of June 13, 2012.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 1, 2012	12025	Hawk Ridge	George Klecan	<p>The challenge regards §50.4, Ineligible Applicants, Applications, and Developments. The Challenger's first three claims refer to a statement of support by the Mayor of White Settlement and negotiation of a loan from the City. The Challenger states that the items above occurred "before the Economic Development Corporation (EDC) Board, the City Council, or citizens at large had knowledge of the proposed Development." Claim 4 asserts that the loan from the City of White Settlement was appropriated after the filing deadline. Claim 5 contends that the support letter from the Homeowner's Association (HOA) is fraudulent. Claims 6 through 7 contend that the support letters submitted should be rejected as they are actually letters from 2011. Claim 8 contends that the form letter used as support from the Joint Reserve Base (JRB) does not actually state support for the project. Claim 9 asserts that the project is too far from the military base to provide housing. Claim 10 asserts that over 300 citizens have signed petitions in opposition to the Development. Claim 11 asserts that fraudulent practices have been used by the project's supporters.</p>	<p>Staff has reviewed the documentation included in the challenge as well as the Applicant's response. The first three claims brought by the challenger failed to point to a specific part of the application that was fraudulent. The 4th claim was in regard to a loan commitment from the City of White Settlement submitted with the application; there is no indication in the application that the letter was submitted fraudulently as it is signed and dated and on city letterhead. Regarding the 5th claim there is not sufficient evidence that the developer did anything that was outside the rules of the QAP regarding assisting neighborhood organizations. In addition, points were not awarded since the neighborhood organization was found to be ineligible. Regarding claims 6, 7 and 8, regardless of any letters that were submitted in the 2011 application for the same project, there is no evidence that the letters submitted in 2012 were done so fraudulently. However, after further review of the letter from NAS Forth Worth, JRB, staff finds that this letter did not specifically express support and is recommending 2 points be deducted from the Applicant's final score. Regarding the 9th claim, there is no evidence that any fraudulent statements were submitted in the application. Regarding claims 10 and 11, while there does appear to be substantial opposition from nearby Fort Worth residents to the 2012 application, there is no evidence that any fraudulent statements were submitted in the application.</p>	<p>The Department has evaluated the challenge pursuant to the methodology outlined in §50.10(d) of the 2012 QAP. It has been determined that 2 points will be deducted from the application's final score for §50.(b)(13) Community Input Other Than Quantifiable Community Participation.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12051	Brownstones Tyler	Sarah Andre	<p>The challenge regards points requested under §50.9(b)(16) Development Location and §50.9(b)(23) Community Revitalization and Historic Preservation. Regarding Development Location, the challenger questions whether the proposed development is located in a Central Business District as defined by the QAP. The challenger claims that the city's Comprehensive Plan has designated the downtown area and that the development site does not appear to be included in that area. Regarding Community Revitalization, the challenger contends that, although a letter from the city manager states that the area is covered by a geographic plan, the referenced plan is part of a section of a larger Comprehensive Plan and therefore should not be eligible for points.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. First, the application as submitted does meet the requirements of the QAP for both scoring criteria, which requires specific affirmation statements in the form of a letter provided by the local officials to determine eligibility for points. Regarding Community Revitalization, while it does appear that the North End Revitalization Plan is part of a larger comprehensive plan, this is acceptable under the QAP. In addition, the evidence in the challenge actually confirms that the development site is located within that revitalization plan area. Therefore, the application is eligible for the points. Regarding Development Location, while it does appear that the boundaries stated in the letter from the mayor are not consistent with the boundaries designated in the consolidated plan, that is not a requirement of the QAP. Staff appreciates that there are many ways to define Central Business District or Downtown Area and again relies on the appropriate local official to make the determination.</p>	<p>The application is currently under review, and that review may result in adjustments to the application score. However, no action with regard to this challenge will be taken at this time.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12060	The Reserves at High Plains	Daniel B. Markson, NRP	The Challenge is whether the application is eligible for points under §50.9(b)(7), Rent Levels of the Units, and whether threshold criteria was met under §50.8(4), Experience Requirement. The Challenger contends that the Applicant miscalculated the number of units required to satisfy the point requirement for the Rent Levels of the Units and had to correct the units in order to receive the fourteen requested points. The Applicant is additionally stated as having submitted an Experience Certificate that did not meet the requirements of the rules. The Challenger believes that due to the tight scoring criteria the Applicant should not be allowed to receive the full benefit of points when correct information was not initially provided.	The challenger is correct that an experience certificate for 64 units was provided in the application. The applicant was given the opportunity to address the question of experience through the department's administrative deficiency process. Through this process the applicant successfully provided adequate experience for Mr. Ed Keating, who had been on the development organization chart from the time of submission. Although staff does consistently allow minor revisions to the rent schedule, one was actually not needed in this case in order to be awarded points for Rent levels of the Units. The deficiency issued by staff initially was the result of a miscalculation.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
May 31, 2012	12062	Cadillac Apartments	Tanya Ragan, President, Farmers Market Stakeholders Association	The Farmers Market Stakeholders Association challenge and oppose the proposed development because it is believed that it will have an adverse effect on the future improvement and economic development of the neighborhood. The basis of opposition is that existing state and city funded facilities are located within two blocks of the proposed Cadillac Apartments that currently house and provide services for the homeless. The citizens of Farmers Market Stakeholders Association state that the facilities are already taxing neighborhood resources. There is additional concern because a daycare center is located within three blocks of the proposed location.	Staff has reviewed the documentation included in the challenge as well as the Applicant's response. Pursuant to §50.9(b)(2) Quantifiable Community Participation, points will be awarded based on written statements of support or opposition from Neighborhood Organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site." During the review of the QCP letters, it was determined that the development site did not lie within the boundaries of the Farmers Market Stakeholders Association. No points will be deducted or added to the application as a result of the comments of the organization.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
May 31, 2012	12062	Cadillac Apartments	Scott Galbraith, Vice President, Matthews Affordable Income Development	The challenge regards points under §50.9(b)(11) Additional Evidence of Preparation to Proceed. The challenger contends that the original application did not include contracts for civil engineering and landscape architecture and that the fees listed in the civil feasibility study for engineering services are not correctly reflected in the development cost schedule.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. The Applicant was allowed to clarify questions regarding the contracts for architectural, civil engineering, and landscape architecture services through an administrative deficiency. In addition, staff determined that the Applicant represented the fees associated with these services correctly in the development cost schedule. However, should there be additional questions about actual costs of the development, including soft costs associated with professional fees, those will be addressed during the underwriting review.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 12, 2012	12067	Amberwood Place	Shackelford, Melton, McKinley	<p>The challenge regards ineligibility under §50.4(d)(13)(C) Ineligible Development Sites with negative characteristics. The information below is as reported in the challenge and in the Explosion Hazard Summary, a professional report prepared by Aaron & Wright Assessment, LLC (Assessment), for purposes of the challenge. The site is adjacent to the Enbridge & Centerpointe Pipeline Pressurization Facility (Facility). Several of the proposed buildings are within 25 feet of the common boundary and one proposed building is, according to the challenger, within the sole access easement to the landlocked Facility's site. The Assessment states that five above ground storage tanks (ASTs) are on the facility's grounds with four of the five, containing an average of 14,738 gallons of natural gas and drip gas, being about 170 feet from the Development Site. The Assessment indicates that the tanks' contents constitute an explosion hazard under HUD guidelines unless the tanks contain 100 gallons or less. The Assessment states that HUD's criteria would probably result in HUD finding the site unacceptable for development. Despite the presence of a 30 foot tall noise barrier, the challenge also states that noise is an issue. The challenge indicates that tractor-trailer traffic on the access easement is another negative feature of the site.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. At present, staff disagrees with the Applicant's response that the issues of the challenge do not constitute negative site characteristics. Furthermore, although the Applicant's response to the challenge seeks to address all concerns, the Assessment's photographs and narrative provide tangible evidence that the adjacent Facility has ASTs contain a significant volume of explosive product near proposed residential buildings to call for concern. While the noise and truck traffic are relatively routine issues, staff views the Facility's ASTs and pipelines as clearly extraordinary and representing a potentially serious safety issue for future residents.</p>	<p>Staff determined that the site is unacceptable. The process described in §50.4(d)(15) is ongoing, and the Applicant's response as well as a final resolution are pending.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12074	Acadiana Village	Doak Brown, The DDB Law Firm, PC, on behalf of Leslie Holleman, Applicant for Pinedale Village	The challenge regards points for both 50.9(b)(16)(A) Development Location and 50.9(b)(5)(A) The Commitment of Funding by a Unit of General Local Government or Government Instrumentality. First, the challenger contends that the development site is not located in an elementary school attendance zone that has an academic rating of "Exemplary" or "Recognized" because the Applicant used the rating of a school that has, in the challenger's words, been decommissioned. Secondly, the challenger asserts that the TDHCA HOME funds should not be considered an eligible source of funding in order to receive points under §50.9(b)(5) because the site is within what was formerly part of a participating jurisdiction, namely the Orange County Consortium.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. Regarding the status of points for Development Location, staff found that the development site is in the attendance zone of an elementary school (Bridge City Elementary formerly known as Sims Elementary) with a 2011 TEA rating of Exemplary. Regarding the TDHCA HOME funds, staff finds that this is an eligible source for points based on both correspondence between the Applicant and the Orange County Consortium as well as guidance from staff before the application was submitted.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12075	Saddlebrook Apartments	Daniel B. Markson, NRP	The challenge regards points awarded under §50.9(b)(11), Additional Evidence of Preparation to Proceed. The challenger points to the feasibility study submitted with the application, which discusses storm water management and the need for an offsite detention area. The challenger contends that the costs associated with these items are underestimated both in the study and in the development cost schedule.	Staff reviewed documentation included in the challenge as well as the Applicant's response. Staff determined that the documents submitted with the application satisfied the requirements of the QAP and qualified the application for the points. In addition, the undewriting review has been completed and the costs in the application were within the 5% limit of the TDHCA estimated costs.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12083	Harmon Villas	Brad Forslund, Churchill Residential	<p>The challenge regards points for §50.9(b)(8) The Cost of the Development by Square Foot and §50.9(b)(23)(A) Community Revitalization. The first challenge asserts that the development cost schedule, as submitted, misrepresents the actual costs of the development because it does not include over \$500,000 associated with widening a road and extending sewer lines. The challenger suggests that the increase (of over \$200,000) in offsite costs would make the applicant ineligible for the 12 points under §50.9(b)(8)(B). In addition, the challenger claims that the engineer that signed off on the offsite costs appears to be a related party to the applicant. The second challenge, related to Community Revitalization, asserts that the letter provided was not from the appropriate local official (from a city council member and not the mayor) and did not state whether the plan was adopted by ordinance or resolution in a process that allows for public input. Therefore the application should not be awarded the point.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. The Applicant has confirmed that, outside of the fact that the engineer and one of the principals in the application have the same last name, there is no evidence of a relationship between the engineer Adolphus Oji and the principal of Sphinx Development, Jay Oji. Regarding the costs associated with widening the road, staff agrees with the challenger that these costs are not included in the application but should be represented in the offsite costs breakdown as well as the development cost schedule. In addition, those costs would be included in the calculation of Cost of the Development by Square Foot. Staff determined that any additional offsite costs exceeding \$20,000 would result in a loss of points for the application. While staff is not certain of the amount of actual costs associated with the road, staff is confident that it is well over \$20,000 and therefore did not award the points. Additionally, staff received confirmation from the City of Fort Worth that the responsibility for the road work is with the Development Team. The Applicant has asserted that this work will be completed by the Developer and not the Owner, but this does not have bearing on the requirement to include these costs in the scoring item calculation.</p>	<p>The application score has been revised to reflect 0 points for The Cost of the Development by Square Foot.</p>
					<p>Regarding the points awarded for Community Revitalization, staff agrees that the evidence submitted with the application does not address the issue of the plan being approved in a process that allows for public input.</p>	<p>A deficiency was issued regarding the letter submitted as evidence for the Community Revitalization point to confirm whether or not the plan was approved in a process that allowed for public input. The Applicant's response included sufficient evidence to substantiate the point.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12083	Harmon Villas	Scott Galbraith, Vice President, Matthews Affordable Income Development	<p>The challenge regards points under §50.9(b)(8) The Cost of the Development by Square Foot and §50.9(b)(23)(A) Community Revitalization. The first challenge asserts that the development cost schedule, as submitted, misrepresents the actual costs of the development because it does not include over \$500,000 associated with widening a road and extending sewer lines. The challenger suggests that the increase in offsite costs would make the applicant ineligible for the 12 points under §50.9(b)(8)(B). In addition, the challenger claims that the engineer that signed off on the offsite costs appears to be a related party to the applicant. The second challenge, related to Community Revitalization, asserts that the letter provided was not from the appropriate local official (from a city council member and not the mayor) and did not state whether the plan was adopted by ordinance or resolution in a process that allows for public input. In addition, the challenger believes that the application score should be reduced because the applicant did not cure a deficiency related to this item within the time period allowed.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. The Applicant has confirmed that, outside of the fact that the engineer and one of the principals in the application have the same last name, there is no evidence of a relationship between the engineer Adolphus Oji and the principal of Sphinx Development, Jay Oji. Regarding the costs associated with widening the road, staff agrees with the challenger that these costs are not included in the application but should be represented in the offsite costs breakdown as well as the development cost schedule. In addition, those costs would be included in the calculation of Cost of the Development by Square Foot. Staff determined that any additional offsite costs exceeding \$20,000 would result in a loss of points for the application. While staff is not certain of the amount of actual costs associated with the road, staff is confident that it is well over \$20,000 and therefore did not award the points. Additionally, staff received confirmation from the City of Fort Worth that the responsibility for the road work is with the Development Team. The Applicant has asserted that this work will be completed by the Developer and not the Owner, but this does not have bearing on the requirement to include these costs in the scoring item calculation.</p>	<p>The application score has been revised to reflect 0 points for The Cost of the Development by Square Foot.</p>
					<p>Regarding the points awarded for Community Revitalization, staff indicated to the applicant that the deficiency related to this item had been cured, so there were no penalty points assessed. However, upon further review, staff determined that the evidence submitted (both in the original application and in the deficiency response) did not address the issue of the plan being approved in a process that allows for public input.</p>	<p>A deficiency was issued regarding the letter submitted as evidence for the Community Revitalization point to confirm whether or not the plan was approved in a process that allowed for public input. The Applicant's response included sufficient evidence to substantiate the point.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12089	Briarbend	Christopher A. Akbari	<p>The challenge regards eligibility for points under §50.9(b)(14), Pre-application Participation Incentive Points and §50.9(b)(16) Development Location. The challenger contends that pre-application points should not be awarded because the Applicant's entity name changed from pre-application to application. Required notifications would have been sent under an incorrect entity name. Development Location points are being challenged based on the claim that the HTC Site Demographic Characteristics Report contains inaccurate information and that the poverty rate is actually higher than what is reflected.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. The application met all of the requirements in order to receive pre-application incentive points. There is no requirement that the ownership entity and/or applicant name remain the same. Regarding Development Location points, the challenger is using two different data sources other than the 2012 HTC Site Demographic Characteristics Report published on the TDHCA website. According to the TDHCA report, the poverty rate is 10.2016% for individuals and 9.7581% for families in census tract 48245000200 and thus the application would qualify for the points. The February 16, 2012 Board meeting included a similar issue to the challenge. A request for a waiver based on the use of an alternate source of data was denied.</p>	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12098	1400 Belleview	Ms. Willie Mae Coleman	The challenge regards points awarded for Development Location, particularly because the development site is located in a Central Business District (CBD). The challenger contends that because the site is not inside certain geographic boundaries of the City of Dallas that it should not be considered in a CBD. The challenger also asserts that the particular region of the city in which the development site is located does not contain any 10-story commercial buildings and so should not be considered a CBD.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. Because the city of Dallas has a population over 50,000 and one or more commercial buildings of ten stories or more, certain sites in Dallas can qualify to be in a CBD. Per the QAP, staff relies on information provided by the city to determine whether or not a specific site is located in a CBD. The application included all of the necessary documentaiton to support that the development site is located in a CBD.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12098	1400 Belleview	John P. Greenan	The challenge regards the Department's calculation of Development Cost per Square Foot pursuant to §50.9(b)(8) of the 2012 QAP. The challenger disagrees with the Department's calculation and contends that retail and/or commercial space costs should be included in the calculation of cost per square foot, which would have caused the application to exceed the threshold for points.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. Not only was the calculation consistent with treatment in prior years, but the Applicant received guidance from staff prior to the application submission deadline confirming that the retail/commercial costs would not be included.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 4, 2012	12118	Spring Trace	Marvalette Hunter, Huntjon, LLC	The challenge regards the application's eligibility for points under §50.9(b)(2) Quantifiable Community Participation. The challenger contends that the application does not qualify to receive points because the proposed project is located within the boundaries of a neighborhood organization that is clearly in existence. The Certification of Notifications document executed by the Applicant is cited as indicating that no Neighborhood Organization exists for which the application would be eligible to receive points. The challenger states that the proposed Development is located within the Park Spring Subdivision and that the Park Spring HOA has been in existence since May 22, 2003.	Pursuant to §50.9(2)(B)(i)(III) of the 2012 QAP, applications for which no Neighborhood Organizations exist will receive a score of 18 points. The Applicant's response included an email from the Harris County Community Services Department and a letter from Park Spring Homeowners Association. The Harris County Community Services Department clarified, "Harris County does not keep a record of neighborhood organizations." The letter from the Park Spring HOA indicates that the development site is not within their boundaries. Therefore, the 18 points for Quantifiable Community Participation will be awarded.	No action at this time

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 11, 2012	12121	Memorial Apartments	Bill Fisher, Sonoma Housing Advisors, LLC	The challenge regards the eligibility of the application to compete in the At-Risk Set-Aside due to the property being owned by a public housing authority (PHA). The challenger's position is that House Bill No. 2608 included a provision that allowed PHA owned property to be considered At-Risk. However, the legislation was disapproved and vetoed by the Governor of the State of Texas on June 17, 2011. The challenger contends that the provision allowing the participation of PHA owned properties in the At-Risk Set-Aside was specifically removed and is not included in statute.	Staff has reviewed the documentation included in the challenge as well as the Applicant's response. Pursuant to §50.6 of the 2012 QAP, an Applicant may elect to compete in all Set-Asides for which the proposed Development qualifies. The current legislation allows for developments to be considered At-Risk if either the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration or the federally insured mortgage on the development is eligible for prepayment or nearing the end of its term. While the legislation does not allow developments to be considered At-Risk for the sole reason that they are rehabilitation developments owned by PHAs, it certainly does not exclude PHA owned developments from meeting the requirements to be considered At-Risk. The proposed legislation that was vetoed allows for PHA owned properties to be considered At-Risk without meeting the other requirements, which is not what is being proposed by these applicants. The developments are considered At-Risk because they meet one of the two requirements in the current statute.	No action required at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12125	Monarch Meadows	Daniel B. Markson, NRP	The challenge regards the eligibility for points under §50.9(b)(22) Economic Development Initiatives. The challenger contends that the letter submitted as evidence for the point indicates that the TIRZ does not include the development site in its footprint and therefore the application should not be eligible for the point.	Staff reviewed the documentation in the challenge as well as the Applicant's response. Although the letter referencing the TIRZ does not meet the requirements of the QAP, evidence was also submitted in the application that another economic development initiative does exist in the City of Wolfforth. In addition, evidence was submitted that the development would qualify for the economic benefits under that initiative. Staff also requested clarification from the City of Wolfforth that the development site is located in an area covered by the economic development initiative, and that was confirmed.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12127	Clint Palms	Cynthia Bast, Locke Lord LLP on behalf of Ike Monty, Laureles de Este	The challenge regards points under §50.9(b)(23) Community Revitalization or Historic Preservation. The challenger contends that the application is not eligible for these points for three reasons. First, the challenger states that there is no community revitalization plan in place at all. Second, the letter and resolution submitted as evidence of the plan does not include specific language from the QAP, particularly a statement that the development site is located within the area covered by the plan. Finally, the challenger questions whether the plan was approved in a process that allowed for public input.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. Staff determined that the evidence submitted in the application, through the administrative deficiency process, and in the challenge response satisfy the requirements of the QAP. There is sufficient evidence that there is a community revitalization plan in place and that the development site is covered by the plan. Also, by virtue of the fact that the plan was approved at a city council meeting by resolution, public comment was allowed as part of that approval process.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12134	Christie's Cove	Manish Verma	<p>The challenge regards possible points for §50.9(b)(11) Additional Evidence of Preparation to Proceed, §50.9(b)(13) Community Input other than Quantifiable Community Participation (QCP), and §50.9(b)(16) Development Location. The challenger asserts that there are items missing from documentation provided for the Additional Evidence of Preparation to Proceed and that at least 5 points should not be awarded. The challenger also contends that the application is not eligible for points for Community Input other than QCP because supporting documentation evidencing the organizations' activity in the community was not submitted. In addition, the challenger questions the eligibility of the Workforce Solutions Cameron as a community or civic organization. The challenger also states that support documentation required as evidence of being in a High Opportunity Area is missing from the application.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. The challenger's assertion that any exclusion of documents should disqualify an application from receiving points is not the policy of the Department. The Department reviews applications consistently and allows nonmaterial missing information to be provided via the administrative deficiency process. This application is not competitive so was not reviewed. Should the application be reviewed, the information in the challenge will be considered.</p>	<p>The application is not being reviewed because it does not appear to be competitive, and therefore no action is required at this time. Should the application undergo a full review, the challenge will be considered after such review is complete.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12140	Kiron at Mesquite Lane	Colby Denison	The challenge regards points under §50.9(b)(11) Additional Evidence of Preparation to Proceed. The challenger asserts that a number of items required in the feasibility study and civil engineered site plan are missing from the application, including information regarding TCEQ requirements, topography, setbacks, amenities, dumpsters, transformers, ADA routes, handicap parking, known variances, and wastewater capacity. The challenger also questions whether the proposed height of the building is code compliant and the feasibility of the drainage and detention design.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. Staff determined that, while there were some items that were initially deficient in the application, that all of the requirements of the QAP were ultimately satisfied through the administrative deficiency process. In addition, some of the "missing items" mentioned by the challenger were not required by the QAP.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12149	North Desert Palms	Cynthia Bast, Locke Lord LLP on behalf of Ike Monty, Eastside Crossings	The challenge regards one point under §50.9(b)(23) Community Revitalization or Historic Preservation. The challenger asserts that a letter from the City of El Paso submitted with the application does not meet the requirements of the QAP for several reasons. The letter simply authorized the City Manager to develop Transit-Oriented Development (TOD) Revitalization Corridor Districts and did not contain clarification that the referenced plan is not a consolidated plan, economic development plan, or city-wide plan. In addition, the letter did not state that the plan was approved in a process that allowed for public comment or input. The challenger contacted the City of El Paso and determined that the TOD Revitalization Corridor Districts had not yet been created. The challenger also submitted a letter dated June 13, 2012 from the City of El Paso as clarification.	Staff reviewed the documentation in the challenge as well as the Applicant's response. In addition, staff consulted with the City of El Paso and determined that there is no community revitalization plan in place which would allow the application to qualify for points.	The application score was adjusted to reflect 0 points for §50.9(b)(23) Community Revitalization or Historic Preservation.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12174	Royal Gardens	Daniel B. Markson, NRP	The challenger requests the termination of the application in accordance with 10 TAC §1.1(86), the definition of a Material Deficiency. The challenger notes that the application received twenty nine deficiency items upon first review. Although the challenger recognized that some deficiencies were minor clarifications and corrections, the application is stated as being incomplete and confusing.	Staff has reviewed the documentataion included in the challenge as well as the Applicant's response. While there were a number of deficiencies issued for this application, staff did not feel at the time of review, nor is it staff's opinion now, that the deficiencies rose to the level of Material Deficiency. Therefore, the application has not been terminated.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12174	Royal Garden	Cynthia Bast, Locke Lord LLP on behalf of Manish Verma, Stevenson Ranch	<p>The challenge regards §50.4(d)(13)(C) Ineligible Developments, §50.8(8)(B)(ii)(I) Zoning, and §50.6(c)(1) Non-Profit Set-Aside. The challenger contends the development is ineligible for (HTC) funding because the site is adjacent to or within 300 feet of heavy industrial uses. The challenger states that the development site is across the street from an electrical power substation that is zoned heavy industrial. Regarding zoning, the challenger acknowledges that the development site is zoned for multifamily development; however, the Applicant did not provide a certification form an appropriate city official that the development is permitted under the zoning ordinance. Furthermore, the multifamily zoning classification density is limited to 18 units per acre and the Applicant proposes 18.12 units per acre. Finally, the challenger contends that the Applicant should not be permitted to participate in the Non-Profit Set-Aside because it deliberately submitted an Application that did not comply with the QAP for Non-Profit Set-Aside. In addition, the challenger contends that the application should not be awarded one point for submitting a HUB plan when the original application requested 2 points for having a HUB that has a 51% ownership interest.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. Staff determined that the electrical substation across the street is not a heavy industrial use and that the development site is eligible. Regarding zoning, the Application included sufficient information to satisfy the requirements of the QAP. In addition, evidence of final zoning will be required at the time of Commitment Notice. Regarding the Non-Profit Set-Aside, this application was treated the same way that similarly situated applications were treated. Staff contacted Applicants that had included a 51% HUB owner as well as a request to participate in the Non-Profit Set-Aside and allowed them to cure this issue.</p>	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12182	1701 Canton-Evergreen Residences	Scott Galbraith, Vice President, Matthews Affordable Income Development	The challenger requests the termination of the application in accordance with §50.8(8)(A) Site Control. The challenger contends that the applicant does not have site control for all of the tracts. The challenge also pertains to points requested under §50.9(b)(20) Repositioning of Existing Developments. The challenger contends that the application does not qualify for points because it does not propose Rehabilitation of an Existing Residential Development and does not contain residential buildings originally constructed between 1980-1990. The challenger also questions the Applicable Percentage election and points out environmental problems that could extend the Placement in Service deadline.	Staff reviewed the documentation included in the challenge as well as the Applicant's response and determined that the Development Owner does have site control for all of the tracts of land. Regarding the repositioning points, staff had already identified this issue in the initial review and did not award the points. That scoring notice, as of the July 10 board meeting, is under appeal. The issue of applicable percentage will be addressed in the underwriting review.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12202	Park Laureate	Ana Silveira-Sierra	The challenge regards eligibility of points under §50.9(b)(23) Community Revitalization and cites errors in the financing narrative, rent schedule, utility allowances, and operating income/expenses. Regarding Community Revitalization, the challenger claims that no resolution or letter from the city was submitted as evidence. The challenger notes that the application does not include 30% AMFI units in the two-bedroom or three-bedroom units and that the financing narrative is incomplete. The challenger also contends that the utility allowance evidence is not the most recent available and that a shortfall in the net operating income has been calculated because the Applicant will pay for water, sewer, and trash.	Staff reviewed the documentation included in the challenge; the Applicant did not provide a response. The application is not competitive and so has not been reviewed. However, staff may allow for a correction of documentation submitted in order to qualify for points under Community Revitalization through the administrative deficiency process. In addition, staff may allow for some correction (if necessary) to the rent schedule and operating expenses as well as the financing narrative. More detailed questions about the underwriting would be addressed during the underwriting review.	The application is not being reviewed because it does not appear to be competitive, and therefore no action is required at this time. Should the application undergo a full review, the challenge will be considered after such review is complete.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12202	Park Laureate	Cynthia Bast, Locke Lord LLP on behalf of Manish Verma, Hacienda del Sol	The challenge regards points under §50.9(b)(13)(A) Community Input other than Quantifiable Community Participation. The challenger asserts that the letter from GreenPath debt solutions should not be eligible for 2 points because GreenPath is not a community organization and the application does not include evidence that GreenPath operates in Harlingen, where the proposed development site is located.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. The application is not competitive and so has not been reviewed. However, if necessary staff may allow for a correction of documentation submitted in order to qualify for points under Community Input other than QCP.	The application is not being reviewed because it does not appear to be competitive, and therefore no action is required at this time. Should the application undergo a full review, the challenge will be considered after such review is complete.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 4, 2012	12206	Spring Hill Apartments	Matt Fuqua	<p>The challenge regards the application's eligibility to receive points requested under §50.9(b)(16), Development Location. The basis of the challenge is that the City of Huntsville does not provide public transportation that meets the requirements as stated in the Department's "2012 Competitive Applicant Cycle Frequently Asked Questions (FAQ)." The challenger asserts that the on demand transportation submitted in the application is a county-wide taxi service that is located over 50 miles away from the City of Huntsville and does not meet the requirement that the bus or transit system has regularly scheduled service and defined stops. Additionally, the City of Huntsville does not make it clear when the transit stop will be completed or available.</p>	<p>Pursuant to §50.9(b)(16) of the 2012 QAP, up to 4 points may be received for Developments proposed to be located in areas that allow access to services and socioeconomic opportunities that otherwise would not be readily accessible. A High Opportunity Area, as defined in the 2012 QAP, may include a Development that is "proposed to be located within a half-mile of an accessible transit stop for public transportation, if such transportation is available in the municipality or county in which the development is located." The issue of on demand transportation was raised in another appeal before the Board on June 14th, and it was determined that such transportation would not qualify for points. However, if an accessible transit stop for public transportation will be made available within a half-mile of the development, the application could qualify for the points, assuming the other criteria for High Opportunity Area have also been met.</p>	<p>The application is not being reviewed since it does not appear to be competitive, and therefore no action is required at this time. Should the application undergo a full review, the challenge will be considered after such review is complete.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 5, 2012	12248	Lexington Manor	Bill Fisher, Sonoma Housing Advisors, LLC	<p>The challenge regards the eligibility of the application to compete in the At-Risk Set-Aside. The challenger contends that the application does not comply with threshold requirements regarding At-Risk developments under the 2012 QAP. The challenger cited that the Applicant's HUD HAP contract does not expire within the required two calendar years from July 31, 2012 and that the Applicant conceded that the land use restrictions associated with a HUD mortgage have been extinguished by a refinancing of the property prior to application submission. The challenger asserts that a letter from HUD regarding the Federal Home Loan Bank (FHLB) Affordable Housing Program (AHP) grant LURA was the only documentation claimed to be in compliance with the At-Risk Set-Aside requirements. The challenger contends that FHLB AHP grants or loans are not sufficient nor allowed by Statute for the At-Risk Set-Aside.</p>	<p>Pursuant to §50.6(3)(B)(i) of the 2012 QAP, in order to be considered At-Risk, "The stipulation to maintain affordability in the contract granting the subsidy is nearing expiration (expiration will occur within two calendar years of July 31 of the year the Application is submitted)." The Applicant responded that the extension of benefits under the FHA 221(d)(3) loan by HUD is not prohibited by statute or the QAP. The Applicant also submitted documentation of an FHLB AHP loan. The submitted letter from HUD indicates that the Section 221(d)(3) program mortgage matured and was paid off October 1, 2009. The letter also states that during the term of the above referenced loan, a second lien was approved and recorded on the project to secure an FHLB AHP loan, and that (second) loan effectively extended the below market interest rate and rent restrictions for an additional overlapping period of 15 years through July of 2013. Staff reviewed the documentation and it appears that the HAP Contract submitted with the application will expire October 1, 2014. In addition, staff determined that the rent restrictions imposed in the LURA were extended by virtue of the FHLB loan, not through one of the federal subsidies (i.e. the prior 221(d)(3) loan) that would qualify the Development to be considered At-Risk.</p>	<p>While staff agrees that the Section 221(d)(3) loan is a qualifying subsidy under the at-risk set-aside, in this case the loan had already matured so did not meet the requirements of "nearing expiration." In addition, the HAP contract does not expire until October 2014, after the July 31, 2014 deadline for "nearing expiration." Therefore, the application has been terminated, and the Applicant subsequently withdrew the application.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12248	Lexington Manor	Christopher A. Akbari	The challenge questions the eligibility of the application to compete under §50.6(c)(3) At-Risk Set-Aside. The challenger contends that the At-Risk status is based upon the expiration of the second lien made under FHLB/AHP, which is not specifically listed under §50.6(c)(3). Additionally, the application includes a HAP contract does not expire within the required time frame.	Staff reviewed the challenge as well as the Applicant's response. Staff agrees with the challenger and determined that the development did not qualify under the At-Risk Set-Aside.	The application was withdrawn.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 12, 2012	12252	Gulf Coast Arms	Bill Fisher	<p>The first challenge states that the proposal to reconstruct the existing development does not comply with two conditions established by HUD for allowing a change in the unit mix. The part of HUD's letter that the challenge interprets as conditions states, "You have further stated the anticipated conversions would not result in: ... 3. [t]he permanent displacement of any existing resident household; and 4. [t]he under-housing of any existing resident household." The challenger contends that this noncompliance at the least also disqualifies the application for points under Additional Evidence of Preparation to Proceed and may also raise site control issues. The challenger also claims that the relocation budget is too low because the reconstruction will call for permanent displacement of tenants.</p>	<p>The conclusion drawn in the challenge was refuted by a letter from HUD, dated June 21, 2012. The letter stated that HUD reviewed the housing status of all residents and found that the proposed change in the development's unit mix would improve the current household status and that no residents would be permanently displaced. Staff also found no evidence that the relocation budget of over \$470,000 was insufficient.</p>	No action at this time.
				<p>The second challenge states that the application does not fulfill the applicant's representations to the TDHCA Board about noise mitigation for a railroad track and safety space for high-voltage power lines. The challenger also states that the application reflects insufficient costs for the LEED platinum certification and noise mitigation.</p>	<p>This challenge poses issues already addressed at the TDHCA Board meeting of February 16, 2012, at which the applicant received waivers eliminating the ineligibility of the application because of the presence of a high voltage power line and railroad track within applicable distances from the development site. There is no evidence in the application that indicates that the Applicant will not comply with any conditions that were imposed by the Board upon granting a waiver of ineligibility regarding the site. In addition, the underwriting review has been completed and the costs in the application were within the 5% limit of the TDHCA estimated costs.</p>	No action at this time.
				<p>The third and fourth challenges state that the application proposes an ineligible unit mix and that it should have been addressed in front of the TDHCA Board as a waiver request.</p>	<p>Staff determined that the application does not violate the unit mix requirements for urban New Construction (and Reconstruction) developments. In summary, the development has 160 units including 88 two bedroom units (55%), 64 three bedroom units (40%), and 8 four bedroom units (5%). The Applicant's response to this challenge reiterated staff's findings.</p>	No action at this time.
				<p>The fifth challenge states that development costs are unreasonable with respect to a number of items, including noise mitigation, LEED certification, and relocation costs.</p>	<p>The underwriting review has been completed and the costs in the application were within the 5% limit of the TDHCA estimated costs.</p>	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 12, 2012	12252	Gulf Coast Arms	Bill Fisher	<p>The sixth challenge asserts that the Applicant represented to the TDHCA Board that the HAP contract could not be moved to another development, but, contrary to that representation, it can be transferred to another development under HUD guidelines. The challenger believes that the TDHCA Board should revisit the waiver request.</p>	<p>Staff finds that the proposed development meets the requirements of the At-Risk Set-Aside. Therefore, the applicant's representation is accurate in staff's view. In addition, the Applicant's response, in combination with HUD's response, to the challenge is that the subject property does not meet the criteria for HUD to allow the HAP contracts to be moved.</p>	<p>No action at this time.</p>
				<p>The seventh challenge states that the Board should not have granted a waiver to this application because 38 families will be permanently displaced. The challenger believes that the TDHCA Board did not comply with Section 2306 by granting the waiver.</p>	<p>The challenge again contradicts HUD's response in its letter of June 21, 2012. The letter stated that HUD reviewed the housing status of all residents and found that the proposed change in the development's unit mix would improve the current household status and that no residents would be permanently displaced by the changes.</p>	<p>No action at this time.</p>
				<p>The eighth challenge asserts that the property has a title defect that was not cured by the deadline for application. Therefore, site control is invalid.</p>	<p>As with several of the items of this challenge, this issue is one that staff normally resolves by placing appropriate conditions on the award. The application met all of the requirements of the QAP with respect to title commitment and site control. The responses of the Applicant and HUD both indicate that it is likely that the title issues will be resolved in the Applicant's favor.</p>	<p>No action at this time.</p>
				<p>The ninth challenge states that the appraisal exceeds the purchase price by over \$1.2 million. The excess cost must be funded by sources that are not included in the application.</p>	<p>As the Applicant explains, the challenge references a document that is not the appraisal, and the appraisal is consistent with the price in the purchase contract. Staff also found that the applicable appraised acquisition value is \$6,020,000 and the value stated in the Development Cost Schedule is \$6,000,000.</p>	<p>No action at this time.</p>
				<p>The tenth challenge asserts that notifications sent to tenants violate Fair Housing.</p>	<p>Again staff finds no support for the challenge. The Applicant responded that the notice to tenants was based on HUD's own template, and HUD's letter reports that there are no violations at this time.</p>	<p>No action at this time.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12269	Stonebridge of Kelsey Park	Daniel B. Markson, NRP	The challenge regards points under §50.9(b)(16)(A) Development Location, §50.9(b)(19) Site Characteristics, and §50.9(b)(23)(A) Community Revitalization. The challenger asserts that points should not be awarded for development location because the elementary school identified is a new school without an academic rating. The challenger also asserts that site characteristic points should not be awarded because several of the referenced amenities have not yet been constructed and are technically unavailable as of application. Finally, the challenger questions the eligibility of the documentation provided by the applicant.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. However, the application is not competitive and so has not been reviewed. If necessary staff may, through the administrative deficiency process, allow for a correction of documentation submitted in order to qualify for points under these three scoring criteria.	The application is not being reviewed because it does not appear to be competitive, and therefore no action is required at this time. Should the application undergo a full review, the challenge will be considered after such review is complete.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12271	The Reserve at Western Center	Scott Galbraith, Vice President, Matthews Affordable Income Development	The challenge regards eligibility for one point under §50.9(b)(22) Economic Development Initiatives. The challenger contends that the letter submitted as evidence for the point does not meet the requirements of the QAP. The support documentation provided by the City of Fort Worth clearly states the development is located in a CDBG eligible area and that the area is established by HUD, not by the City of Fort Worth. The City of Fort Worth did not initiate the CDBG program nor does the City control the flexibility or use of funds.	The Applicant submitted a letter from the City of Fort Worth in response. The letter confirms that “the City adopted initiatives that promote economic development in certain areas of the City that includes the Development site, specifically in this instance a CDBG Eligible Area.” The letter states that the economic development initiatives are set forth in the City’s Consolidated Plan and that the 2012-2013 Plan was approved by City Council on April 13, 2010. The letter confirms that “the Plan was adopted in a legislative process that allows for public comment and input.” The letter goes on to reference “the City’s No. 1 stated objective to provide decent housing by enhancing local capacity to address affordable housing needs of low-income and moderate-income households.” The response provided adequate information in order for the application to qualify for the point.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12277	TGO Villages at Ridge	Manish Verma	The challenge regards eligibility for points under §50.9(b)(11) Additional Evidence of Preparation to Proceed and §50.9(b)(13) Community Input other than Quantifiable Community Participation (QCP). The challenger claims that documentation is missing from both items and that one of the community organizations that submitted a support letter is ineligible because it was created by a governmental entity.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. However, the application is not competitive and so has not been reviewed. If necessary, through the administrative deficiency response, staff may allow for a correction of documentation submitted in order to qualify for points under these scoring criteria.	The application is not being reviewed since it does not appear to be competitive, and therefore no action is required at this time. Should the application undergo a full review, the challenge will be considered after such review is complete.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12277	TGO Villages at Ridge	Ana Silveira-Sierra	The challenge regards eligibility of points under §50.9(b)(23) Community Revitalization and cites errors in the financing narrative, rent schedule, utility allowances, and operating income/expenses. Regarding Community Revitalization, the challenger claims that no resolution or letter from the city was submitted as evidence. The challenger notes that the application does not include 30% AMFI units in the two-bedroom or three-bedroom units and that the financing narrative is incomplete. The challenger also contends that the utility allowance evidence is not the most recent available and that a shortfall in the net operating income has been calculated because the Applicant will pay for water, sewer, and trash.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. However, the application is not competitive and so has not been reviewed. If necessary, through the administrative deficiency response, staff may allow for a correction of documentation already included in the application or the submission of nonmaterial missing information. In addition, some of the issues brought forth by the challenger are not requirements of the QAP and/or would be addressed during an underwriting review.	The application is not being reviewed because it does not appear to be competitive, and therefore no action is required at this time. Should the application undergo a full review, the challenge will be considered after such review is complete.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12297	Abbington Kaufman	Cynthia Bast, Locke Lord LLP on behalf of Manish Verma	The challenge regards the eligibility for one point under §50.9(b)(22) Economic Development Initiatives. The challenger contends that the Applicant's reliance upon the County's approval for a Section 4A economic development corporation (EDC) created by the City to operate within the ETJ is improper and Texas law does not allow for such action. The challenger states the City of Kaufman created an EDC pursuant to Chapter 504 of the Texas Local Government Code, and that EDC is a body separate and distinct from the City itself. The challenger contends that because an EDC can only be created by a city (and not by a county) that the development site, which is not in the City of Kaufman but in Kaufman County, is not within the boundaries of the economic development initiative. Therefore, the application is not eligible for the point. The challenger goes on to state that the resolution from Kaufman County submitted by the Applicant is also not sufficient evidence to substantiate the points because it does not provide any authority for the EDC to operate outside of the city.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. Not only did the Applicant meet the requirements of the QAP in the original application through submission of documentation from both Kaufman County and the EDC, but in the challenge response provided further clarification that the application is eligible for the point.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12297	Abbington Kaufman	Mark E. Feaster	The challenge regards eligibility for points under §50.9(b)(11) Additional Evidence of Preparation to Proceed. The challenger contends that the civil engineered site plan did not appropriately address issues related to utility distribution and that the Applicant failed to adequately consider the feasibility of the development with respect to utilities.	Staff reviewed the documentation in the challenge as well as the Applicant's response. Staff determined that the information submitted in the application was sufficient to qualify for points. Detailed plans for offsite utility distribution are not required at application.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
May 30, 2012	12302	Farm Labor Apartments	Bill Fisher, Sonoma Housing Advisors, LLC	The challenge regards the eligibility of the application to compete in the At-Risk Set-Aside due to the property being owned by a public housing authority (PHA). The challenger's position is that House Bill No. 2608 included a provision that allowed PHA owned property to be considered At-Risk. However, the legislation was disapproved and vetoed by the Governor of the State of Texas on June 17, 2011. The challenger contends that the provision allowing the participation of PHA owned properties in the At-Risk Set-Aside was specifically removed and is not included in statute.	Staff has reviewed the documentation included in the challenge as well as the Applicant's response. Pursuant to §50.6 of the 2012 QAP, an Applicant may elect to compete in all Set-Asides for which the proposed Development qualifies. The current legislation allows for developments to be considered At-Risk if either the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration or the federally insured mortgage on the development is eligible for prepayment or nearing the end of its term. While the legislation does not allow developments to be considered At-Risk for the sole reason that they are rehabilitation developments owned by PHAs, it certainly does not exclude PHA owned developments from meeting the requirements to be considered At-Risk. The proposed legislation that was vetoed allows for PHA owned properties to be considered At-Risk without meeting the other requirements, which is not what is being proposed by these applicants. The developments are considered At-Risk because they meet one of the two requirements in the current statute.	Application was terminated for reasons outside the scope of this challenge; no further action is required.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12302	Farm Labor Apartments	Christopher A. Akbari	N/A	N/A	Challenge was withdrawn by Mr. Akbari June 18, 2012.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13,2012	12308	North Bartlett Avenue Apartments	Ana Silveira-Sierra	The challenge regards eligibility of points under §50.9(b)(23) Community Revitalization and cites errors in the financing narrative, population served, utility allowances, and operating income/expenses. Regarding Community Revitalization, the challenger claims that because no resolution from the city was submitted that the application should not be eligible for points. The challenger also claims that there is an error on the populations served worksheet and that the financing narrative is incomplete. In addition, the challenger contends that the utility allowance evidence is not the most recent available and that a shortfall in the net operating income has been calculated because the Applicant will pay for water, sewer, and trash.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. Regarding Community Revitalization, the Applicant submitted evidence that meets the requirements of the QAP, namely a letter from the appropriate local official and not a resolution. Regarding the remaining items, staff sees the challenge as addressing minor items in the application that, if necessary, are consistently cured through the administrative deficiency process and/or the underwriting review.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13,2012	12309	Ana M. Lozano Apartments	Ana Silveira-Sierra	The challenge regards eligibility of points under §50.9(b)(23) Community Revitalization and cites errors in the financing narrative, utility allowances, and operating income/expenses. Regarding Community Revitalization, the challenger claims that no resolution from the city was submitted as evidence. The challenger claims that there is an error on the populations served worksheet and that the financing narrative is incomplete. The challenger also contends that the utility allowance evidence is not the most recent available and that a shortfall in the net operating income has been calculated because the Applicant will pay for water, sewer, and trash.	Staff reviewed the documentation included in the challenge as well as the Applicant's response. Regarding Community Revitalization, the Applicant submitted evidence that meets the requirements of the QAP. Regarding the remaining items, staff sees the challenge as addressing minor items in the application that are cured through the administrative deficiency process and/or the underwriting review.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13,2012	12326	Summerstone Senior Village	Manish Verma	<p>The challenge regards §50.9(b)(15) Developments in Census Tracts with Limited Existing HTC Developments and §50.9(b)(16) Development Location. The challenger contends that the Applicant made a typographical error in their application and misstated the census tract number for the development site. The site is actually located in a census tract in which there is another HTC development, although it serves a different target population. Therefore, the application is only eligible for 4 points and not the 6 points requested. The challenger also contends that the census tract in which the site is located does not meet the requirements for being considered in a High Opportunity Area. Specifically, the tract does not have a median family income that is higher than the county. Therefore, the application is not eligible for the 4 points requested.</p>	<p>Staff reviewed the documentation in the challenge as well as the Applicant's response. The Applicant indicated that they would defer to the Department should the application be reviewed and scored but reserve the right to appeal any score. Because this application does not appear to be competitive, it has not been reviewed by staff. However, such review would include confirmation that the census tract in the application is correct and verification that the tract does or does not qualify for any points related to location.</p>	<p>The application is not being reviewed because it does not appear to be competitive, and therefore no action is required at this time. Should the application undergo a full review, the challenge will be considered after such review is complete.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13,2012	12332	Apple Grove Villas	Scott Galbraith, Vice President, Matthews Affordable Income Development	The Challenge regards §50.9(b)(5) Commitment of Development Funding by a Unit of General Local Government or Government Instrumentality. The challenger contends that the City of Mesquite is a non-participating jurisdiction and does not receive HOME funds from HUD. Therefore, the application should not be eligible for these points because the letter from the City of Mesquite, which was submitted as evidence for the points, contained incorrect information. In addition, the challenger asserts that the letter was not from a local official who had the authorization to execute such a letter.	Staff reviewed the information included in the challenge as well as the Applicant's response. While the challenger is correct in stating that Mesquite is not on the list of participating jurisdictions, the Applicant provided sufficient evidence to substantiate the points at the time of application. This included a letter from the City of Mesquite indicating that a funding application had been received, that funds were available and that awards would be announced before August 1. In response to the challenge, the original letter from the city was corrected with regard to the ultimate source of funding, but the corrected letter also indicated that there is still local funding available for the development. In addition, funding sources may be substituted after the application has been submitted, and a funding commitment will be required at the time of Commitment Notice.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13,2012	12332	Apple Grove Villas	J. Anthony Sisk, Principal, Churchill Residential	The Challenge regards §50.9(b)(5) Commitment of Development Funding by a Unit of General Local Government or Government Instrumentality. The challenger contends that the City of Mesquite is a non-participating jurisdiction and does not receive HOME funds from HUD. Therefore, the application should not be eligible for these points because the letter from the City of Mesquite, which was submitted as evidence for the points, contained incorrect information.	Staff reviewed the information included in the challenge as well as the Applicant's response. While the challenger is correct in stating that Mesquite is not on the list of participating jurisdictions, the Applicant provided sufficient evidence to substantiate the points at the time of application. This included a letter from the City of Mesquite indicating that a funding application had been received, that funds were available and that awards would be announced before August 1. In response to the challenge, the original letter from the city was corrected with regard to the ultimate source of funding, but the corrected letter also indicated that there is still local funding available for the development. In addition, funding sources may be substituted after the application has been submitted, and a funding commitment will be required at the time of Commitment Notice.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12339	Hacienda del Sol	Ana Silveira-Sierra	<p>The challenge regards eligibility for points under §50.9(b)(23) Community Revitalization, §50.9(b)(3) Income Levels of Tenants of the Development, and §50.9(b)(7) The Rent Levels of the Units. Regarding Community Revitalization, the challenger claims that the resolution from the City does not reference a resolution number nor was a map included showing the proposed Development location. The challenger states that the unit mix is not eligible to receive the maximum number of points under §50.9(b)(3) and §50.9(b)(7). The challenger also claims that the financing narrative is incomplete and the utility allowance estimate is not from an appropriate source. Finally, the challenger calculated that there will be a shortfall in the net operating income because the Applicant will pay for water, sewer, and trash.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. Regarding Community Revitalization, staff determined that the application included sufficient documentation to substantiate the point. The QAP requires only a letter from the appropriate local official and does not require a resolution or a map. Regarding points for Income Levels of the Tenants and Rent Levels of the Units, staff determined that the application included an appropriate number of units at certain income and rent levels to qualify for the points. Regarding the remaining items, staff sees the challenge as addressing minor items in the application that, if necessary, could be cured through the administrative deficiency process and/or the underwriting review.</p>	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 12, 2012	12346	Merritt Hill Country	Stuart Shaw, Bonner Carrington, LLC	<p>The challenge regards points under §50.9(b)(15) Developments in Census Tracts with Limited Existing HTC Developments. The challenger states that there is an existing HTC development (serving a different population) in the same census tract as the subject property, and therefore the application is only eligible for 4 points. The challenger states that The Springs Apartments, the existing HTC Development, was represented on the Department's 2012 HTC Site Demographic Characteristics Report as being in the census tract 48209010806; this census tract number is wrong due to an error in the development address. The challenger indicates that the correct address should be in 2010 census tract 48209010808, the same as the subject property.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. The Applicant states that they relied on the information provided by TDHCA and should not be penalized for the Department's error. Staff found that there were in fact errors in the HTC Site Demographic Characteristics Report and that The Springs Apartments, which is actually in the same census tract as the subject property, was represented as being in a different tract. However, as stated in the Frequently Asked Questions posted to the Department's website and during application workshops before the application submission deadline, staff instructed Applicants that it was ultimately their responsibility to determine whether or not their application qualified for points under this specific provision. In addition, staff determined that it was reasonable for the Applicant to have known that there was in fact another existing development in the same census tract as the proposed site, despite the Department's error. The proposed site is only two miles from the existing development and is located in a relatively small town. The existing property is a short drive down the main highway and visible from that highway.</p> <p>In addition, the Applicant submitted a market study with the application; the study was complete on February 17. On the third page of the introduction, before the table of contents, is a market analysis summary that identifies the existing HTC property. It is mentioned again on the first page of the executive summary and called out as being within 2 miles of the subject site. The Applicant did not need to read the entire study but only had to glance at a few pages in order to know it existed. Also, unlike some other census tracts with boundaries that are difficult to decipher, the tract boundary is a major highway, the same highway that runs through the middle of the town. It is readily apparent that if the developments are on the same side of the highway (which they are) that they are in the same tract. Finally, the Applicant was required to obtain a resolution from the city in order to satisfy eligibility requirements under §50.8(20(A), related to developments located in a municipality that has more than twice the state average of units per capita supported by Housing Tax Credits. The existence of the other property is precisely the reason that the resolution was required.</p>	<p>Staff issued a revised scoring notice that reflected 4 points under §50.9(b)(15) Developments in Census Tracts with Limited Existing HTC Developments. That scoring notice is subject to appeal.</p>

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 11, 2012	12361	El Campo Village	Chris Dischinger	The challenge regards §50.8(8)(A) Site Control. The challenger asserts that the application should be terminated because "the Applicant did not have valid site control at the time of application submission and it does not reflect a feasible financing structure." Additionally, the challenger asserts that the "entire site is in the flood zone, however the cost schedule does not appear to adequately reflect the cost to fill the site and get a FEMA LOMA."	Staff reviewed the documentation included in the challenge as well as the Applicant's response. While the purchase contract submitted with the application required revision to accurately reflect the persons with an interest in the property, the Applicant was allowed to correct this issue through the administrative deficiency process. The mistake was understandable given the complex nature of the owner(s) of the subject property, and corrections were made in a very short time period. Regarding the challenger's comment about the cost to fill the site, this issue will be addressed during underwriting. However, it appears that the Applicant's Development Cost Schedule is consistent with the engineer's estimate for onsite costs. The engineer's estimate took into account the civil feasibility study which also references the flood zone and the amount of excavation and recompaction needed for the development.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 11, 2012	12361	El Campo Village	Matt Fuqua	<p>The challenge regards §50.9(b)(5) The Commitment of Development Funding by a Unit of General Local Government and §50.9(b)(11) Additional Evidence of Preparation to Proceed. The challenger asserts that the application should not be awarded points under §50.9(b)(5) because the Applicant did not provide documentation that supports a "tangible economic benefit" because the estimate of permit fees that are to be waived are underestimated. Additionally, the challenger states that "the feasibility study prepared by the applicant provides a very preliminary, incomplete, and non-conclusive report on the site." The challenger also alludes to the actions of the City of El Campo being contradictory to statute, presumably by approving zoning for a site that does not meet a number of standards, but it is unclear as to exactly what part of the application is being challenged here.</p>	<p>Staff reviewed the documentation included in the challenge as well as the Applicant's response. Staff determined that the Applicant submitted sufficient documentation to substantiate the points under §50.9(b)(5), which included a resolution from the City of El Campo committing funds that could come from a number of different sources. In addition, staff determined that the Applicant submitted the required documentation under Additional Evidence of Preparation to Proceed, including a civil feasibility study that addressed all of the aspects required by the QAP. Should any details in the study raise questions about the feasibility of the development, those issues will be addressed during the underwriting review. Finally, staff is not in a position to dictate whether or not a municipality should zone a particular site or to make comment on whether or not a city is in compliance with their own comprehensive plan.</p>	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 11, 2012	12361	El Campo Village	Ron Williams	The challenge regards §50.7(d)(3)(B) Pre-application Threshold Criteria, §50.9(b)(5) The Commitment of Funding by a Unit of General Local Government, and Community Revitalization. The challenger asserts that the County Judge was not notified as required at pre-application. The challenge also asserts that the development is not located within the City of El Campo and should therefore not be allowed to use fee waivers granted by the city for points under §50.9(b)(5) nor the city's revitalization plan for points under §50.9(b)(23).	Staff reviewed the documentation included in the challenge as well as the Applicant's response. The response included proof of delivery evidencing notification of the county judge on January 6, 2012 as well as a copy of the (recent) ordinance annexing the subject property and identifying its zoning. Staff determined that the application contained sufficient evidence to substantiate points under both of the questioned scoring items, even without the annexation in place. In addition, the Commitment of Funding from a Unit of General Local Government will be addressed again at the time of Commitment Notice.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12371	Mariposa at Ranch Road 12	Colby Denison	<p>The challenge regards points selected under §50.9(b)(11) Additional Evidence of Preparation to Proceed, §50.9(b)(23) Community Revitalization, and §50.9(b)(22) Economic Development Initiatives. The challenger asserts that wastewater service is not currently available to the development site, and therefore the application does not qualify for the three points awarded for a civil feasibility study under Additional Evidence of Preparation to Proceed. The challenger asserts that the community revitalization letter from the City of Wimberley does not qualify for the point because the revitalization plan only encompasses the development site. Finally the challenger asserts that the application does not qualify for Economic Development Initiative point because the resolution from the City of Wimberley did not provide for public input and that the initiative does not provide enough incentive to develop.</p>	<p>Staff already determined that the letter provided from the City of Wimberley was ineligible for the Community Revitalization point. The point for Economic Development Initiatives was awarded because the evidence submitted was consistent with the requirements of the QAP. With regard to the Additional Evidence of Preparation to Proceed, the QAP only requires that the civil feasibility study be submitted with the application and address certain issues in order to qualify for points. Should the information in the study raise questions about the feasibility of the development, those issues will be addressed during the underwriting review.</p>	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12379	Sunrise Terrace	Noorallah Jooma on	The first challenge regards §50.9(b)(5) The Commitment of Funding from a Unit of General Local Government or Governmental Instrumentality. The challenger claims that the Applicant did not submit sufficient evidence of the source of funding, namely the La Feria EDC.	The challenger incorrectly identified the source of funding which the Applicant was using in order to qualify for these points. While the La Feria EDC is providing funding for the development, it is the TDHCA HOME funds that are the eligible source under §50.9(b)(5).	No action at this time.
				The second challenge asserts that the application does not qualify for one point under §50.9(b)(23) Community Revitalization because the evidence submitted with the application was not sufficient.	Staff issued an administrative deficiency for this scoring item, and the Applicant was able to provide the appropriate documentation to substantiate the point.	No action at this time.
				The third challenge is a claim that the Applicant submitted a pre-application in an urban sub-region and then submitted a full application in a rural sub-region. The challenger states that La Feria should be considered an urban area and that the Applicant did not submit sufficient evidence at the time of pre-application (in the form of a letter from the USDA stating that the area is eligible for funding) to compete in a rural sub-region.	The applicant submitted a pre-application for a site in La Feria and indicated on that pre-application that they intended to compete in rural region 11. While the appropriate letter from the USDA was not included with the pre-application, this was later cured during the administrative deficiency process. The application was then correctly listed in the log as competing in rural region 11, and the full application appropriately indicated the same sub-region.	No action at this time.
				The fourth challenge regards §50.8(8)(B) Zoning. The challenger claims that the applicant does not have the proper zoning in place and has not requested zoning from the appropriate local official. Because the development site is located outside the city limits of La Feria, the challenger asserts that the applicant should have contacted the county and not the city regarding zoning. The challenger points out that at the time of application, the resolution submitted regarding annexation into the TIRZ Zone did not include annexation into the city.	While staff agrees with the challenger that the resolution only annexed the city into the TIRZ Zone for purposes of including the site in the economic development initiative, there is also evidence in the application that the City of La Feria intends to annex the site. In addition, according to recent public statements made by the Mayor of La Feria at the TDHCA board meeting, the city has already annexed the site. Also, regardless of annexation, the Applicant provided sufficient evidence of zoning (including a letter from Cameron County) to meet the requirements of the QAP, and final zoning will be required at the time of Commitment Notice.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12379	Sunrise Terrace	Noorallah Jooma on behalf of Sunny Phillip	The last challenge regards §50.9(b)(8) The Cost of the Development by Square Foot. The challenger claims that the application exceeds the threshold in order to score these points. The challenger, in their calculation, used \$8,254,828 in costs and 94,886 total net rentable area (NRA) to obtain a number greater than \$87 per square foot.	Staff determined that the challenger used the wrong figures for both costs and NRA as well as the wrong threshold for points. In addition, the figures used actually generate a number less than \$87 per square foot. Staff also determined that the application as submitted contained a discrepancy between the architectural drawings and the rent schedule. The Applicant was allowed to correct this error through the administrative deficiency process, which resulted in a revised rent schedule reflecting the correct square footage for the 2 bedroom units. This was consistent with the originally submitted architectural plans. The figures used were \$8,341,017 in costs and 95,494 NRA, resulting in \$87.35 per square foot in costs. The threshold for single family development located in first tier counties is \$97 per square foot, so the application is eligible for 12 points.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12382	Stevenson Ranch	William J. Rea on behalf of Kaufman Abbington Commons LP	The challenge regards §50.8(8)(B)(ii) Zoning, one of the threshold criteria in the QAP. The challenger asserts that because the development owner had begun the process of seeking rezoning but had later withdrawn the application, the HTC application did not meet the requirements of the QAP.	Staff reviewed the documentation in the challenge as well as the Applicant's response. Staff determined that the development owner did meet the requirements of the QAP and included in the application sufficient evidence that a zoning application had been submitted to the appropriate entity. Whether or not the zoning application was withdrawn and/or resubmitted for any reason, the HTC application met the QAP requirements, and any issues related to final zoning will be addressed at the time of Commitment Notice.	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12388	Paseo Pointe	Ana Silveira-Sierra	The challenge regards §50.9(b)(23) Community Revitalization and cites errors in the rent schedule, financing narrative, operating income/expenses, and utility allowances. Regarding Community Revitalization, the challenger asserts that the evidence submitted includes a resolution instead of a letter from the city or a map showing the proposed development location. The challenger states that the application includes an incorrect unit mix and an incomplete financing narrative. The challenger also contends that the utility allowance evidence is not from an appropriate source and that a shortfall in the net operating income has been calculated because the Applicant will pay for water, sewer, and trash.	Staff reviewed the documentation in the challenge as well as the Applicant's response. Regarding Community Revitalization, staff agrees with the challenger that additional evidence is required in order to meet all of the requirements of the QAP and has requested clarification from Cameron County. However, staff agrees with the Applicant regarding the entity that adopted the community revitalization plan. Because the development site is under the jurisdiction of both the city and the county, it is appropriate that it would be included in a county revitalization plan. In addition, the Applicant provided a letter from the City of Los Fresnos indicating that they did not have the authority to adopt such a plan. The documentation from the City and County provides sufficient evidence to meet the QAP requirements. Regarding the remaining items, they either did not need correction or were addressed in the underwriting review, which has been completed.	No action required.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12388	Paseo Pointe	Doak Brown, The DDB Law Firm, PC on behalf of Apolonio Flores, applicant for North Bartlett Apartments	The challenge regards §50.9(b)(23) Community Revitalization. The challenger contends that the application is not eligible for points because a letter was not submitted from the appropriate local official. The challenger argues first that the application contained a resolution and not a letter. In addition, the challenger states that the resolution, which was from Cameron County, was not from the appropriate local official. Finally, the challenger contends that the resolution was not adopted by the governing body with jurisdiction over the area. The challenger believes the governing body is both the City of Los Fresnos and Cameron County because the development site is located in the city's ETJ.	Staff reviewed the documentation in the challenge as well as the Applicant's response. Regarding Community Revitalization, staff agreed with the challenger that additional evidence was required in order to meet all of the requirements of the QAP and requested clarification from Cameron County. However, staff agrees with the Applicant regarding the entity that adopted the community revitalization plan. Because the development site is under the jurisdiction of both the city and the county, it is appropriate that it would be included in a county revitalization plan. In addition, the Applicant provided a letter from the City of Los Fresnos indicating that they did not have the authority to adopt such a plan. The documentation from the City and County provides sufficient evidence to meet the QAP requirements.	No action required.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12393	Highland Villas	Daniel B. Markson, NRP	<p>The challenge questions eligibility to receive points under §50.9(b)(11) Additional Evidence of Preparation to Proceed and §50.9(b)(16) Development Location. The challenge also questions whether the development violates that Fair Housing Act. The challenger claims that the civil engineering feasibility study submitted for §50.9(b)(11) is not as in-depth as the intent of the point item requires and that the study illustrates that major costs for the proposed development are not reflected in the development cost schedule. The challenger states that these costs could also impact points awarded under Cost of the Development by Square Foot. Secondly, three points should be awarded under §50.9(b)(16) since the application is intergenerational and will serve an elderly population. Finally, the challenger contends that the application is identified as intergenerational and that the percentage of elderly units as represented in the application would violate Fair Housing requirements. The challenger notes that the Department did issue a deficiency stating that “the Department will not be recommended for an award for any application which may appear to violate the Fair Housing Act”.</p>	<p>Staff reviewed the documentation in the challenge as well as the Applicant's response. Regarding Preparation to Proceed, the Applicant submitted the appropriate documentation to qualify for the points. Specific points made in the feasibility study as they relate to the development costs were addressed in the underwriting review and did not result in a loss of points. Potential Fair Housing issues as they relate to leasing space were also addressed in the underwriting review. In addition, the Applicant was correct in their response that the Department will place the burden of compliance with Fair Housing on the Applicant. TDHCA staff chose to remind the Applicant of Fair Housing laws as a courtesy, but there was nothing in the application that called for Department action. Finally, while intergenerational developments are no longer defined in the QAP, they are permitted. This particular application is considered to target the general population and is therefore eligible for 4 points under Development Location.</p>	No action at this time.

Date Challenge Received	TDHCA ID#	Development Name	Challenger	Nature and Basis of Challenge	Analysis	Resolution
June 13, 2012	12393	Highland Villas	William J. Lero	<p>The challenge regards eligibility for points under §50.9(b)(2) Quantifiable Community Participation (QCP). The challenger contends that the Neighborhood Organization that submitted a letter of support for the development, Briarcrest Ridge Property Owners Association, is not found on the Texas Secretary of State Entity Name Search website. In addition, the site control evidence and title commitment submitted with the application do not indicate the existence of a Neighborhood Organization. The points are contested since the Neighborhood Organization is not on record with the state and does not appear to exist.</p>	<p>Pursuant to §50.9(b)(2) points may be awarded based on written statements of support or opposition from Neighborhood Organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site. At the time the letters are submitted, the Neighborhood Organizations may request to be on record with TDHCA on the QCP form in the Neighborhood Information Packet as evidence of being on record with the state. Staff has reviewed the documentation and determined that the Briarcrest Ridge Property Owners Association requested to be on record with TDHCA. The 2012 QAP QCP submission requirements do not include the listing of the Neighborhood Organization on the application's site control or title commitment.</p>	No action at this time.