

**SUPPLEMENTAL
BOARD BOOK OF FEBRUARY 22, 2018**



J. B. Goodwin, Chair
Leslie Bingham Escareño, Vice-Chair
Paul Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, III, Member

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
GOVERNING BOARD MEETING**

A G E N D A
8:00 AM
February 22, 2018

John H. Reagan Building
JHR 140, 105 W 15th Street
Austin, Texas 78701

CALL TO ORDER
ROLL CALL
CERTIFICATION OF QUORUM

J. B. Goodwin, Chairman

Pledge of Allegiance - I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Texas Allegiance - Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act. Action may be taken on any item on this agenda, regardless of how designated.

ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

EXECUTIVE

- a) Presentation, discussion, and possible action on Board meeting minutes summary for December 14, 2017

J. Beau Eccles
Board Secretary

LEGAL

- b) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Third & Florence (HTC 91130 / CMTS 995)
- c) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Parkview Place Apartments (HOME 535031 / CMTS 2652)

Jeff Pender
Deputy General Counsel

ASSET MANAGEMENT

- d) Presentation, discussion and possible action regarding a change in the ownership structure of the Development Owner, Developer and Guarantor prior to issuance of IRS Form(s) 8609
12415 Gardens of San Juan Square San Antonio
- e) Presentation, discussion and possible action regarding a material amendment to Housing Tax Credit Land Use Restriction Agreement ("LURA")
99053 Killeen Veranda Killeen
- f) Presentation, discussion and possible action regarding a material amendment to the Housing Tax Credit Application and Waiver of 10 TAC §10.405(a)(7)(A)
15119 Liberty Square and Liberty Village Groesbeck

Raquel Morales
Director
Asset Management

COMMUNITY AFFAIRS

- g) Presentation, discussion, and possible action on the reprogramming of Program Year (“PY”) 2017 Community Services Block Grant (“CSBG”) Discretionary funds
- h) Presentation, discussion, and possible action on approval of the Draft Federal Fiscal Year (“FFY”) 2018 Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) State Plan for Public Comment

Michael DeYoung
Director
Community Affairs

HOUSING RESOURCE CENTER

- i) Presentation, discussion, and possible action on the draft 2018 State of Texas Consolidated Plan: One-Year Action Plan

Elizabeth Yevich
Director
Housing Resource Center

MULTIFAMILY FINANCE

- j) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer

Marni Holloway
Director
Multifamily Finance

17438 McKinney Falls Austin ETJ

17448 Sun Plaza Apartments El Paso

17449 Quail Chase Houston ETJ

- k) Presentation, discussion and possible action on Inducement Resolution No. 18-014, Santa Maria Apartments, Fairway Village Apartments, and Forestwood Apartments, for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2018 Waiting List
- l) Presentation, discussion, and possible action regarding an award of Direct Loan funds from the 2017-1 Multifamily Direct Loan Notice of Funding Availability

17511 AHA! at Briarcliff Austin

RULES

- m) Presentation, discussion, and possible action on adoption of the 2018 State of Texas Low Income Housing Plan and Annual Report, and an order adopting the repeal and new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of Texas Low Income Housing Plan and Annual Report, and directing their publication in the *Texas Register*
- n) Presentation, discussion, and possible action adopting new 10 TAC §1.5, Waiver Applicability in the Case of Federally Declared Disasters, and directing that it be published for adoption in the *Texas Register*
- o) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 5, Community Affairs Programs: Subchapter A, General Provisions; Subchapter B, Community Services Block Grant (“CSBG”); Subchapter D, Comprehensive Energy Assistance Program; Subchapter E, Weatherization Assistance Program General; Subchapter F, Weatherization Assistance Program Department of Energy; Subchapter G, Weatherization Assistance Program Low-Income Home Energy Assistance Program; Subchapter J, Homeless Housing and Services Program (“HHSP”); Subchapter K, Emergency Solutions Grants (“ESG”); Subchapter L, Compliance Monitoring, and directing that they be published for public comment in the *Texas Register* while renaming Chapter 5 Community Affairs Programs to Chapter 5 Section 8 Housing Choice Voucher Program

Elizabeth Yevich
Director
Housing Resource Center

Brooke Boston
Deputy Executive Director

Michael DeYoung
Director
Community Affairs

REPORT ITEMS

The Board accepts the following reports:

- 1. Report to the Board on a contract renewal for the Community Action Partnership (“CAP”)

Brooke Boston
Deputy Executive Director

2. TDHCA Outreach Activities, (January 2018 – February 2018)
3. Report on the Department’s 1st Quarter Investment Report in accordance with the Public Funds Investment Act (“PFIA”)
4. Report on the Department’s 1st Quarter Investment Report relating to funds held under Bond Trust Indentures
5. Report on change in reporting to the Internal Revenue Service (“IRS”) regarding eligible basis

Michael Lyttle
Chief of External Affairs

David Cervantes
Chief Financial Officer

Monica Galuski
Chief Investment Officer

Patricia Murphy
Chief of Compliance

ACTION ITEMS

ITEM 2: MULTIFAMILY FINANCE

- a) Presentation, discussion and possible action regarding site eligibility under 10 TAC §10.101(a)(2) related to Undesirable Site Features
18259 Cannon Courts Bangs
- b) Presentation, discussion and possible action regarding site eligibility under 10 TAC §10.101(a)(3) related to Undesirable Neighborhood Characteristics for Residences of Stillwater in Georgetown
- c) Presentation, discussion, and possible action regarding extension of due date for local government resolutions for affected applications in the 2018 Competitive Housing Tax Credit Application Cycle
- d) **Presentation, discussion, and possible action on Timely Filed Appeals under any of the Department’s Program Rules**

18269	2400 Bryan Street	Dallas
18159	Rutherford Park	Houston
18161	Monroe Crossing	Houston
18164	Lafayette Park Apartments	La Porte
- e) Presentation, discussion, and possible action regarding an amendment to the Construction Loan Agreement for TX Majors Place Apartments, LP

Marni Holloway
Director
Multifamily Finance

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public):

1. The Board may go into Executive Session Pursuant to Tex. Gov’t Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;
2. Pursuant to Tex. Gov’t Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;
3. Pursuant to Tex. Gov’t Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov’t Code Chapter 551; including seeking legal advice in connection with a posted agenda item;
4. Pursuant to Tex. Gov’t Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department’s ability to negotiate with a third person; and/or
5. Pursuant to Tex. Gov’t Code §2306.039(c) the Department’s internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

J.B. Goodwin
Chair

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized

by applicable law, the Board may not take any actions in Executive Session.

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information.

If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Terri Roeber, ADA Responsible Employee, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Elena Peinado, 512-475-3814, at least three (3) days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado, al siguiente número 512-475-3814 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

NOTICE AS TO HANDGUN PROHIBITION DURING THE OPEN MEETING OF A GOVERNMENTAL ENTITY IN THIS ROOM ON THIS DATE:

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista.

NONE OF THESE RESTRICTIONS EXTEND BEYOND THIS ROOM ON THIS DATE AND DURING THE MEETING OF THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

1j

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
FEBRUARY 22, 2018

Presentation, discussion, and possible action on Determination Notices for Housing Tax Credits with another Issuer (#17448 Sun Plaza Apartments, El Paso)

RECOMMENDED ACTION

WHEREAS, a 4% Housing Tax Credit application for Sun Plaza Apartments, sponsored by the Housing Authority of the City of El Paso (“HACEP”), was submitted to the Department on November 27, 2017;

WHEREAS, the Certification of Reservation from the Texas Bond Review Board was issued on October 23, 2017, and will expire on March 22, 2018;

WHEREAS, the proposed issuer of the bonds is the Alamito Public Facilities Corporation;

WHEREAS, pursuant to 10 TAC §10.101(a)(2) of the Uniform Multifamily Rules related to Undesirable Site Features, Development Sites within 500 feet of a railway may be considered ineligible unless an exemption is requested;

WHEREAS, Sun Plaza is located approximately 350 feet from the closest of several spur tracks used for loading and unloading railcars and railcar storage;

WHEREAS, pursuant to the rule, developments with ongoing and existing federal assistance, which this development has, may be granted an exemption by the Board and staff recommends that such exemption be granted;

WHEREAS, pursuant to 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics, applicants are required to disclose to the Department the existence of certain characteristics of a proposed development site;

WHEREAS, the applicant has disclosed the presence of all of the undesirable neighborhood characteristics noted in the rule, including a poverty rate that exceeds 55% for Developments located in Region 13, the high school in the attendance zone of the proposed development failed to achieve a Met Standard rating based on the 2016 Accountability Ratings by the Texas Education Agency (“TEA”), the subject census tract has a Part I violent crime rate that exceeds 18 per 1,000 per persons annually according to NeighborhoodScout and the proposed development is located within 1,000 feet of multiple vacant structures that have fallen into such significant disrepair, overgrowth and/or vandalism that would commonly be regarded as blight;

WHEREAS, staff has conducted a further review of the proposed development site and surrounding neighborhood and based on the documentation provided and discussed herein

relating to each undesirable neighborhood characteristic, recommends the proposed site be found eligible under 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules; and

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as a Category 3 and subject to the conditions as noted herein after review and discussion by the Executive Award and Review Advisory Committee (“EARAC”);

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$1,697,972 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Sun Plaza Apartments, and conditioned upon the following, is hereby approved as presented to this meeting:

1. Correction of uncorrected Household income above limit/Unit not leased to low income household event at Park Avenue Manor (ID 4987-HTC 14405) no later than 30 days following lease expiration;
2. HACEP will conduct appropriate due diligence to determine all compliance requirements prior to submission of new applications to TDHCA and not rely upon post closing rule waivers or material amendments to address inconsistencies or required amendments;
3. HACEP agrees that for future applications submitted through December 31, 2018 a qualified third party accessibility specialist will review the entire development site to confirm compliance with TDHCA accessibility standards and that such documentation be submitted 14 days prior to Board approval;
4. Confirmation that the proposed scope of work and corresponding cost budget for Sun Plaza takes into account the historic nature of the building; and
5. Documentation confirming that the architectural plans for Sun Plaza have been reviewed by a qualified third party accessibility specialist for compliance with TDHCA accessibility standards.

BACKGROUND

General Information: Sun Plaza Apartments is located at 1221 East San Antonio Avenue, El Paso, El Paso County, and consists of 330 units. The Development will serve the general population and conforms to current zoning. The subject property was originally constructed in 1966 and the units are occupied and operating as public housing. All of the units will be rent and income restricted at 60% of the Area Medium Family Income (“AMFI”). The census tract (0021.00) has a median household income of \$12,762, is in the fourth quartile, and has a poverty rate of 68.10%.

Site Analysis: The presence of undesirable neighborhood characteristics under §10.101(a)(3) requires additional site analysis and those characteristics attributable to the Sun Plaza Apartments include a poverty rate above 55%, the high school in the attendance zone of the development failed to achieve a Met Standard

in 2016, the subject census tract has a Part I violent crime rate that exceeds 18 per 1,000 person annually according to NeighborhoodScout and is located within 1,000 feet of multiple vacant structures that have fallen into such significant disrepair, overgrowth and/or vandalism that would commonly be regarded as blight.

Poverty: The development is located in a census tract that has a poverty rate of 68.10% for 2017; which exceeds the threshold allowed under 10 TAC §10.101(a)(3). The poverty rate for 2015 was 71.10%, followed by a decrease in 2016 to 64.7%; however in 2017 it increased to 68.10%. The 2018 Site Demographics Characteristics Report reflects a slight decrease to 68.6%. The census tract containing the existing development contains mixed use developments, with few other residential developments. The proposed development is high density, containing 330 units and approximately 1,000 residents which could be skewing the poverty rate in the tract considering the limited residential development and population. With the property operating as public housing through the City of El Paso Public Housing Authority, it is likely that the development alone is affecting the overall poverty rate in the tract which is likely to see limited improvement absent any other residential growth in the census tract.

School: The Sun Plaza Apartments is located in the attendance zone of Bowie High School (“Bowie HS”) which did not achieve a Met Standard rating based on the 2016 TEA Accountability Rating. The school did not reach the target score for Index 2, missed it by one point and; therefore, failed to achieve the Met Standard rating. However, based on the 2017 TEA Ratings, Bowie HS achieved Met Standard and staff believes the 2017 TEA Ratings are sufficient mitigation under the rule and believes the application should be found eligible pursuant to 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules.

Crime: The threshold for the rate of Part I violent crimes include anything greater than 18 per 1,000 persons annually. According to NeighborhoodScout, the subject census tract has a part I violent crime rate of 22.95 per 1,000 persons annually. Crime statistics provided by the El Paso Police Department reflected a decrease in crime in 2015-2016 over the prior 2014-2015 time period in the area containing the Sun Plaza development. Worth noting is that Sun Plaza is located in proximity to the Blue Flame development, a 2017 9% HTC Application of which the Board heard testimony concerning these same undesirable neighborhood characteristics, and ultimately approved. The applicant provided confirmation from Sergeant Louis Johnson with the El Paso Police Department confirming that the crime demographics for both Blue Flame and Sun Plaza are similar due to their proximity to one another and also described efforts underway to combat crime.

Blight: Downtown El Paso, like countless other urban areas, experienced diminished growth over the years; creating uncertain futures for historic buildings and prompting Cities to encourage revitalization of such areas. The City of El Paso outlined in the Downtown 2015 Plan strategies to revitalize the surrounding area and address the physical decline of vacant properties, while attracting additional capital. Specifically, the city’s Downtown Management District is focusing on the repair and improvement of facades in the area through a targeted program. Improvements have already been made and there are plans to continue. Also worth noting is the Sun Plaza development is located in the Magoffin Historic District, an area that is highlighted in the Downtown 2015 Plan. Although the Plan was completed before the planned historic renovation of the subject development, Sun Plaza has already received its Historic Part I approval and the Historic Part II approval is in process, according to the applicant.

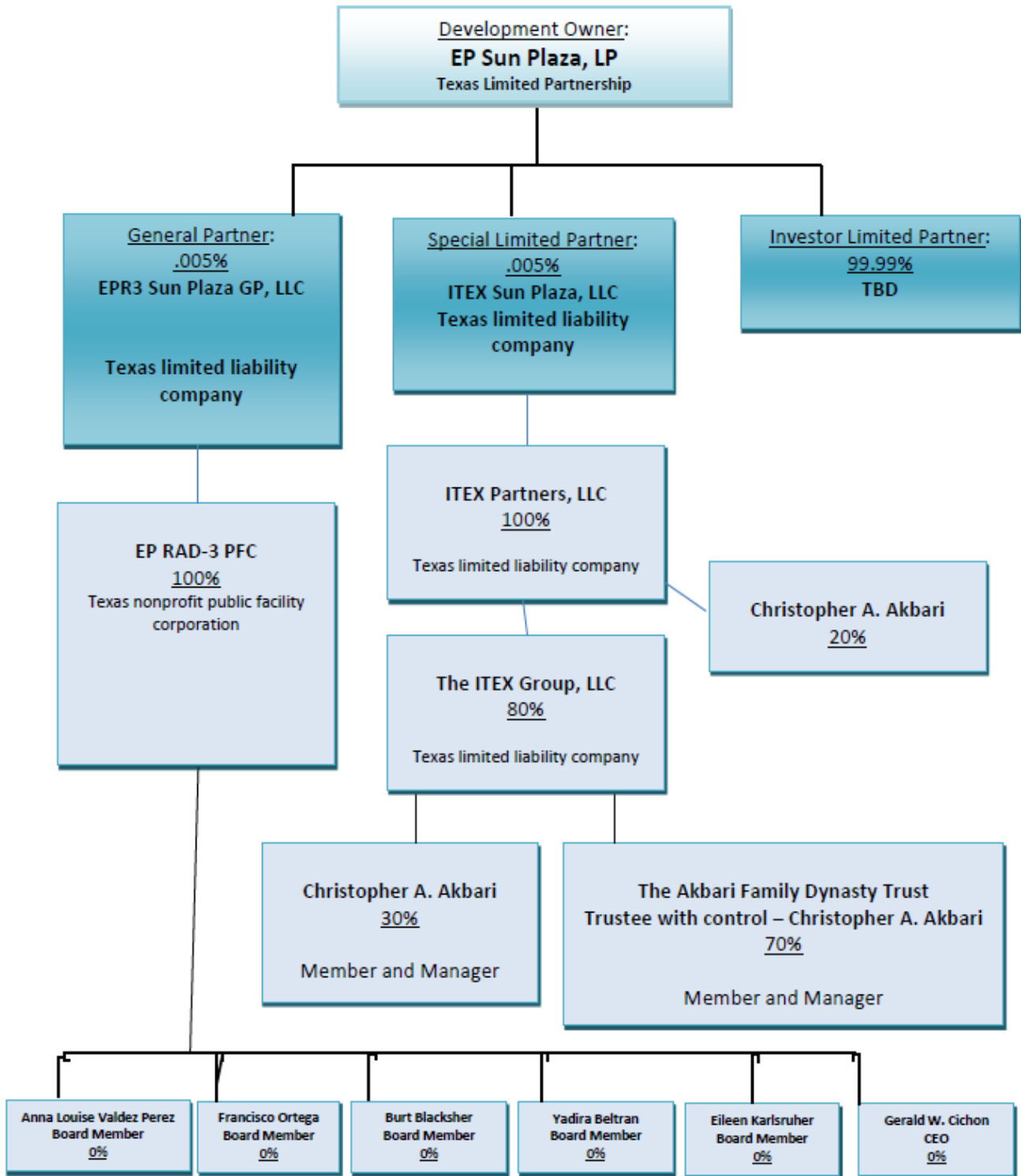
Based on the mitigation provided and discussed herein relating to each of the undesirable neighborhood characteristics, staff recommends the site be eligible under 10 TAC §10.101(a)(3). Moreover, there is an undesirable site feature associated with the Sun Plaza development, namely that it is located approximately 350 feet from the closest of several spur tracks used for loading and unloading railcars and railcar storage.

Pursuant to 10 TAC §10.101(a)(2) of the Uniform Multifamily Rules related to Undesirable Site Features, Development Sites within 500 feet of a railway may be considered ineligible unless an exemption is requested. The applicant requested such exemption on the basis that the Sun Plaza development has ongoing and existing federal assistance, which conforms to the rule. Staff recommends that such exemption be granted.

Organizational Structure: The Borrower is EP Sun Plaza, LP and includes the entities and principals as indicated in the organization chart in Exhibit A. The applicant's portfolio is considered a Category 3 and the previous participation was deemed acceptable by EARAC, with the aforementioned conditions, after review and discussion. EARAC also reviewed the proposed financing and the underwriting report, and recommends issuance of a Determination Notice.

Public Comment: There were no letters of support or opposition received by the Department.

EXHIBIT A



17448 Sun Plaza Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION

February 16, 2018

PROPERTY IDENTIFICATION	
Application #	17448
Development	Sun Plaza Apartments
City / County	El Paso / El Paso
Region/Area	13 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 1966)

RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$1,697,972	\$1,697,972	\$5,145/Unit	\$1.00

KEY PRINCIPAL / SPONSOR		
Housing Authority of the City of El Paso (HACEP)		
ITEX Development - Chris Akbari (Developer)		
Alamito PFC (Related-Party Issuer)		
Affordable Housing Enterprises (Contractor)		
Gerald ("Jerry") W. Cichon		
Related-Parties	Contractor - Yes	Seller - Yes

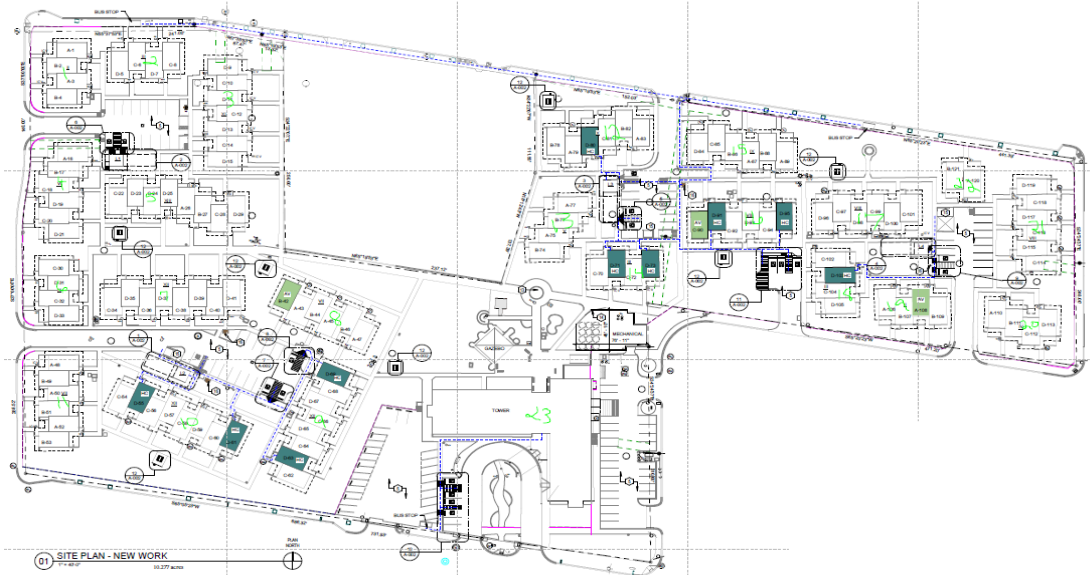
TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	128	39%	30%	-	0%
1	201	61%	40%	-	0%
2	-	0%	50%	-	0%
3	1	0%	60%	330	100%
4	-	0%	MR	-	✓
TOTAL	330	100%	TOTAL	330	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	✓ 1.25	Expense Ratio	✓ 52.2%
Breakeven Occ.	✓ 85.9%	Breakeven Rent	\$589
Average Rent	\$652	B/E Rent Margin	✓ \$63
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$3,910/unit	Controllable	\$2,616/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			✓ 2.4%
Highest Unit Capture Rate	✓ 9%	0 BR/60%	128
Dominant Unit Cap. Rate	✓ 6%	1 BR/60%	201
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	330	100% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	503 SF	Density	32.1/acre
Acquisition		\$32K/unit	\$10,600K
Building Cost	\$131.36/SF	\$66K/unit	\$21,804K
Hard Cost		\$82K/unit	\$27,043K
Total Cost		\$171K/unit	\$56,421K
Developer Fee	\$6,954K	(28% Deferred)	Paid Year: 8
Contractor Fee	\$3,786K	30% Boost	Yes

REHABILITATION COSTS / UNIT			
Site Work	\$7K	9%	Finishes/Fixtures \$14K 17%
Building Shell	\$40K	48%	Amenities \$1K 1%
HVAC	\$11K	14%	Total Exterior \$48K 59%
Appliances	\$1K	2%	Total Interior \$26K 32%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Citi Permanent Loan	15/35	4.85%	\$11,500,000	1.73						RBC	\$16,978,020	
HACEP - Seller Take Back Loan	15/35	0.00%	\$9,150,000	1.25						RBC - Federal HTC Equity	\$7,452,661	
										FOSS - State HTC Equity	\$9,368,518	
										Paisano HRC, ITEX	\$1,971,618	
										TOTAL EQUITY SOURCES	\$35,770,817	
										TOTAL DEBT SOURCES	\$20,650,000	
TOTAL DEBT (Must Pay)			\$20,650,000		CASH FLOW DEBT / GRANTS				\$0		TOTAL CAPITALIZATION	\$56,420,817

CONDITIONS

- Receipt and acceptance before Determination Notice:
 - HUD approval of RAD conversion including a commitment to enter into the Housing Assistance Payment contract (or executed CHAP or similar agreement), HUD approved rents and operating budget.
- Documentation at Cost Certification clearing environmental issues identified in the ESA report, specifically:
 - Certification of comprehensive testing for asbestos, lead-based paint and lead in drinking water; that any appropriate abatement procedures were implemented by a qualified abatement company; and that any remaining asbestos-containing materials or lead-based paint are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	Alamito PFC
Expiration Date	3/22/2018
Bond Amount	\$40,000,000
BRB Priority	Priority 3
Close Date	TBD
Bond Structure	Tax-Exempt "Back-to-Back"

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
o	10% construction contingency & available deferred developer fee
o	Minimal lease up risk
o	Pro forma based on historical expenses
o	100% rental assistance

WEAKNESSES/RISKS	
o	Potential cost overruns associated with rehab



AERIAL PHOTOGRAPH(S)



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BOARD ACTION ITEM

MULTIFAMILY FINANCE DIVISION

FEBRUARY 22, 2018

Presentation, discussion, and possible action on a timely filed appeal of pre-application termination under the Department's Multifamily Program Rules

RECOMMENDED ACTION

WHEREAS, this appeal relates to Competitive Housing Tax Credit ("HTC") Application 18269 2400 Bryan Street, which was submitted to the Department on January 26, 2018, in order to qualify for points under 10 TAC §11.9(d)(3) related to Declared Disaster Areas;

WHEREAS, the Department did not receive a letter from a State Representative regarding the Application prior to the early application due date of January 26, 2018, as adopted by this Board at its meeting of January 18, 2018;

WHEREAS, on January 29, 2018, the Department received a request from the Applicant to extend the submission deadline for the State Representative letter; and

WHEREAS, based on the Board's interpretation of Tex. Gov't Code §2306.6710(b)(1)(H) that in order for an application to qualify for points under that provision it needed to be submitted, in its entirety, by the second anniversary of the disaster declaration, in this case January 26, 2018, the Executive Director denied the request;

NOW, therefore, it is hereby

RESOLVED, that the request for an extension of the deadline of January 26, 2018, for submitting a complete application in order to obtain Declared Disaster Area points, including a letter evidencing community support from a State Representative, is hereby denied.

BACKGROUND

At its meeting of January 18, 2018, the Department's Governing Board addressed issues of Application submission timing and submission content for Applicants wishing to submit Applications on or before January 26, 2018, in order to score points for Declared Disaster Area before eligibility for those points expired. At that meeting, The Board unanimously adopted an interpretation of statute reflected in the following requirements for timing and content of the submissions:

- the two-year disaster period be measured from the date that the governor took action to declare the area a disaster area, so in this instance, that would be measured from the January 26, 2016 date;
- any date within the application acceptance period may be the full application delivery date, so March 1 is a due by date for an application not seeking disaster points subject to the January 26th deadline; and

- all items, including the local government resolution and the state representative letters, must be submitted in order for the application to be complete within the meaning of Tex. Gov't Code §2306.6710(b)(1)(H), and therefore, must be submitted within the two-year period in order to claim disaster points, and again, that two-year period would be measured from the January 26 date, the declaration date.

On January 26, 2018, the Department received application #18269 for the “2400 Bryan Street” development. The Application indicates that a letter of support or opposition from a State Representative was included behind Tab 46, but no such letter was included in the Application. On January 29, 2018, the Department received a request from the Applicant to extend the submission deadline for the State Representative letter. Per the request, the Representative “was unable to complete the review and his due diligence of the information and materials provided to his office regarding the proposed development in Dallas.”

The request cites 10 TAC §11.2 related to Program Calendar for Competitive Housing Tax Credits which states:

“Non-statutory deadlines specifically listed in the Program Calendar may be extended by the Department for a period of not more than five (5) business days ...”

10 TAC §11.2 is inapplicable as a basis for seeking an extension for disaster point eligibility because the deadline by which the letter was due is not a deadline “specifically listed in the Program Calendar.” The deadline being addressed by the applicant is determined through statute, which has been interpreted by this Board to be (in this instance) on January 26, 2018. Any alternative determination or justification of the deadline must be at the direction of the Board.

Staff notes that, in accordance with previous Board interpretation on the subject, though the application was not “complete” on January 26, 2018, it was completed by the State Representative’s letter prior to March 1, 2018. Accordingly, staff acknowledges that the application may still receive full points for the State Representative’s letter of support but simply not be eligible to receive Declared Disaster Area points.

Staff recommends the Board deny the request to extend the deadline.

Request Letter

18269

2400 Bryan Street

January 26, 2018

Mr. Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
PO Box 13941
Austin, Texas 78711-3941

Re: Request for Extension of Submission Deadline for Community Support from State Representative, §11.9(d)(5) of the 2018 Qualified Allocation Plan (QAP)
TDHCA #18269 - 2400 Bryan Street in Dallas, Texas

Dear Mr. Irvine:

Please accept this letter as a request for an extension of the Community Support from State Representative as identified in §11.2 Program Calendar for Competitive Housing Tax Credits. In accordance to §11.2, "Non-statutory deadlines specifically listed in the Program Calendar may be extended by the Department for a period of not more than five (5) business days for good cause.

State Representative Morgan Meyer for District 108 was unable to complete the review and his due diligence of the information and materials provided to his office regarding the proposed development in Dallas. Therefore, we respectfully request an extension of the Community Support from State Representative to be submitted by February 1, 2018 by 5:00 pm.

If you have any questions regarding this request, please do not hesitate to contact me directly at (832) 454-7118 or via email at dscottgalbraith@gmail.com any time.

Sincerely,



Scott Galbraith, Vice President
2400 Bryan Street, LP, and RMGM Developers

Executive Director Response

18269

2400 Bryan Street



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
J.B. Goodwin, *Chair*
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February 5, 2018

Writer's direct phone # 512-475-3296
Email: tim.irvine@tdhca.state.tx.us

Mr. Scott Galbraith
Vice President
RMGM Developers
320 Main Street West
Lewisville, Texas 75057

RE: REQUEST FOR EXTENSION OF SUBMISSION DEADLINE FOR SUPPORT FROM STATE REPRESENTATIVE: #18269, 2400 BRYAN STREET, DALLAS

Dear Mr. Galbraith:

The Texas Department of Housing and Community Affairs (the "Department") received the request for an extension of the deadline for submitting a letter evidencing community support from a State Representative. The request cites 10 TAC §11.2 related to Program Calendar for Competitive Housing Tax Credits which states:

"Non-statutory deadlines specifically listed in the Program Calendar may be extended by the Department for a period of not more than five (5) business days ..."

The application referenced above is one that was submitted on or before January 26, 2018, in order to score points for Declared Disaster Area before eligibility for those points expired. As such, 10 TAC §11.2 is inapplicable as a basis for seeking an extension for disaster point eligibility because the deadline by which the letter was due is not a deadline "specifically listed in the Program Calendar." The deadline being addressed by the applicant is determined through statute, which has been interpreted by our Board to be (in this instance) on January 26th. The Board has further interpreted "complete" as used in TEX. GOV'T CODE §2306.6710(b)(1)(H) to encompass all aspects of the application supporting claimed points, including elected official input items. Accordingly, I must deny your request for an extension of the deadline.

Your request for an extension of the January 26, 2018, deadline for submitting a complete application in order to obtain Declared Disaster Area points, including a letter evidencing community support from a State Representative, will be placed on the agenda for the February 22, 2018, Board meeting. Any additional documentation you wish to have included in the Board Book must be received by the Department by close of business on February 12, 2018.

If you have any questions or concerns, please contact me at (512) 475-3296 or by email at tim.irvine@tdhca.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy K. Irvine".

Timothy K. Irvine
Executive Director



Board Appeal Documents

18269

2400 Bryan Street

Additional Information in Support of the Appeal Filed by 2400 Bryan Street, Dallas, Texas
TDHCA #18269

This is an appeal of a decision by TDHCA staff to deny an extension of time to file a State Representative Letter for application number 18269, 2400 Bryan Street, Dallas Texas. The actual issue is whether the State Representative Letter could be filed after January 26, but before the March 1 deadline referenced in the 2018 QAP for filing of Input from Elected Officials. Based on the facts presented herein, the Board should review its decision from the January 18 Board meeting and define “full application” or “complete application” not to include such items as Input from Local Elected Officials, Market Studies and any other item which have traditionally been assigned a later delivery date or a separate line item in the QAP, regardless of whether they were statutory requirements or not. This would be in accordance with prior practice and follow long standing precedent.

I. Precedence from Prior QAP’s.

At the TDHCA Board meeting on January 18, 2018, the TDHCA Board was asked to determine what is meant by “Full Application Delivery Date”, specifically as it relates to submission of support letters from elected officials. For many years, the Support from Elected Officials was due one month after the Full Application Delivery Date. For example, in 2011, the Full Application was due March 1, 2011, but State Senator or Representative Support Letters were not due until May 1, 2011. In 2012, the Full Application Delivery Date was March 1, 2012, but Market Analyses and Resolutions from Local Government were due April 1, 2012, and Final Input from State Representative or Senator was due May 1, 2012. The 2013 QAP changed the dates to Full Application Deadline March 1, 2013, and Final Input from State representative or State Senator Delivery Date to April 1, 2013, along with Resolutions, Market Analysis and Civil Engineering Feasibility Study Delivery Date. Delivery deadlines remained as they were in 2013 for the 2014 allocation round, with Final Input from Elected Officials (both city and state representative due on April 1. The same was true in 2015. In 2016, the calendar changed to make Resolutions and State Representative Support Letters due on the same date as the Full Application. However, these two items were still separate items on the calendar and Resolutions and Support from the State Representative was not included under “Full Application”. Market Studies remained due after “Full Application” and were due April 1. The 2017 calendar was exactly the same as 2016, again showing Final Input form Elected Officials due on March 1, but as a separate category and Market Studies due April 1. Finally we get to 2018, the current QAP, and the language is identical to 2016 and 2017 and still has Market Studies due later, April 2, 2018.

I have attached the Program Calendar for years 2011 through 2018 for your reference as **Exhibit A**, as well as the definition of Full Application Delivery Date from the Rules from 2011 through 2018 (attached as **Exhibit B**). As you will see, the definition has not changed.

II. January 18, 2018 Board Decision.

At the January 18, 2018 TDHCA Board meeting, the Board for the first time reinterpreted what is meant by “Full Application” to include Input from Elected Officials and State Representatives. This is not in the interpretation for at least years 2011 through 2017, and, even in 2018, Full Application still does not include Market Studies which are due April 1. At the board meeting, the Motion by Mr. Braden included the following language:

“that all items, including the local government resolution and the state rep letters, must be submitted for the application to

be complete", (emphasis added) (a full copy of the motion and vote is attached hereto as **Exhibit C**).

Based on the motion and vote, it now seems that the market studies must come in by Full Application Delivery Date, rather than the published deadline. Either "Full Application" or "complete application" includes all additional documentation or it does not. The ruling from TDHCA makes it even more confusing. Developers now have no way to know what is meant by that term.

This interpretation is of critical importance this year because of the early Full Application Deadline for the 20 counties with expiring disaster declarations. When the deadline was moved to January 26 for Full Application, the question became when Input from Elected Officials and Representative Letters would be due. The QAP calendar was not amended, and it still states these are due March 1, 2018. In order to lessen confusion, TDHCA Staff could have put out a new calendar or more precise information.

Staff was asked about the deadline for these items in early January, before the January 18 meeting, and staff responded that these items were due on January 26. However, the Board materials were published and this issue came up again at the meeting. Until that point there was a great deal of confusion and there is still confusion on the part of some officials.

III. **Staff Letter dated January 19, 2018.**

To add to that confusion, the Department sent a letter dated January 19, 2018, 8 days prior to the early submission deadline, to all of the State Representatives stating that they should wait until as close as possible to the March 1 deadline to send in their letters. It does state that some may be due early if the applicant was taking the disaster points which required early submission. That sentence can be found in the middle of the letter. It is not obviously important, and it does not give a definitive submission date for the early applications. There are representatives who believed and/or still believe they have until March 1 to submit support letters for the Full Applications that were due on January 26. A copy of the TDHCA letter dated January 19, 2018 is attached as **Exhibit D**.

By statute, representative support letters are a critical portion of the scoring criteria and process. By not providing the representatives the exact date support letters are due, the Department has done a disservice, not only to the applicants, but also to the representatives, who by law, play a role in the application process.

IV. **Additional Issues.**

In the City of Dallas, the amended dates, and potential for extending dates caused much confusion. The City of Dallas Housing Department procedure to obtain a support resolution and funding is a 6 week process. No applicants knew they could submit early to claim disaster points until the first week of December. At that point, many developers were unable to assemble a full package to send to their city for review and consideration. In the case of application #18269, the City required multiple meetings with staff and elected officials, including council and committee meeting briefings prior to consideration by city council on January 24. Following the direction of City of Dallas staff, it was not possible to present the resolution of support onto the Dallas City Council agenda until the January 24th meeting, two days before the application was due. In order to accommodate the application, the City of Dallas waived multiple requirements and worked diligently to make that deadline.

The State Representative's office was first contacted on January 12, as soon as the TDHCA Pre-Application scoring log was available and it appeared this application would score high enough to potentially get an allocation. The City's formal signed resolution became available in the afternoon of January 25 and immediately provided to Representative Meyer's office. Representative Meyer simply did not have enough time to evaluate the proposal and send his support letter given the tight schedule. **Representative Meyer** ultimately decided to support the project and sent his **affirmative support** letter directly to TDHCA on February 1. The Meyer letter is attached hereto as **Exhibit E**.

V. **Summary.**

We respectfully request that the TDHCA reconsider Part three of their decision at the January 18 Board meeting relating to the definition of complete application and allow elected official support to be filed for ALL applications by the deadline in the QAP and Market studies for ALL applications to be filed by April 1.

Exhibit A

TDHCA Program Calendars 2011-2018

- (21) **Tax Credit (Procedures) Manual**--The manual produced and amended from time to time by the Department which reiterates the rules and provides guidance for the filing of tax credit related documents.
- (22) **Tax-Exempt Bond Development**--A Development requesting or having been awarded Housing Tax Credits and which receives a portion of its financing from the proceeds of tax-exempt bonds which are subject to the state volume cap as described in §42(h)(4) of the Code, such that the Development does not receive an allocation of tax credit authority from the State Housing Credit Ceiling.
- (23) **Transit Oriented District**--A mixed-use residential and commercial area, located within a radius of one-quarter mile from an existing or proposed transit stop, designed to encourage pedestrian activities and maximize access to public transportation.

§49.3. Program Calendar.

All documentation noted in this section must be submitted to the Department offices located at 221 E. 11th Street, Austin, TX 78701, by 5:00 p.m. (CST) by the date indicated.

Due Date	Documentation Required
12/20/2010	Application Acceptance Period Begins (Competitive HTC Only).
12/20/2010	Pre-application Neighborhood Organization Request Date (Competitive HTC Only).
12/31/2010	Pre-application Response to Neighborhood Organization Request Date (Competitive HTC Only).
01/07/2011	Pre-Application Final Delivery Date (Competitive HTC Only).
01/21/2011	Full Application Neighborhood Organization Request Date (Competitive HTC Only). For Tax-Exempt Bond, Rural Rescue, HOME or HTF Applications the request must be sent no later than fourteen (14) days prior to the submission of the Threshold Documentation.
02/15/2011	Experience Certification Delivery Date (For Tax-Exempt Bond Applications the Experience Certification Documentation must be submitted with the Application).
02/22/2011	Full Application Response to Neighborhood Organization Request Date (Competitive HTC Only). For Tax-Exempt Bond, HOME or HTF Applications the response should be received no later than seven (7) days prior to the Application submission.
03/01/2011	Full Application Delivery Date (Competitive HTC Only).
03/01/2011	Quantifiable Community Participation (QCP) Delivery Date (Competitive HTC Only).
03/01/2011	Unit of General Local Government Resolutions for Applications applying for TDHCA HOME funds and selecting §49.9(a)(5) points (must be submitted with Application).
03/01/2011	Third Party Report Delivery Date (Environmental Site Assessment (ESA), Property Condition Assessment (PCA), Appraisal (if applicable). For Tax-Exempt Bond Developments the Third Party Reports must be submitted no later than 60 days prior to the Board meeting at which the tax credits will be considered. The 60 day deadlines are available on the Department's website.

Development does not receive an allocation of tax credit authority from the State Housing Credit Ceiling.

- (26) **Transitional Housing--A** Supportive Housing development that includes living Units with more limited individual kitchen facilities and is:
- (A) used exclusively to facilitate the transition of homeless individuals and those at-risk of becoming homeless, to independent living within 24 months; and
 - (B) is owned by a governmental entity or a qualified non-profit which provides temporary housing and supportive services to assist such individuals in, among other things, locating and retaining permanent housing. The limited kitchen facilities in individual Units must be appropriately augmented by suitable, accessible shared or common facilities.

§50.3. Program Calendar.

All documentation noted in this section must be submitted to the Department offices located at 221 E. 11th Street, Austin, TX 78701, by 5:00 p.m. (CST) by the date indicated. Any deadline not imposed by statute and including those not specifically listed in the Program Calendar may be extended for good cause by the Executive Director for a period of not more than five (5) business days provided; however, that the Applicant requests an extension of the deadline prior to the date of the original deadline. Any extension of non-statutory deadlines made after the original deadline or for longer than 5 days must be requested pursuant to §50.16(a) of this chapter (relating to Waiver and Amendment of Rules). Extensions for 10% Test, Carryover and Cost Certification shall be made in accordance with §50.13(c) of this chapter (relating to Application Reevaluation).

2012 Program Year Due Date	2013 Program Year Due Date	Documentation Required
12/19/2011	12/17/2012	Application Acceptance Period Begins (Competitive HTC Only).
12/19/2011	12/17/2012	Pre-application Neighborhood Organization Request Date (Competitive HTC Only).
12/30/2011	12/28/2012	Pre-application Response to Neighborhood Organization Request Date (Competitive HTC Only).
01/10/2012	01/08/2013	Pre-Application Final Delivery Date (Competitive HTC Only).
01/20/2012	01/18/2013	Full Application Neighborhood Organization Request Date (Competitive HTC Only). For Tax-Exempt Bond, Rural Rescue, HOME or HTF Applications the request must be sent no later than fourteen (14) days prior to the submission of the Threshold Documentation.
02/23/2012	02/22/2013	Full Application Response to Neighborhood Organization Request Date (Competitive HTC Only). For Tax-Exempt Bond, HOME or HTF Applications the response should be received no later than seven (7) days prior to the Application submission.
03/01/2012	03/01/2013	Full Application Delivery Date (Competitive HTC Only).
03/01/2012	03/01/2013	Quantifiable Community Participation (QCP)

2012 Program Year Due Date	2013 Program Year Due Date	Documentation Required
		Delivery Date (Competitive HTC Only).
03/01/2012	03/01/2013	Unit of General Local Government Resolutions for Applications applying for TDHCA HOME funds and selecting §50.9(a)(5) points (must be submitted with Application).
03/01/2012	03/01/2013	Third Party Report Delivery Date (Environmental Site Assessment (ESA), Property Condition Assessment (PCA), Appraisal (if applicable). For Tax-Exempt Bond Developments the Third Party Reports must be submitted no later than 60 days prior to the Board meeting at which the tax credits will be considered. The 60 day deadlines are available on the Department's website.
03/02/2012	03/04/2013	Rural Rescue Application Submission Period (Ends 11/13/2012 and 11/12/2013 respectively).
04/02/2012	04/01/2013	Market Analysis Delivery Date (Competitive HTC Only).
04/02/2012	04/01/2013	Resolutions Delivery Date. (For Tax-Exempt Bond Developments all resolutions are due no later than 14 days prior to the Board meeting at which the tax credits will be considered).
05/01/2012	05/01/2013	Final Input from State Representative or State Senator Delivery Date (Competitive HTC Only)
Mid-May	Mid-May	Final Scoring Notices Issued (Competitive HTC Only).
06/13/2012	06/12/2013	Application Challenges Deadline (Competitive HTC Only).
Late June	Late June	Release of Eligible Applications for Consideration for Award in July (Competitive HTC Only).
Late July	Late July	Final Awards (Competitive HTC Only).
Mid-August	Mid-August	Commitments are Issued (Competitive HTC Only).
11/01/2012	11/01/2013	Carryover Documentation Delivery Date (Competitive HTC Only).
07/01/2013	07/01/2014	10% Test Documentation Delivery Date (Competitive HTC Only).
12/31/2014	12/31/2015	Placement in Service Deadline (Competitive HTC Only).
Forty-five (45) calendar days prior to Board meeting	Forty-five (45) calendar days prior to Board meeting	Amendment Requests.
Thirty (30) calendar days prior to the deadline, as applicable	Thirty (30) calendar days prior to the deadline, as applicable	Extension Requests.

2013 QAP

Deadline	Documentation Required
12/17/2012	Application Acceptance Period Begins.
12/17/2012	Pre-application Neighborhood Organization Request Date.
01/08/2013	Pre-Application Final Delivery Date.
01/18/2013	Full Application Neighborhood Organization Request Date.
03/01/2013	Full Application Delivery Date.
03/01/2013	Quantifiable Community Participation (QCP) Delivery Date.
03/01/2013	Third Party Report Delivery Date (Environmental Site Assessment (ESA), Property Condition Assessment (PCA), Appraisal (if applicable)).
04/01/2013	Final Input from State Representative or State Senator Delivery Date.
04/01/2013	Market Analysis and Civil Engineer Feasibility Study Delivery Date.
04/01/2013	Resolutions Delivery Date.
05/15/2013	Application Challenges Deadline.
Mid-May	Final Scoring Notices Issued for Majority of Applications Considered "Competitive."
06/14/2013	Deadline for public comment to be included in a summary to the Board.
June	Release of Eligible Applications for Consideration for Award in July.
Late July	Final Awards.
Mid-August	Commitments are Issued.
11/01/2013	Carryover Documentation Delivery Date.
07/01/2014	10 percent Test Documentation Delivery Date.
12/31/2015	Placement in Service.

(e) Census Data. Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2013, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded.

(f) Deadlines. Where a specific date or deadline is identified in this chapter, the information or documentation subject to the deadline must be submitted on or before 5:00 p.m. Central Time Zone on the day of the deadline.

§11.2. Program Calendar for Competitive Housing Tax Credits.

Non-statutory deadlines specifically listed in the Program Calendar may be extended for good cause by the Executive Director for a period of not more than five (5) business days provided that the Applicant has, in writing, requested an extension prior to the date of the original deadline. Extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party.

Deadline	Documentation Required
1/02/2014	Application Acceptance Period Begins.
01/16/2014	Pre-Application Final Delivery Date (including pre-clearance and waiver requests).
02/28/2014	Full Application Delivery Date (including Quantifiable Community Participation documentation; Environmental Site Assessments (ESAs), Property Condition Assessments (PCAs); Appraisals; Market Analysis Summary; Site Design and Development Feasibility Report; and all Resolutions necessary under §11.3 of this chapter related to Housing De-Concentration Factors).
04/01/2014	Final Input from Elected Officials Delivery Date (including Resolution for Local Government Support pursuant to §11.9(d)(1) of this chapter and State Representative Input pursuant to §11.9(d)(5) (after opportunity to review materially complete Applications)). Market Analysis Delivery Date pursuant to §10.205 of this title.
05/01/2014	Challenges to Neighborhood Organization Opposition Delivery Date.

Deadline	Documentation Required
05/07/2014	Application Challenges Deadline.
Mid-May	Final Scoring Notices Issued for Majority of Applications Considered "Competitive."
06/13/2014	Deadline for public comment to be included in a summary to the Board at a posted meeting.
June	Release of Eligible Applications for Consideration for Award in July.
July	Final Awards.
Mid-August	Commitments are Issued.
11/03/2014	Carryover Documentation Delivery Date.
07/01/2015	10 Percent Test Documentation Delivery Date.
12/31/2016	Placement in Service.
Five (5) business days after the date on the Deficiency Notice (without incurring point loss)	Administrative Deficiency Response Deadline (unless an extension has been granted).

§11.3.Housing De-Concentration Factors.

(a) Two Mile Same Year Rule (Competitive HTC Only). As required by Texas Government Code, §2306.6711(f), staff will not recommend for award, and the Board will not make an award to an Application that proposes a Development Site located in a county with a population that exceeds one million if the proposed Development Site is also located less than two linear miles from the proposed Development Site of another Application within said county that is awarded in the same calendar year.

(e) Census Data. Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2014, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded.

(f) Deadlines. Where a specific date or deadline is identified in this chapter, the information or documentation subject to the deadline must be submitted on or before 5:00 p.m. Central Time Zone on the day of the deadline.

§11.2. Program Calendar for Competitive Housing Tax Credits.

Non-statutory deadlines specifically listed in the Program Calendar may be extended for good cause by the Executive Director for a period of not more than five (5) business days provided that the Applicant has, in writing, requested an extension prior to the date of the original deadline. Extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party.

Deadline	Documentation Required
01/02/2015	Application Acceptance Period Begins.
01/08/2015	Pre-Application Final Delivery Date (including waiver requests).
02/27/2015	Full Application Delivery Date (including Quantifiable Community Participation documentation; Environmental Site Assessments (ESAs), Property Condition Assessments (PCAs); Appraisals; Primary Market Area Map; Site Design and Development Feasibility Report; and all Resolutions necessary under §11.3 of this chapter related to Housing De-Concentration Factors).
04/01/2015	Final Input from Elected Officials Delivery Date (including Resolution for Local Government Support pursuant to §11.9(d)(1) of this chapter and State Representative Input pursuant to §11.9(d)(5) of this chapter (after opportunity to review materially complete Applications)). Market Analysis Delivery Date pursuant to §10.205 of this title. Site Challenges Delivery Date.
05/01/2015	Challenges to Neighborhood Organization Opposition Delivery Date.
05/01/2015	Application Challenges Deadline.
Mid-May	Final Scoring Notices Issued for Majority of Applications Considered "Competitive."
06/12/2015	Deadline for public comment to be included in a summary to the Board at a posted meeting.

2016 QAP

(d) Definitions. The capitalized terms or phrases used herein are defined in §10.3 of this title (relating to Definitions), unless the context clearly indicates otherwise. Any capitalized terms that are defined in Texas Government Code, Chapter 2306, §42 of the Code, or other Department rules have, when capitalized, the meanings ascribed to them therein. Defined terms when not capitalized, are to be read in context and construed according to common usage.

(e) Census Data. Where this chapter requires the use of census or American Community Survey data, the Department shall use the most current data available as of October 1, 2015, unless specifically otherwise provided in federal or state law or in the rules. The availability of more current data shall generally be disregarded.

(f) Deadlines. Where a specific date or deadline is identified in this chapter, the information or documentation subject to the deadline must be submitted on or before 5:00 p.m. Austin local time on the day of the deadline. If the deadline falls on a weekend or holiday, the deadline is 5:00 p.m. Austin local time on the next day which is not a weekend or holiday and on which the Department is open for general operation.

§11.2. Program Calendar for Competitive Housing Tax Credits.

Non-statutory deadlines specifically listed in the Program Calendar may be extended by the Executive Director for a period of not more than five (5) business days provided that the Applicant has, in writing, requested an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Executive Director that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party.

Deadline	Documentation Required
01/04/2016	Application Acceptance Period Begins.
01/08/2016	Pre-Application Final Delivery Date (including waiver requests).
03/01/2016	Full Application Delivery Date (including Quantifiable Community Participation documentation; Environmental Site Assessments (ESAs), Property Condition Assessments (PCAs); Appraisals; Primary Market Area Map; Site Design and Development Feasibility Report; all Resolutions necessary under §11.3 of this chapter related to Housing De-Concentration Factors). Final Input from Elected Officials Delivery Date (including Resolution for Local Government Support pursuant to §11.9(d)(1) of this chapter and State Representative Input pursuant to §11.9(d)(5) of this chapter).

Deadline	Documentation Required
04/01/2016	Market Analysis Delivery Date pursuant to §10.205 of this title.
Mid-May	Final Scoring Notices Issued for Majority of Applications Considered "Competitive."
June	Release of Eligible Applications for Consideration for Award in July.
July	Final Awards.
Mid-August	Commitments are Issued.
11/01/2016	Carryover Documentation Delivery Date.
06/30/2017	10 Percent Test Documentation Delivery Date.
12/31/2018	Placement in Service.
Five (5) business days after the date on the Deficiency Notice (without incurring point loss)	Administrative Deficiency Response Deadline (unless an extension has been granted).

§11.3.Housing De-Concentration Factors.

(a) Two Mile Same Year Rule (Competitive HTC Only). As required by Texas Government Code, §2306.6711(f), staff will not recommend for award, and the Board will not make an award to an Application that proposes a Development Site located in a county with a population that exceeds one million if the proposed Development Site is also located less than two linear miles from the proposed Development Site of another Application within said county that is awarded in the same calendar year.

(b) Twice the State Average Per Capita. As provided for in Texas Government Code, §2306.6703(a)(4), if a proposed Development is located in a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax-Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board), the Applicant must obtain prior approval of the Development from the Governing Body of the appropriate municipality or county containing the Development. Such approval must include a resolution adopted by the Governing Body of the municipality or county, as applicable, setting forth a written statement of support, specifically citing Texas

2017 QAP

Deadline	Documentation Required
03/01/2017	Full Application Delivery Date (including Quantifiable Community Participation documentation; Environmental Site Assessments (ESAs), Property Condition Assessments (PCAs); Appraisals; Primary Market Area Map; Site Design and Development Feasibility Report; all Resolutions necessary under §11.3 of this chapter related to Housing De-Concentration Factors). Final Input from Elected Officials Delivery Date (including Resolution for Local Government Support pursuant to §11.9(d)(1) of this chapter and State Representative Input pursuant to §11.9(d)(5) of this chapter).
04/01/2017	Market Analysis Delivery Date pursuant to §10.205 of this title.
Mid-May	Final Scoring Notices Issued for Majority of Applications Considered "Competitive."
06/01/2017	Third Party Request for Administrative Deficiency
06/23/2017	Public Comment to be included in the Board presentation for awards
June	Release of Eligible Applications for Consideration for Award in July.
July	Final Awards.
Mid-August	Commitments are Issued.
11/01/2017	Carryover Documentation Delivery Date.
06/30/2018	10 Percent Test Documentation Delivery Date.
12/31/2019	Placement in Service.
Five (5) business days after the date on the Deficiency Notice (without incurring point loss)	Administrative Deficiency Response Deadline (unless an extension has been granted).

§11.3.Housing De-Concentration Factors.

(a) Two Mile Same Year Rule (Competitive HTC Only). As required by Tex Gov't Code, §2306.6711(f), staff will not recommend for award, and the Board will not make an award to an

2018 QAP

of the Application. The sole purpose of this mandatory Administrative Deficiency will be to substantiate one or more aspects of the Application to enable an efficient and effective review by staff. Although a responsive narrative will be created after Application submission, all facts and materials to substantiate any item in response to such an Administrative Deficiency must have been clearly established at the time of submission of the Application,

§11.2. Program Calendar for Competitive Housing Tax Credits.

Non-statutory deadlines specifically listed in the Program Calendar may be extended by the Department for a period of not more than five (5) business days provided that the Applicant has, in writing, requested an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Department that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party or the documentation involves signatures needed on certifications in the Application.

Deadline	Documentation Required
01/04/2018	Application Acceptance Period Begins.
01/09/2018	Pre-Application Final Delivery Date (including waiver requests).
02/16/2018	Deadline for submission of application for .ftp access if pre-application not submitted
03/01/2018	Full Application Delivery Date (including Quantifiable Community Participation documentation; Environmental Site Assessments (ESAs), Property Condition Assessments (PCAs); Appraisals; Primary Market Area Map; Site Design and Development Feasibility Report; all Resolutions necessary under §11.3 of this chapter related to Housing De-Concentration Factors). Final Input from Elected Officials Delivery Date (including Resolution for Local Government Support pursuant to §11.9(d)(1) of this chapter and State Representative Input pursuant to §11.9(d)(5) of this chapter).
04/02/2018	Market Analysis Delivery Date pursuant to §10.205 of this title.
05/01/2018	Third Party Request for Administrative Deficiency
Mid-May	Scoring Notices Issued for Majority of Applications Considered "Competitive."
06/22/2018	Public Comment to be included in the Board materials relating to

Exhibit B

Definition of Full Application Delivery Date 2011-2018

- (v) All elected members of the Governing Body of any municipality containing the Development;
 - (vi) Presiding officer of the Governing Body of the county containing the Development;
 - (vii) All elected members of the Governing Body of the county containing the Development;
 - (viii) State senator of the district containing the Development; and
 - (ix) State representative of the district containing the Development.
- (C) Each such notice must include, at a minimum, all of the following:
- (i) The Applicant's name, address, individual contact name and phone number;
 - (ii) The Development name, address, city and county;
 - (iii) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;
 - (iv) Whether the Development proposes New Construction, Reconstruction, Adaptive Reuse, or Rehabilitation;
 - (v) The type of Development being proposed (single family homes, duplex, apartments, townhomes, high-rise etc.) and population being served (general or elderly);
 - (vi) The approximate total number of Units and approximate total number of low-income Units;
 - (vii) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the approximate percentage of Units that are market rate;
 - (viii) The number of Units and proposed rents (less utility allowances) for the low-income Units and any market rate Units, if applicable. Rents to be provided are those that are effective at the time of the pre-application, which are subject to change as annual changes in the area median income occur; and
 - (ix) The expected completion date if credits are awarded.
- (D) Pre-applications not meeting the Pre-application Threshold Criteria identified in this subsection will be terminated and the Applicant will receive a written notice to that effect. The Department shall not be responsible for the Applicant's failure to meet the Pre-application Threshold Criteria and any failure of the Department's staff to notify the Applicant of such inability to satisfy the Pre-application Threshold Criteria shall not confer upon the Applicant any rights to which it would not otherwise be entitled.
- (d) **Pre-application Results.** Only pre-applications which have satisfied all of the Pre-application Threshold Criteria requirements set forth in subsection (c) of this section and §49.9(a)(14) of this chapter, will be eligible for pre-application points. The order and scores of those Developments released on the Pre-application Submission Log do not represent a Commitment on the part of the Department or the Board to allocate tax credits to any Development and the Department bears no liability for decisions made by Applicants based on the results of the Pre-application Submission Log. Inclusion of a Development on the Pre-application Submission Log does not ensure that an Applicant will receive points for a pre-application.
- (e) **Application Submission.** An Applicant requesting a Housing Credit Allocation or a Determination Notice must submit an Application in order to be considered for Housing Tax Credits.
- (1) As used herein a "complete application" means an Application that meets all of the Department's criteria for an Application with all required information and exhibits provided pursuant to the application checklist provided in the Tax Credit (Procedures) Manual.
 - (2) For Applications submitted under the State Housing Credit Ceiling, the Application must be submitted by the Full Application Delivery Date as identified in §49.3 of this chapter. The Full Application Delivery Date for Tax-Exempt Bond Developments is triggered by the

- (6) **Community Support from State Representative or State Senator.** (§2306.6710(b)(1)(F); §2306.6725(a)(2)) The purpose of this scoring item is to allow the State Representative and State Senator the opportunity to express their support or opposition for proposed Developments whose boundaries are within their district. Applications may qualify to receive up to (16 points) or have deducted up to (16 points) for this item. Letters must be on the State Representative's or State Senator's letterhead, must be signed by the State Representative or State Senator, identify the specific Development and must clearly state support for or opposition to the specific Development. This documentation will be accepted with the Application or through delivery to the Department from the Applicant or the State Representative or Senator and must be submitted no later than the input from State Senator or Representative Delivery Date as identified in §50.3 of this chapter (relating to Program Calendar). Once a State Representative or State Senator submits a letter it may not be changed or withdrawn; therefore, it is encouraged that letters not be submitted earlier than the specified Delivery Date in order to facilitate consideration of all constituent comment and other relevant input on the proposed Development. State Representatives or Senators to be considered are those State Representatives or Senators in office at the time the letter is submitted. Support letters are (+16 points); neutral letters, or letters that do not specifically refer to the Development, will receive (0 points); Opposition letters (must state reason for opposition) will receive (-16 points). If one letter is received in support and one letter is received in opposition the score would be (0 points). A letter that does not directly express support but expresses it indirectly by inference, (i.e. "the local jurisdiction supports the Development and I support the local jurisdiction") will be treated as a neutral letter.
- (7) **The Rent Levels of the Units.** (§2306.6710(b)(1)(G)) The purpose of this scoring item is to encourage deep rent targeting with Units set aside for households at 30% and/or 50% of AMGI that are in addition to those Units already designated under paragraph (3) of this subsection. Additionally, such Units must come from the 60% of AMGI Units that have not previously been designated under paragraph (3) of this subsection. Applications may qualify to receive up to 14 points for this item under subparagraph (A) or (B) of this paragraph provided the Application has qualified for points under paragraph (3) of this subsection, relating to Income Levels of Tenants of the Development. An Application may qualify for points under this subsection by providing the additional Low-Income Units at 30% and 50% of AMGI (must round up to the next whole Unit, not less than one Unit):
- (A) for Developments proposed to be located in an area of the MSA of Houston, Dallas, Fort Worth, San Antonio or Austin that is not a Rural Area, an Application may qualify to receive:
 - (i) an Application may receive (2 points) for every 5% of Low-Income Units at rents and incomes at 50% of AMGI; or
 - (ii) an Application may receive (6 points) for every 2.5% of Low-Income Units at rents and incomes at 30% of AMGI.
 - (B) for Developments proposed to be located in areas other than those listed in paragraph (A) of this subsection, an Application may qualify to receive:
 - (i) An Application may receive (2 points) for every 2.5% of Low-Income Units at rents and incomes at 50% of AMGI; or
 - (ii) An Application may receive (6 points) for every 1% of Low-Income Units at rents and incomes at 30% of AMGI.
- (8) **The Cost of the Development by Square Foot.** (§2306.6710(b)(1)(H); §42(m)(1)(C)(iii)) Applications may qualify to receive (12 points) for this item. For this exhibit, costs shall be defined as Hard Cost plus contractor profit, overhead and general requirements, as represented in the Development Cost Schedule. This calculation does not include indirect construction costs. The calculation will be costs per square foot of Net Rentable Area (NRA). For the purposes of this paragraph only, if a building is in a Qualified Elderly Development with an elevator or a Development with one or more buildings any of which

lease-up velocity, Sub-Market rents, Sub-Market occupancy trends and other information available to the Underwriter. The Market Analyst may not consider a development stabilized in the Market Study.

(123) Urban Area--The area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area other than an area described by paragraph (102)(B) of this subsection or eligible for funding as described by paragraph (102)(C) of this subsection.

(124) U.S. Department of Agriculture (USDA)--Texas Rural Development Office (TRDO) serving the State of Texas.

(125) U.S. Department of Housing and Urban Development (HUD)-regulated Building--A building for which the rents and utility allowances of the building are reviewed by HUD.

(126) Utility Allowance--The estimate of tenant-paid utilities made in accordance with Treasury Regulation §1.42-10 and §10.607 of this chapter (relating to Utility Allowances).

(127) Work Out Development--A financially distressed Development for which the Owner and/or a primary financing participant is seeking a change in the terms of Department funding or program restrictions.

(b) Request for Staff Determinations. Where the definitions of Development, Development Site, New Construction, Rehabilitation, Reconstruction, Adaptive Re-use and Target Population fail to fully account for the activities proposed in an Application, an Applicant may request and Department staff may provide a determination to an Applicant explaining how staff will review an Application in relation to these specific terms and their usage within the applicable rules. Such request must be received by the Department prior to submission of the pre-application (if applicable to the program) or Application (if no pre-application was submitted). Staff's determination may take into account the purpose of or policies addressed by a particular rule or requirement, materiality of elements, substantive elements of the development plan that relate to the term or definition, the common usage of the particular term, or other issues relevant to the rule or requirement. All such determinations will be conveyed in writing. If the determination is finalized after submission of the pre-application or Application, the Department may allow corrections to the pre-application or the Application that are directly related to the issues in the determination. It is an Applicant's sole responsibility to request a determination and an Applicant may not rely on any determination for another Application regardless of similarities in a particular fact pattern. For any Application that does not request and subsequently receive a determination, the definitions and applicable rules will be applied as used and defined herein. Such a determination is intended to provide clarity with regard to Applications proposing activities such as: scattered site development or combinations of construction activities (e.g. Rehabilitation with some New Construction). An Applicant may appeal a determination for their Application if the determination provides for a treatment that relies on factors other than the explicit definition. A determination cannot be challenged by any other party.

§10.4. Program Dates. This section reflects key dates for all multifamily development programs except for the Competitive Housing Tax Credit Program. A program calendar for the Competitive Housing Tax Credit Program is provided in Chapter 11 of this title (relating to Qualified Allocation Plan). Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Non-statutory deadlines specifically listed in this section may be extended for good cause by the Executive Director for a period of not more than five (5) business days provided; however, that the Applicant requests an extension prior to the date of the original deadline. Extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party.

(1) Full Application Neighborhood Organization Request Date. The request must be sent no later than fourteen (14) calendar days prior to the submission of Parts 5 & 6 of the Application for Tax Exempt Bond Developments or at Application for other programs.

(2) Full Application Delivery Date. The deadline by which the Application must be submitted to the Department. Such deadline will generally be defined in the applicable NOFA.

(141) Work Out Development--A financially distressed Development for which the Owner and/or a primary financing participant is seeking a change in the terms of Department funding or program restrictions.

(b) Request for Staff Determinations. Where the definitions of Development, Development Site, New Construction, Rehabilitation, Reconstruction, Adaptive Reuse, and Target Population fail to account fully for the activities proposed in an Application, an Applicant may request and Department staff may provide a determination to an Applicant explaining how staff will review an Application in relation to these specific terms and their usage within the applicable rules. Such request must be received by the Department prior to submission of the pre-application (if applicable to the program) or Application (if no pre-application was submitted). Staff's determination may take into account the purpose of or policies addressed by a particular rule or requirement, materiality of elements, substantive elements of the development plan that relate to the term or definition, the common usage of the particular term, or other issues relevant to the rule or requirement. All such determinations will be conveyed in writing. If the determination is finalized after submission of the pre-application or Application, the Department may allow corrections to the pre-application or the Application that are directly related to the issues in the determination. It is an Applicant's sole responsibility to request a determination and an Applicant may not rely on any determination for another Application regardless of similarities in a particular fact pattern. For any Application that does not request and subsequently receive a determination, the definitions and applicable rules will be applied as used and defined herein. Such a determination is intended to provide clarity with regard to Applications proposing activities such as: scattered site development or combinations of construction activities (e.g. Rehabilitation with some New Construction). An Applicant may appeal a determination for their Application if the determination provides for a treatment that relies on factors other than the explicit definition. A Board determination or a staff determination not timely appealed cannot be further appealed or challenged.

§10.4. Program Dates. This section reflects key dates for all multifamily development programs except for the Competitive Housing Tax Credit Program. A program calendar for the Competitive Housing Tax Credit Program is provided in Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Non-statutory deadlines specifically listed in this section may be extended for good cause by the Executive Director for a period of not more than five (5) business days provided; however, that the Applicant requests an extension prior to the date of the original deadline. Extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party.

(1) Full Application Delivery Date. The deadline by which the Application must be submitted to the Department. For Direct Loan Applications, such deadline will generally be defined in the applicable NOFA and for Tax-Exempt Bond Developments, such deadlines are more fully explained in §10.201(2) of this chapter (relating to Procedural Requirements for Application Submission).

(2) Notice to Submit Lottery Application Delivery Date. No later than December 13, 2013, Applicants that receive an advance notice regarding a Certificate of Reservation must submit a notice to the Department, in the form prescribed by the Department.

(3) Applications Associated with Lottery Delivery Date. No later than December 27, 2013, Applicants that participated in the Texas Bond Review Board Lottery must submit the complete tax credit Application to the Department.

(4) Administrative Deficiency Response Deadline. Such deadline shall be five (5) business days after the date on the deficiency notice without incurring a penalty fee pursuant to §10.901 of this chapter (relating to Fee Schedule).

(142) Work Out Development--A financially distressed Development for which the Owner and/or a primary financing participant is seeking a change in the terms of Department funding or program restrictions.

(b) Request for Staff Determinations. Where the definitions of Development, Development Site, New Construction, Rehabilitation, Reconstruction, Adaptive Reuse, and Target Population fail to account fully for the activities proposed in an Application, an Applicant may request and Department staff may provide a determination to an Applicant explaining how staff will review an Application in relation to these specific terms and their usage within the applicable rules. Such request must be received by the Department prior to submission of the pre-application (if applicable to the program) or Application (if no pre-application was submitted). Staff's determination may take into account the purpose of or policies addressed by a particular rule or requirement, materiality of elements, substantive elements of the development plan that relate to the term or definition, the common usage of the particular term, or other issues relevant to the rule or requirement. All such determinations will be conveyed in writing. If the determination is finalized after submission of the pre-application or Application, the Department may allow corrections to the pre-application or the Application that are directly related to the issues in the determination. It is an Applicant's sole responsibility to request a determination and an Applicant may not rely on any determination for another Application regardless of similarities in a particular fact pattern. For any Application that does not request and subsequently receive a determination, the definitions and applicable rules will be applied as used and defined herein. Such a determination is intended to provide clarity with regard to Applications proposing activities such as: scattered site development or combinations of construction activities (e.g. Rehabilitation with some New Construction). An Applicant may appeal a determination for their Application if the determination provides for a treatment that relies on factors other than the explicit definition. A Board determination or a staff determination not timely appealed cannot be further appealed or challenged.

§10.4. Program Dates. This section reflects key dates for all multifamily development programs except for the Competitive Housing Tax Credit Program. A program calendar for the Competitive Housing Tax Credit Program is provided in Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Non-statutory deadlines specifically listed in this section may be extended for good cause by the Executive Director for a period of not more than five (5) business days provided; however, that the Applicant requests an extension prior to the date of the original deadline. Extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party.

(1) Full Application Delivery Date. The deadline by which the Application must be submitted to the Department. For Direct Loan Applications, such deadline will generally be defined in the applicable NOFA and for Tax-Exempt Bond Developments, such deadlines are more fully explained in §10.201(2) of this chapter (relating to Procedural Requirements for Application Submission).

(2) Notice to Submit Lottery Application Delivery Date. No later than December 12, 2014, Applicants that receive an advance notice regarding a Certificate of Reservation must submit a notice to the Department, in the form prescribed by the Department.

(3) Applications Associated with Lottery Delivery Date. No later than December 19, 2014, Applicants that participated in the Texas Bond Review Board Lottery must submit the complete tax credit Application to the Department.

(4) Administrative Deficiency Response Deadline. Such deadline shall be five (5) business days after the date on the deficiency notice without incurring a penalty fee pursuant to §10.901 of this chapter (relating to Fee Schedule).

(5) Third Party Report Delivery Date (Environmental Site Assessment (ESA), Property Condition Assessment (PCA), Appraisal (if applicable), Market Analysis and the Site Design and Development Feasibility

submission of the pre-application or Application, the Department may allow corrections to the pre-application or the Application that are directly related to the issues in the determination. It is an Applicant's sole responsibility to request a determination and an Applicant may not rely on any determination for another Application regardless of similarities in a particular fact pattern. For any Application that does not request and subsequently receive a determination, the definitions and applicable rules will be applied as used and defined herein. Such a determination is intended to provide clarity with regard to Applications proposing activities such as: scattered site development or combinations of construction activities (e.g., Rehabilitation with some New Construction). An Applicant may appeal a determination for their Application if the determination provides for a treatment that relies on factors other than the explicit definition. A Board determination or a staff determination not timely appealed cannot be further appealed or challenged.

§10.4. Program Dates. This section reflects key dates for all multifamily development programs except for the Competitive Housing Tax Credit Program. A program calendar for the Competitive Housing Tax Credit Program is provided in Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Non-statutory deadlines specifically listed in this section may be extended by the Executive Director for a period of not more than five (5) business days provided; however, that the Applicant requests an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Executive Director that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party or the documentation involves signatures needed on certification forms in the Application.

(1) Full Application Delivery Date. The deadline by which the Application must be submitted to the Department. For Direct Loan Applications, such deadline will generally be defined in the applicable NOFA and for Tax-Exempt Bond Developments, such deadlines are more fully explained in §10.201(2) of this chapter (relating to Procedural Requirements for Application Submission).

(2) Notice to Submit Lottery Application Delivery Date. No later than December 11, 2015, Applicants that receive an advance notice regarding a Certificate of Reservation must submit a notice to the Department, in the form prescribed by the Department.

(3) Applications Associated with Lottery Delivery Date. No later than December 18, 2015, Applicants that participated in the Texas Bond Review Board Lottery must submit the complete tax credit Application to the Department.

(4) Administrative Deficiency Response Deadline. Such deadline shall be five (5) business days after the date on the deficiency notice without incurring a penalty fee pursuant to §10.901 of this chapter (relating to Fee Schedule).

similarities in a particular fact pattern. For any Application that does not request and subsequently receive a determination, the definitions and applicable rules will be applied as used and defined herein. Such a determination is intended to provide clarity with regard to Applications proposing activities such as: scattered site development or combinations of construction activities (e.g., Rehabilitation with some New Construction). An Applicant may appeal a determination for their Application if the determination provides for a treatment that relies on factors other than the explicit definition. A Board determination or a staff determination not timely appealed cannot be further appealed or challenged.

§10.4.Program Dates. This section reflects key dates for all multifamily development programs except for the Competitive Housing Tax Credit Program. A program calendar for the Competitive Housing Tax Credit Program is provided in Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Non-statutory deadlines specifically listed in this section may be extended by the Department for a period of not more than five (5) business days provided; however, that the Applicant requests an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Department that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party or the documentation involves signatures needed on certifications in the Application.

(1) Full Application Delivery Date. The deadline by which the Application must be submitted to the Department. For Direct Loan Applications, such deadline will generally be defined in the applicable NOFA and for Tax-Exempt Bond Developments, such deadlines are more fully explained in §10.201(2) of this chapter (relating to Procedural Requirements for Application Submission).

(2) Notice to Submit Lottery Application Delivery Date. No later than December 8, 2017, Applicants that receive an advance notice regarding a Certificate of Reservation must submit a notice to the Department, in the form prescribed by the Department.

(3) Applications Associated with Lottery Delivery Date. No later than December 15, 2017, Applicants that participated in the Texas Bond Review Board Lottery must submit the complete tax credit Application to the Department.

(4) Administrative Deficiency Response Deadline. Such deadline shall be five (5) business days after the date on the deficiency notice without incurring a penalty fee pursuant to §10.901 of this chapter (relating to Fee Schedule).

(5) Third Party Report Delivery Date (Environmental Site Assessment (ESA), Property Condition Assessment (PCA), Appraisal (if applicable), Market Analysis and the Site Design and Development Feasibility Report). For Direct Loan Applications, the Third Party reports meeting specific requirements described in §10.205 must be submitted with the Application in order for it to be considered a complete Application, unless the Application

usage within the applicable rules. Such request must be received by the Department prior to submission of the pre-application (if applicable to the program) or Application (if no pre-application was submitted). Staff's determination may take into account the purpose of or policies addressed by a particular rule or requirement, materiality of elements, substantive elements of the development plan that relate to the term or definition, the common usage of the particular term, or other issues relevant to the rule or requirement. All such determinations will be conveyed in writing. If the determination is finalized after submission of the pre-application or Application, the Department may allow corrections to the pre-application or the Application that are directly related to the issues in the determination. It is an Applicant's sole responsibility to request a determination and an Applicant may not rely on any determination for another Application regardless of similarities in a particular fact pattern. For any Application that does not request and subsequently receive a determination, the definitions and applicable rules will be applied as used and defined herein. Such a determination is intended to provide clarity with regard to Applications proposing activities such as: scattered site development or combinations of construction activities (e.g., Rehabilitation with some New Construction). An Applicant may appeal a determination for their Application if the determination provides for a treatment that relies on factors other than the explicit definition. A Board determination or a staff determination not timely appealed cannot be further appealed or challenged.

§10.4. Program Dates. This section reflects key dates for all multifamily development programs except for the Competitive Housing Tax Credit Program. A program calendar for the Competitive Housing Tax Credit Program is provided in Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). Applicants are strongly encouraged to submit the required items well in advance of established deadlines. Non-statutory deadlines specifically listed in this section may be extended by the Department for a period of not more than five (5) business days provided; however, that the Applicant requests an extension prior to the date of the original deadline and has established to the reasonable satisfaction of the Department that there is good cause for the extension. Except as provided for under 10 TAC §1.1 relating to Reasonable Accommodation Requests, extensions relating to Administrative Deficiency deadlines may only be extended if documentation needed to resolve the item is needed from a Third Party or the documentation involves signatures needed on certifications in the Application.

(1) Full Application Delivery Date. The deadline by which the Application must be submitted to the Department. For Direct Loan Applications, such deadline will generally be defined in the applicable NOFA and for Tax-Exempt Bond Developments, such deadlines are more fully explained in §10.201(2) of this chapter (relating to Procedural Requirements for Application Submission).

(2) Notice to Submit Lottery Application Delivery Date. No later than December 9, 2016, Applicants that receive an advance notice regarding a Certificate of Reservation must submit a notice to the Department, in the form prescribed by the Department.

Exhibit C

TDHCA Motion and Vote
January 18, 2018

1 (A chorus of ayes.)

2 MR. GOODWIN: Opposed?

3 (No response.)

4 MR. GOODWIN: Okay. 4(a) is passed.

5 Now I'll hear a motion to take off the table
6 item 4(d).

7 MR. BRADEN: So moved.

8 MR. GOODWIN: Second?

9 MS. THOMASON: Second.

10 MR. GOODWIN: It's been moved and seconded.

11 All in favor say aye.

12 (A chorus of ayes.)

13 MR. GOODWIN: Opposed?

14 (No response.)

15 MR. GOODWIN: Do I hear a motion on item 4(d)?

16 MR. BRADEN: Yes. I'm going to make a motion

17 that the two-year disaster period be measured from the

18 date that the governor took action to declare the area a

19 disaster area, so in this instance that we're talking

20 about, that would be measured from the January 26, 2016

21 date; that any date within the application acceptance

22 period may be the full application delivery date, so the

23 March 1 is a due by date so people can file between that

24 period; three, that all items, including the local

25 government resolution and the state rep letters, must be

1 submitted for the application to be complete, and
2 therefore, must be submitted within the two-year period in
3 order to claim disaster points, and again, that two-year
4 period would be measured from the January 26 date, the
5 declaration date. That's my motion.

6 MR. GOODWIN: Okay. Do I hear a second?

7 MS. RESÉNDIZ: Second.

8 MR. GOODWIN: It's been moved and seconded.

9 Any discussion, questions?

10 (No response.)

11 MR. GOODWIN: All those in favor say aye.

12 (A chorus of ayes.)

13 MR. GOODWIN: Opposed?

14 (No response.)

15 MR. GOODWIN: Motion passed.

16 Thank you, Marni.

17 We've hit a point in the agenda where we take
18 public comments for any further items, so any comments
19 from staff or anyone in the public?

20 (No response.)

21 MR. GOODWIN: Seeing none, I will entertain a
22 motion to adjourn.

23 MR. BRADEN: So moved.

24 MR. GOODWIN: Second?

25 MS. THOMASON: Second.

**Excerpt from the Minutes of the January 18, 2018
Meeting of the Board of TDHCA**

MR. BRADEN: Yes. I'm going to make a motion that the two-year disaster period be measured from the date that the governor took action to declare the area a disaster area, so in this instance that we're talking about, that would be measured from the January 26, 2016 date; that any date within the application acceptance period may be the full application delivery date, so the March 1 is a due by date so people can file between that period; **three, that all items, including the local government resolution and the state rep letters, must be submitted for the application to be complete,** and therefore, must be submitted within the two-year period in order to claim disaster points, and again, that two-year period would be measured from the January 26 date, the declaration date. That's my motion.

MR. GOODWIN: Okay. Do I hear a second?

MS. RESÉNDIZ: Second.

MR. GOODWIN: It's been moved and seconded. Any discussion, questions?

(No response.)

MR. GOODWIN: All those in favor say aye.

(A chorus of ayes.)

MR. GOODWIN: Opposed?

(No response.)

MR. GOODWIN: Motion passed.

Thank you, Marni.

Exhibit D

TDHCA Staff Letter
January 19, 2018



Texas Department of Housing and Community Affairs
Multifamily Finance Division
Notification of Submission of Affordable Housing Applications

January 19, 2018

The Honorable Morgan Meyer
Texas House of Representatives, District 108
Capitol Extension, Room E1.318
Austin, Texas 78768-2910

Re: Notification of Affordable Rental Housing Application(s) Proposed in Your District

Dear Representative Meyer:

The Texas Department of Housing and Community Affairs (the “Department”) is in receipt of a preliminary application(s) for possible funding through the Competitive (9%) Housing Tax Credit Program to develop or acquire affordable multifamily rental housing in your district.

This notification is made in accordance with Tex. Gov’t Code §2306.1114 to ensure that you are fully informed of the housing activity in your district and so that you can provide input on the proposed application(s). The Department greatly values your views concerning the need for affordable rental housing within your district and how the proposed development(s) may address that need.

Additionally, state law enables you – as the state representative for the location of the proposed development – to have an impact on the scoring of the forthcoming 9% HTC applications in your district by allowing you to submit a letter of support or opposition for an application if you so choose. In order to affect the scoring, your letter must identify the specific development and must clearly state your position on the specific development (whether in support or opposition). Support letters will receive +8 points; neutral letters (including letters that are not clear in their support or opposition or do not specifically refer to the development) will receive 0 points; opposition letters will receive -8 points. In order to affect scoring, letters must be submitted to TDHCA no later than the close of business on March 1, 2018; they may be delivered to TDHCA by the applicant or the legislator/legislative staff. State Representatives’ letters may be submitted apart from the application but must be received by the deadline. Applications in some counties may be submitted prior to the March 1 deadline, in order to access points for disaster declarations by the Governor, and your letter is due with the earlier Application. Once submitted, a letter may not be changed or withdrawn. Therefore, it is encouraged that letters not be submitted well in advance of the deadline in order for you to facilitate consideration of all constituent comment and other relevant input. State Representatives are strongly encouraged to consult with their own staff and legal counsel to ensure their support, opposition, or neutrality on any development comports with state and federal fair housing laws.

Should the applicant(s) submit a full application to the Department on or before March 1, 2018, the Department will send a new notification with more detailed information about the proposed development and provide information related to general public comment including statewide hearings.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

221 East 11th Street, Austin, TX 78701
PO Box 13941, Austin, TX 78711

Main Number: 512-475-3800
Toll Free: 1-800-525-0657

Email: info@tdhca.state.tx.us
Web: www.tdhca.state.tx.us

Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities.
Relay Texas: 800-735-2989 (TTY) and 711 (Voice).

The Department's mission is to administer its assigned programs efficiently, transparently, and lawfully and to invest its resources strategically while developing high quality affordable housing which allows Texas communities to thrive. Through our multifamily programs, the Department encourages the new construction or rehabilitation of affordable multifamily housing, primarily through private developers. These developments benefit Texans in your district by providing potential employment, local tax revenue, and affordable, safe, and high quality housing for eligible households.

If you have any questions or need additional information, please contact the Michael Lyttle, Chief of External Affairs, at 512.475.4542 or michael.lyttle@tdhca.state.tx.us.

Sincerely,

Marni Holloway

Marni Holloway
Director, Multifamily Finance



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Relevant Development Information as Presented by the Applicant:

Project Number: 18269
Development Name: 2400 Bryan
Development Address: 2400 Bryan Street
Development City: Dallas Development Zip: 75201 Region: 3
Regional Allocation: Urban Target Population: General
Set Aside: Nonprofit USDA At-Risk
Construction Type: New Construction
Credit/ Funding Request: \$1,500,000
Total Low Income Units: 115 Total Market Rate Units: 115 Total Units: 230

Applicant Information:

Owner Contact: D. Scott Galbraith
Owner Address: 320 Main Street West
Owner City: Lewisville Owner State: TX Owner Zip: 75057
Owner Phone: (832) 454-7118
Owner Email: dscottgalbraith@gmail.com



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Exhibit E

Representative Meyer's Support Letter



MORGAN MEYER
HOUSE OF REPRESENTATIVES

DISTRICT 108

February 1, 2018

2400 Bryan Street, LP
Mr. Scott Galbraith
320 Main Street West
Lewisville, Texas 75057

Re: Letter for Support for TDHCA Housing Tax Credit Application # 18269 - 2400
Bryan Street in Dallas, Texas

Dear Mr. Galbraith,

I have received the Public Notice for 2400 Bryan Street to be located at 2400 Bryan
Street, Dallas, Texas in District 108, which I represent.

I am pleased to lend my support to this Development, which will serve the
constituents in my district and provide needed workforce housing in Dallas.

If you have any questions or if I may be of further assistance, please do not hesitate
to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Meyer".

The Honorable Morgan Meyer
District 108
Room E1.318
PO Box 2910
Austin, Texas 78768
(512) 463-0367

BOARD ACTION ITEM

MULTIFAMILY FINANCE DIVISION

FEBRUARY 22, 2018

Presentation, discussion, and possible action on a timely filed appeal of pre-application termination under the Department's Multifamily Program Rules

RECOMMENDED ACTION

WHEREAS, this appeal relates to Competitive Housing Tax Credit ("HTC") pre-applications 18159 Rutherford Park, 18161 Monroe Crossing, and 18164 Lafayette Park Apartments, which were submitted to the Department by the Pre-Application Final Delivery Date;

WHEREAS, notices of termination were provided to the Applicant for failure to meet the requirements of 10 TAC §11.8(b)(1) of the 2018 Qualified Allocation Plan ("QAP");

WHEREAS, the Applicant timely filed an appeal; and

WHEREAS, the Executive Director denied the appeal;

NOW, therefore, it is hereby

RESOLVED, that the appeal of termination for 18159 Rutherford Park, 18161 Monroe Crossing, and 18164 Lafayette Park Apartments is hereby denied.

BACKGROUND

The pre-applications for Rutherford Park, Monroe Crossing, and Lafayette Park Apartments are described as follows:

- 18159 Rutherford Park was received by the Department on January 8, 2018, at 10:27 a.m. The pre-application proposes the New Construction of 114 Units for the General population in Houston.
- 18161 Monroe Crossing was received by the Department on January 5, 2018, at 4:01 p.m. The pre-application proposes the New Construction of 114 Units for the Elderly population in Houston.
- 18164 Lafayette Park Apartments was received by the Department on January 8, 2018, at 12:05 p.m. The pre-application proposes the New Construction of 114 Units for the Elderly population in La Porte.

Pursuant to 10 TAC §11.8(b) of the 2018 Qualified Allocation Plan ("QAP"), pre-applications will be terminated unless they meet the threshold criteria described in this section. Per §11.8(b)(1):

- (1) Submission of the competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:
 - (A) Site Control meeting the requirements of §10.204(10) of this title (relating to Required Documentation for Application Submission). For purposes of meeting this specific

requirement related to pre-application threshold criteria, proof of consideration and any documentation required for identity of interest transactions is not required at the time of pre-application submission but will be required at the time of full application submission;

and

(F) Census tract number in which the Development Site is located, and a map of that census tract with an outline of the proposed Development Site;

During review of the pre-applications, staff was unable to review the Site Control documents in the submitted pre-applications for Monroe Crossing and Lafayette Park Apartments, and the Site Control documents and census tract map for Rutherford Park, because the hyperlinks to these documents were inoperable. Attachments A-A3 are screenshots from the 18159 pre-application illustrating how the inoperable and operable hyperlinks behave when clicked.

Staff guidance on pre-application submission made it clear that prior to submission of the pre-application, applicants should check each uploaded document to ensure that the document was properly uploaded. The 2018 Multifamily Programs Application Procedures Manual states on Page 10:

“Before entering the ‘Captcha’ (the picture that ensures a user is not a ‘spambot’), it is strongly recommended that the Applicant use the **Back** button to review the entire pre-application before submission. Once the **Back** button is used, the pre-application uploads should show up as hyperlinks. **Make sure the documents open and that they are complete.**”

On page 11, the manual states:

“. . . The Applicant will also receive an email confirmation which will detail the information submitted, including hyperlinks to the files attached by the Applicant. In the event that an error is identified after submission (including a file that cannot be opened from the hyperlinks), the Applicant should use the **Edit Submission** link in the confirmation email to go back to the pre-application and make the necessary corrections (the link in the initiation email will no longer work) prior to the submission deadline. . . .

. . . If the complete pre-application is not submitted by the deadline, the Applicant will be deemed to have not made a pre-application.”

Finally, the last page of the pre-application form itself offers the following warning:

WAIT! Are you ready to submit?

DO THIS! Save your form by hitting the Back button, then hit the Next button to come back. The titles of your attachments should show up as hyperlinks. The document is now saved. After the document is submitted, you should come back to your uploads, click each link and inspect documents to ensure that you uploaded a correct and complete document. If the link does not work, or if the upload is not complete, delete the document and retry (i.e., if the last page is missing do not upload the page as a single file, reload the entire document).

In its appeal, the Applicant insists that the hyperlinks were tested and functioned properly when clicked. Attachment B includes an email sent to staff by the Applicant with the note “Please see attached copy of the prep submitted pre app (*sic*) showing that all the files were submitted. Thanks.” When the links for the Site Control documents and the census tract map are clicked, an error message is received.

Because Site Control documentation and census tract maps were not included in the pre-applications, in accordance with 10 TAC §11.8(a)(1) the pre-applications are deemed to have not been made.

Staff recommends denial of the appeal.

Rutherford Park, 2018 Competitive HTC Pre-Appl.pdf - Adobe Acrobat Pro

File Edit View Window Help

Open Create [Icons] Customize

14 / 16 [Icons] 95.5% [Icons] Tools Fill & Sign Comm

Attachments and Certifications

Electronic Filing Agreement:

This is an agreement between TDHCA and the Multifamily Housing Program Applicant to facilitate electronic submission of application documents for multifamily housing programs in accordance with the Department policy. This agreement authorizes the Applicant to file pre-application and full application documents by means of electronic transmission for the duration of this Agreement and as specified by Department Procedures. By submitting this pre-application the Applicant affirms that the electronic submission of application documents will be in a manner prescribed by the Department.

Site Control Documentation *

Upload a File

Up to three documents can be attached

[Rutherford Park](#)

Receipt: <https://www.jotform.us/uploads/TDHCA/70174491551152/3910004517511261195/Rutherford%20Park>

By attaching the Site Control Documentation, Applicant affirms that the site control conforms to all applicable requirements including §10.204(10) of the Uniform Multifamily Rules.

Census Tract Map *

Upload a File

Up to three documents can be attached

[Rutherford Park](#)

[CT Map 48201232302.pdf](#)

If a discrepancy exists between the census tract map and the number entered on the Development Information page, staff will use the census tract listed on the map.

Notice hyperlink address.

Browser navigation bar showing the address bar with a URL from jotform.com and a tab titled "HTTP 404 Not Found". The menu bar includes File, Edit, View, Favorites, Tools, and Help. The bookmark bar contains links for Web Soil Survey, TDHCA Rules, REA, HUD USER, capps, webmail, HUD res, Crime Map, ADAAG, TEA 2016 TEA, and JotForm · Login.



The webpage cannot be found

HTTP 404

Most likely causes:

- There might be a typing error in the address.
- If you clicked on a link, it may be out of date.

What you can try:

- Retype the address.
- Go back to the previous page.
- Go to and look for the information you want.
- More information

Address does not work.

Rutherford Park, 2018 Competitive HTC Pre-Appl.pdf - Adobe Acrobat Pro

File Edit View Window Help

Open Create [Icons] Customize

15 / 16 [Navigation] 95.5% [Zoom] Tools Fill & Sign Commer

Amenities List *

Upload a File

Up to three documents can be attached

[Rutherford Park-List of Amenities under Opportunity Index.pdf](https://www.jotform.us/uploads/TDHCA/70174491551152/3910004517511261195/Rutherford%20Park-List%20of%20Amenities%20under%20Opportunity%20Index.pdf)

Undesirable Neighborhood Characteristics Disclosure

Upload a File

Up to three documents can be attached

Other Pertinent Information

Upload a File

Use this space to upload up to five additional documents (additional Census Tract/Site Control documents, Staff Determinations, Narrative, etc.).

<https://www.jotform.us/uploads/TDHCA/70174491551152/3910004517511261195/Rutherford%20Park-List%20of%20Amenities%20under%20Opportunity%20Index.pdf>

Notice hyperlink address.

WAIT! Are you ready to submit?

DO THIS! Save your form by hitting the Back button, then hit the Next button to come back. The titles of your attachments should show up as hyperlinks. The document is now saved. After the document is submitted, you should come back to your uploads, click each link and inspect documents to ensure that you uploaded a correct and complete document. If the link does not work, or if the upload is not complete, delete the document and retry (i.e., if the last page is missing do not upload the page as a single file, reload the entire document).

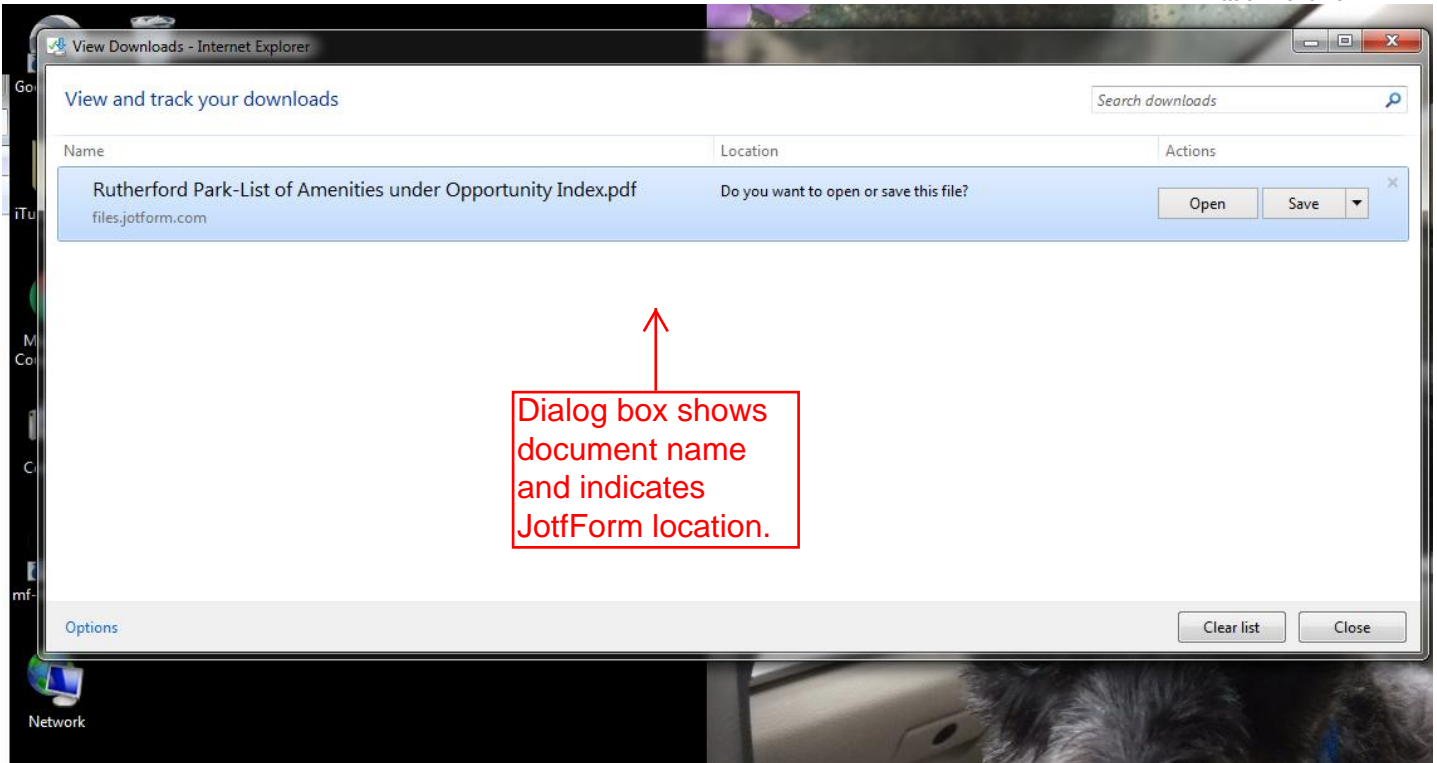
If you are ready to submit the Pre-Application, please continue. If you are not ready to submit, save the form and use the "edit submission" link included in your initiation confirmation email to return to the form.

Once you submit the form, the link in the initiation email will no longer work. You will receive a new confirmation email that includes a link that will allow you to edit the form up until the end of the submission period.

Enter the message as it's shown *

CHEMIN LOCAL [Icons]

Type the text | [Privacv & Terms](#)



From: [Lily Kavthekar](#)
To: [Sharon Gamble](#)
Cc: [Steve Ford](#); [Jeremy Bartholomew](#)
Subject: Re: 2018 Pre-applications #18159 Rutherford Park, 18180 Westbury Villas, and 19360 Grayton Terrace
Date: Monday, February 05, 2018 2:47:44 PM
Attachments: [Rutherford Park, 2018 Competitive HTC Pre-Application submission copy.pdf](#)
Importance: High

Sharon,

Please see attached copy of the prep submitted pre app showing that all the files were submitted. Thanks.

On Feb 5, 2018, at 2:29 PM, Sharon Gamble <sharon.gamble@tdhca.state.tx.us> wrote:

Steve:

Please find attached a notice regarding your pre-applications.

Regards,

Sharon D. Gamble MSW, PMP
Competitive Housing Tax Credit Program Administrator
Texas Department of Housing and Community Affairs
(512) 936-7834

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(a)).

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

<18159Rutherford-18180Westbury-18360Grayton.pdf>

Lily Kavthekar
email: lily@lbkltd.net
Ph: (713) 334-5514
Cell: (832) 439-3725



2018 Housing Tax Credit Pre-Application

Information in the document is automatically saved when the "NEXT" and "BACK" buttons are clicked.

Application Number

*

See Initiation Confirmation Email

Contact Information

DO NOT USE ALL CAPS!!!

Primary Contact

Full Name *

J Steve	Ford
---------	------

First Name Last Name

Address *

1500 North Post Oak Road, Suite 190

Street Address

Houston	Texas
---------	-------

City State

77055

Zip Code

Phone Number *

(713) 334-5514

Email *

steve@resolutioninc.net

Link to edit pre-application will be sent to this email address.

Secondary Contact

Full Name *

Jeremy	Bartholomew
--------	-------------

First Name Last Name

Email *

jeremy@enco.re

Cannot be same as Primary Contact

Phone Number *

(713) 334-5514

Consultant Contact

Full Name

Lily

Kavthekar

First Name

Last Name

Email

lily@lkltd.net

Phone Number

(832) 439-3725

Development Information

Name of Proposed Entity *

Rutherford Park, LP

Development Name *

Rutherford Park

Development Type *


New Constructi 

Secondary Type *

None 

Previous TDHCA #

Target Population *

General 

Address *

App. 12355 Tidwell Rd (NEC of C.E. King Pkwy and Tidwell)

City *

Houston

Zip Code *

77044

ETJ? *

Yes 

County *

Harris

Region *

6

Rural/Urban *

Urban

Census Tract *

48201232302

Additional fields will appear as needed

Census Tract 2

Additional fields will appear as needed

Total LI Units *

91

Total MR Units *

23

Total Units

114

HTC Request *

1500000

Do not enter currency sign or commas

Pre-App Fee Due *

1140

The fee must be accompanied by a completed Multifamily Document and Payment Receipt which includes the application number. Nonprofit and CHDO applicants eligible for 10% discount should indicate discount taken.

Has Fee already been submitted? *

Yes

Check Name *

LBK LTD

Enter person or entity whose name is printed on the check

Check # *

411

Set-Aside Election

By checking any of the following boxes, Applicant affirms submission under the selected Set-Aside. Applicant understands that, in order for any full Application to qualify for pre-application participation points, that set-

Set-Asides *

- None
- At-Risk
- USDA
- Nonprofit

Notifications

Applicant affirms that all necessary parties have been notified of this application as required by §11.8(b)(2) of the Qualified Allocation Plan ("QAP"), §10.203 of the Uniform Multifamily Rules (the "Rules") and Texas Government Code §2306.6704 ("Statute") and has hereto attached a list of all notifications. While not required to be submitted with the pre-application, Applicant has kept evidence of all notifications made. This evidence may be required by the Department at any time during the Application Cycle. Applicant further certifies that the notifications are not older than 3 months from the first day of the Application Acceptance Period.

U.S. Representative *

Gene Green

(Department will notify US Rep)

District *

29

State Senator *

Sylvia Garcia

District *

6

State Representative *

Harold V. Dutton, Jr.

District *

142

School District Information

School Superintendent *

District Name *

King R. Davis

Sheldon ISD Attachment B

Address *

11411 C.E. King Pkwy

Street Address

Houston

City

77044

Zip Code

Presiding Officer of Board of Trustees *

Fred Rivas

Address *

11411 C.E.King Pkwy

Street Address

Houston

City

77044

Zip Code

Elected Officials

Name *

Sylvestor Turner

Office *

Mayor

Name 2

Brenda Stardig

Office 2

City Council Member

Name 3

Jerry Davis

Office 3

City Council Member

Name 4

Ellen R. Cohen

Office 4

City Council Member

Name 5

Dwight Boykins

Office 5

City Council Member

Name 6

Dave Martin

Office 6

City Council Member

Name 7

Steve Le

Office 7

City Council Member

Name 8

Greg Travis

Office 8

City Council Member

Name 9

Karla Cisneros

Office 9

City Council Member

Name 10

Robert Gallegos

Office 10

City Council Member

Name 11

Mike Laster

Office 11

City Council Member

Name 12

Office 12

Larry Green

City Council Member  Attachment B

Name 13

Mike Knox

Office 13

City Council Member 

Name 14

David W. Robinson

Office 14

City Council Member 

Name 15

Michael Kubosh

Office 15

City Council Member 

Name 16

Amanda Edwards

Office 16

City Council Member 

Name 17

Jack Christie

Office 17

City Council Member 

Name 18

Ed Emmett

Office 18

County Judge 

Name 19

Rodney Ellis

Office 19

County Commissioner 

Name 20

Jack Morman

Office 20

County Commissioner 

Name 21

Steve Radack

Office 21

Attachment B

County Commissioner

Name 22

R. Jack Cagle

Office 22

County Commissioner

Name 23

Office 23

Neighborhood Organizations

Are there Neighborhood Organizations whose boundaries contain the Development Site? *

No


By selecting "No," Applicant certifies having no knowledge of any Neighborhood Organizations meeting the requirements of §11.9(d)(4) of the QAP and/or Texas Government Code §2306.004(23-a) and having boundaries that contain the Development Site.

Competitive Housing Tax Credit Selection Self-Score

The Applicant is responsible for understanding whether the Development qualifies under each of the point categories below. The QAP reference is provided and Applicants are encouraged to read the full rule prior to electing points under any of these categories.

Criteria Promoting Development of High Quality Housing

Unit Sizes * 
§11.9(b)(1)(A)


Unit Features * 
§11.9(b)(1)(B)

Sponsor Characteristics * 
§11.9(b)(2)(A)


High Quality Housing Total

Criteria to Serve and Support Texans Most in Need


Income Levels of Tenants * 
§11.9(c)(1)

Rent Levels of Tenants * 
§11.9(c)(2)

Tenant Services * 
§11.9(c)(3)

Opportunity Index * 
§11.9(c)(4) – Applicant must attach a list that includes the name and address of physical amenities claimed.

Underserved Area * 
§11.9(c)(6)

Tenant Populations with Special Housing Needs * 
§11.9(c)(7)

Proximity to the Urban Core * §11.9(c)(7)

Serve and Support Texans Most in Need Total

Criteria Promoting Community Support and Engagement

Commitment of Development Funding by Local Political Subdivision * §11.9(d)(2)

Declared Disaster Area * §11.9(d)(3)

Community Support and Engagement Total

Criteria Promoting Efficient Use of Limited Resources and Applicant Accountability

Financial Feasibility * §11.9(e)(1)

Cost of Development per Square Foot * §11.9(e)(2)

Pre-Application Participation * §11.9(e)(3)

Leveraging Private, State and Federal Resources * §11.9(e)(4)

**Extended
Affordability ***

§11.9(e)(5)

**Historic
Preservation ***

§11.9(e)(6)

**Right of First
Refusal ***

§11.9(e)(7)

**Funding Request
Amount ***

§11.9(e)(8)

**Efficient Use of
Limited Resources
and Applicant
Accountability Total**

Point Adjustment

Attach staff determination on last page.

**Total Applicant
Self-Score ***

Intent to Request Points for Items not Included in the Applicant's Self-Score

These items will not be counted in the self-score. Applicants intending to request points for these items should be actively working toward obtaining the necessary documentation to be submitted by the Full Application Deadline.

**Readiness to
Proceed §11.9(c)(8) ***

- 5 points
 0 points

Local Government Support §11.9(d)(1) *

- 17 points
- 14 points
- 8.5 points
- 7 points
- 0 points

Quantifiable Community Participation §11.9(d)(4) *

- 9 points
- 8 points
- 6 points
- 4 points
- 0 points

Support from State Representative §11.9(d)(5) *

- Yes
- No

Input from Community Organizations §11.9(d)(6) *

- 4 points
- 2 points
- 0 points

Concerted Revitalization Plan §11.9(d)(7) *

- 7 points
- 6 points
- 5 points
- 4 points
- 0 points

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4)(B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed. *

- Yes
- No

Attachments and Certifications

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Site Control Documentation *

Upload a File

Up to three documents can be attached

[Rutherford Park](#)

[Receipted Earnest Money Contract.pdf](#)

By attaching the Site Control Documentation, Applicant affirms that the site control conforms to all applicable requirements including §10.204(10) of the Uniform Multifamily Rules.

Census Tract Map *

Upload a File

Up to three documents can be attached

[Rutherford Park](#)

[CT Map 48201232302.pdf](#)

If a discrepancy exists between the census tract map and the number entered on the Development Information page, staff will use the census tract listed on the map.

Amenities List *

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[Rutherford Park-List of Amenities under Opportunity Index.pdf](#)

Undesirable Neighborhood Characteristics Disclosure

Upload a File

Up to three documents can be attached

Other Pertinent Information

Upload a File

Use this space to upload up to five additional documents (additional Census Tract/Site Control documents, Staff Determinations, Narrative, etc.).

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If you are ready to submit the Pre-Application, please continue. If you are not ready to submit, save the form and use the "edit submission" link included in your initiation confirmation email to return to the form.

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Enter the message as it's shown *



Type the text

[Privacy & Terms](#)

By submitting this Application, Applicant hereby makes an Application to the Texas Department of Housing and Community Affairs. The Applicant further affirms that they have read and understand the Rules and the QAP. Specifically, the Applicant understands the requirements under §10.101 and §10.903 of the Rules, related to Site and Development Requirements and Restrictions and Adherence to Obligations, as well as Internal Revenue Code Section 42. By checking this box, Applicant is affirming that all statements and representations made in this document, including all supporting materials, are true and correct under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification and subject to criminal penalties as defined by the State of Texas. TEX. PENAL CODE ANN. §1.01 – §71.05 et seq. (VERNON 2003 & SUPP. 2007).

Termination Letters

18159 Rutherford Park
18161 Monroe Crossing
18164 Lafayette Park Apartments



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

February 5, 2018

Writer's direct phone # 512-475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. J. Steve Ford
Rutherford Park, LP
1500 N Post Oak Rd, Ste 190
Houston, TX 77055

RE: TERMINATION OF HTC PRE-APPLICATIONS #18159 RUTHERFORD PARK, HOUSTON; 18180 WESTBURY VILLAS, HOUSTON; AND 18360 GRAYTON TERRACE, HOUSTON

Dear Mr. Ford:

The Texas Department of Housing and Community Affairs ("the Department") received the above pre-applications. Pursuant to 10 TAC §11.8(b) of the 2018 Qualified Allocation Plan ("QAP"), pre-applications will be terminated unless they meet the threshold criteria described in this section. Per §11.8(b)(1):

(1) Submission of the competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:

(A) Site Control meeting the requirements of §10.204(10) of this title (relating to Required Documentation for Application Submission). For purposes of meeting this specific requirement related to pre-application threshold criteria, proof of consideration and any documentation required for identity of interest transactions is not required at the time of pre-application submission but will be required at the time of full application submission;

and

(F) Census tract number in which the Development Site is located, and a map of that census tract with an outline of the proposed Development Site;

During review of the pre-applications, staff was unable to review the Site Control documents and the census tract maps in pre-applications #18159 and 18180, and the Site Control documents in #18360, as the links to these documents were inoperable.



Staff guidance on pre-application submission made it clear that prior to submission of the pre-application, applicants should check each uploaded document to ensure that the document was properly uploaded. The 2018 Multifamily Programs Application Procedures Manual states on Page 10:

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. . . If the complete pre-application is not submitted by the deadline, the Applicant will be deemed to have not made a pre-application.”

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Staff receives email confirmation each time an applicant accesses the pre-application. Review of email received during the pre-application submission period indicates that pre-applications #18159 and 18180 were initiated and submitted, but there is no indication that the pre-applications were edited after they were submitted. Pre-application #18360 was edited to upload more documents after it was submitted, but the link for the Site Control documents was not corrected. Because Site Control documentation and/or census tract maps were not included in the pre-applications, in accordance with 10 TAC §11.8(a)(1) the pre-applications are deemed to have not been made. The following amounts will be refunded to your organization:

18159 \$1,140.00
18180 \$1,000.00
18360 \$1,110.00

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §10.902 of the 2018 Uniform Multifamily Rules. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2018 Uniform Multifamily Rules for full instruction on the appeals process.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at marni.holloway@tdhca.state.tx.us.

Sincerely,

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

Marni Holloway
Director of Multifamily Finance



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

BOARD MEMBERS
J.B. Goodwin, *Chair*
Leslie Bingham-Escareño, *Vice Chair*
Paul A. Braden, Member
Asusena Reséndiz, Member
Sharon Thomason, Member
Leo Vasquez, Member

February 5, 2018

Writer's direct phone # 512-475-1676
Email: marni.holloway@tdhca.state.tx.us

Mr. William Henson
Monroe Crossing, LP
2121 Kirby Drive, Unit 68
Houston, TX 77019

RE: TERMINATION OF HTC PRE-APPLICATIONS #18161, MONROE CROSSING, HOUSTON; AND
18164 LAFAYETTE PARK APARTMENTS, LA PORTE

Dear Mr. Henson:

The Texas Department of Housing and Community Affairs ("the Department") received the above pre-applications. Pursuant to 10 TAC §11.8(b) of the 2018 Qualified Allocation Plan ("QAP"), pre-applications will be terminated unless they meet the threshold criteria described in this section. Per §11.8(b)(1):

(1) Submission of the competitive HTC pre-application in the form prescribed by the Department which identifies at a minimum:

(A) Site Control meeting the requirements of §10.204(10) of this title (relating to Required Documentation for Application Submission). For purposes of meeting this specific requirement related to pre-application threshold criteria, proof of consideration and any documentation required for identity of interest transactions is not required at the time of pre-application submission but will be required at the time of full application submission; . . .

During review of the pre-applications, staff was unable to review the Site Control documents in pre-applications #18161 and 18164 because the links to these documents were inoperable.

Staff guidance on pre-application submission made it clear that prior to submission of the pre-application, applicants should check each uploaded document to ensure that the document was properly uploaded. The 2018 Multifamily Programs Application Procedures Manual states on Page 10:

"Before entering the 'Captcha' (the picture that ensures a user is not a 'spambot'), it is strongly recommended that the Applicant use the **Back** button to review the entire pre-application before submission. Once the **Back** button is used, the pre-application uploads should show up as hyperlinks. **Make sure the documents open and that they are complete.**"



On page 11, the manual states:

“ . . . The Applicant will also receive an email confirmation which will detail the information submitted, including hyperlinks to the files attached by the Applicant. In the event that an error is identified after submission (including a file that cannot be opened from the hyperlinks), the Applicant should use the **Edit Submission** link in the confirmation email to go back to the pre-application and make the necessary corrections (the link in the initiation email will no longer work) prior to the submission deadline. . . .

. . . If the complete pre-application is not submitted by the deadline, the Applicant will be deemed to have not made a pre-application.”

Finally, the last page of the pre-application form itself offers the following warning:

WAIT! Are you ready to submit?

DO THIS! Save your form by hitting the Back button, then hit the Next button to come back. The titles of your attachments should show up as hyperlinks. The document is now saved. After the document is submitted, you should come back to your uploads, click each link and inspect documents to ensure that you uploaded a correct and complete document. If the link does not work, or if the upload is not complete, delete the document and retry (i.e., if the last page is missing do not upload the page as a single file, reload the entire document).

Staff receives email confirmation each time an applicant accesses the pre-application. Review of email received during the pre-application submission period indicates that pre-applications #18161 and 18164 were initiated and submitted, but there is no indication that the pre-applications were edited after they were submitted. Because Site Control documentation was not included in the pre-applications, in accordance with 10 TAC §11.8(a)(1) the pre-applications are deemed to have not been made. The following amounts will be refunded to your organization:

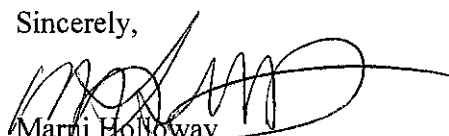
18161 \$1,140.00

18164 \$1,140.00

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements related to the filing of an appeal can be found in §10.902 of the 2018 Uniform Multifamily Rules. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or if the Executive Director does not respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2018 Uniform Multifamily Rules for full instruction on the appeals process.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at marni.holloway@tdhca.state.tx.us.

Sincerely,


Marni Holloway
Director of Multifamily Finance

Appeal Documents

18159 Rutherford Park
18161 Monroe Crossing
18164 Lafayette Park Apartments

COATS | ROSE

A PROFESSIONAL CORPORATION

BARRY J. PALMER

bpalmer@coatsrose.com
Direct Dial
(713) 653-7395
Direct Fax
(713) 890-3944

February 12, 2018

By Email to tim.irvine@tdhca.state.tx.us
Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

RE: Appeal of Termination of Pre-Applications:
#18159 Rutherford Park, Houston, Harris County, Texas;
#18161 Monroe Crossing, Houston, Harris County, Texas; and
#18164 Lafayette Park Apartments, La Porte, Harris County, Texas.

Dear Mr. Irvine:

This is an appeal of the termination of Pre-Applications #18159 for Rutherford Park, #18161 for Monroe Crossing, and #18164 for Lafayette Park Apartments, each of which was terminated on February 5, 2018 as being incomplete. The developers actually filed eight (8) Pre-Applications, each of which was terminated for the same reason (**#18159; #18161; #18164; #18177; #18179; #18180; #18207; and #18360**). We are only appealing the Staff's action on Rutherford Park, Monroe Crossing and Lafayette Park Apartments, which are the developments for which our clients intend to file Full Applications. We will be discussing the technique used to submit all eight Pre-Applications, however, because the large number of incomplete submissions coming from one development group and being every Pre-Application that was submitted by that development group, is significant.

All eight Pre-Applications were terminated because links to requisite attachments did not work. When the full image of each Pre-Application is accessed, at the very bottom of the Pre-Application form there are links to the attachments that were uploaded. Each of the terminated Pre-Applications shows all of the required links. Each link reflects the developers' customized name for the pdf document that was uploaded. Had the documents not been uploaded, these names would not be in the TDHCA's JotForm system.

All of these eight Pre-Applications were submitted by one person, who is very experienced, having submitted Housing Tax Credit Applications since 1998. Ms. Lily Kavthekar has also

9 Greenway Plaza, Suite 1100 Houston, Texas 77046
Phone: 713-651-0111 Fax: 713-651-0220
Web: www.coatsrose.com

successfully uploaded multiple electronic Pre-Applications each year since the TDHCA started requiring on-line submission. Lily Kavthekar has never had a Pre-Application terminated due to irregularities in submission of the Pre-Application form or the attachments to the form.

In reviewing the eight terminated Pre-Applications, we noted the following:

- Each Pre-Application displayed individualized document names for the uploaded documents, evidencing that Ms. Kavthekar actually did upload the documents.
- Per the attached Affidavit of Ms. Kavthekar (Please see Exhibit A), she followed the TDHCA's directions and (i) uploaded the document; (ii) hit "BACK"; (iii) confirmed that the links were visible; (iv) clicked on the links to open the documents, confirmed that they were present and complete and pressed "SUBMIT"; and (v) on January 9th she accessed each Pre-Application and clicked on the links to open the documents and confirmed that they were present and complete.
- The contact for each Pre-Application received an email acknowledgment of the submission of the Pre-Application which stated: "*You have successfully submitted Competitive HTC Pre-Application 18159 Rutherford Park for the 2018 Cycle.*" The acknowledgment went on to provide a print-out of all information inserted into the Pre-Application form and indicated the attachments that had been uploaded. The acknowledgment does caution applicants to confirm that the links work, and although Ms. Kavthekar had already done so, she used the link in the acknowledgment emails to access each Pre-Application and clicked on each attachment uploaded and confirmed that each uploaded document opened. (Please see Section 7 of her Affidavit in Exhibit A).
- The Termination Notices from the TDHCA indicate that the TDHCA receives confirmation each time an applicant edits a particular Pre-Application. TDHCA Staff has no indication of a Pre-Application being accessed unless it is edited and re-submitted. For Rutherford Park, the Termination Notice indicated that the Pre-Application was initiated and submitted but that there was no indication that it was ever opened for editing after submission. Having confirmed successful uploading in the Pre-Application upon submission and upon receiving the email acknowledgment that the Pre-Application was successfully submitted, there was no reason for her to keep opening and closing the links. Notwithstanding this, however, Ms. Kavthekar accessed each Pre-Application on the morning prior to the 5:00 p.m. deadline and tested the links again, without making any edits or pressing "SUBMIT" since the Pre-Application was complete and the links worked.
- Although all of the links on each Pre-Application worked when Ms. Kavthekar confirmed that they would open, some now fail to connect to the uploaded document. We note that in each case, the broken links are instances where Ms. Kavthekar had identified the document with an unusually long name which took up two lines in the Pre-Application. (Please see Exhibit B). Only the links that are two lines long are inaccessible, and all of the links that are two lines long are inaccessible. All links with names that only require

a single line still work. The consistency of this factor over eight submissions leads us to believe that the problem in accessing the uploaded document occurred not as a result of any impropriety in the uploading of the documents, but instead occurred in the TDHCA's JotForm system, when the long document name was divided into two lines. This may have been a result of the use of the Safari browser to open the JotForm Pre-Application form, since it is known that Safari does not support all types of files or programs. Safari (as opposed to Chrome, Internet Explorer or Mozilla Firefox) is the default browser choice when the applicant is using a mac computer, and was a permitted choice in opening the JotForm. We are not able to test the theory that Safari caused the links to break after submission, or the theory that opening links without pressing "SUBMIT" again breaks the links, because the JotForm software is no longer accessible, having been closed down at the submission deadline.

- We point out that the Pre-Application Form was not made available until January 4, 2018, and was only available late in the day on the 4th because there was a problem in its functionality. Such acknowledged problems gives reasonable credence to the possibility that the critical problem was either within the JotForm software itself (relatively unlikely, however, since a limited number of applicants encountered this problem) or else in the combination of the use of Safari and the JotForm software or in the accessing of a Pre-Application and opening of links without pressing "SUBMIT" again.
- The directions for uploading documents do not advise that long document names may result in dysfunction within the JotForm program. The fact that each and every instance of an attachment becoming inaccessible shows that the document name had to be split to two lines implies possible causation.
- The directions do not advise that every time a Pre-Application is accessed, the "SUBMIT" button must be pressed, whether or not any edits were made during the session. The fact that Ms. Kavthekar did not re-submit any of the eight submissions suggests that perhaps this was the critical factor which caused all eight submissions to be broken.
- The 2018 Multifamily Application Procedures Manual indicates the following on page 10 regarding the Pre-Application Documentation and Assembly for page 5 of the Pre-App:

Before entering the "Captcha" (the picture that ensures a user is not a "spambot"), it is strongly recommended that the Applicant use the Back button to review the entire pre-application before submission. Once the Back button is used, the pre-application uploads should show up as hyperlinks. Make sure the documents open and that they are complete.

Per Ms. Kavthekar's Affidavit, she did, indeed, use the Back button, which is confirmed by the fact that the hyperlinks appeared, and she was able to use them to access the uploaded documents.

We would like to point out that there was no time pressure to get the Pre-Applications submitted that might have contributed to failing to check on attachment accessibility. Six of these eight Pre-Application packages were uploaded a full 24 hours or more prior to the 5:00 pm January 9, 2018 deadline, and the final two (not under appeal) were uploaded prior to noon on January 9th. The attached submission acknowledgments confirm that all of the submissions were made long before the deadline, so there should not have been any malfunction derived from an excessive number of applicants trying to upload Pre-Applications at the same time. (Please see [Exhibit C](#)). Ms. Kavthekar had plenty of time to review the submissions and confirm that they were complete, which she did. She did this even though she had confirmed that the uploaded documents opened before she submitted the Pre-Applications, in accordance with the instructions reproduced above.

The letter of termination from the TDHCA for Rutherford Park and several other applications stated the following:

Staff receives email confirmation each time an applicant accesses the pre-application. Review of email received during the pre-application submission period indicates that pre-applications #18159 and 18180 were initiated and submitted, but there is no indication that the pre-applications were edited after they were submitted. ... Because Site Control documentation and/or census tract maps were not included in the pre-applications, in accordance with 10 TAC §11.8(a)(1) the pre-applications are deemed to have not been made. ...

Likewise, a similar paragraph in the letter of termination for Monroe Crossing and Lafayette Park Apartments indicates that #18161 and #18164 were each initiated and submitted but not subsequently edited. We believe that the process set forth in the 2018 Multifamily Programs Applications Procedures Manual did not require re-opening to edit an uploaded document. Even so, Ms. Kavthekar accessed each Pre-Application, tested the uploaded documents to confirm that the links worked (which they did) and then exited the Pre-Application without pressing "SUBMIT" since the Pre-Applications were complete and no edits were required. As previously indicated, Page 10 of the Manual required that the applicant use the Back button to review the entire pre-application before submission, since once the Back button is used, the pre-application uploads should show up as hyperlinks. They did show up as hyperlinks, and Ms. Kavthekar did make sure that the documents opened and were complete, as required in the Manual.

Summary

An extremely experienced preparer of electronic Pre-Applications and Full Applications to the TDHCA submitted eight (8) Pre-Applications. All but Villas at El Dorado and Grayton Terrace were submitted on or before January 8, 2018 – more than 24 hours prior to the TDHCA's deadline. Prior to submission, all links were present and had been checked to make sure the uploaded documents were accessible and complete. Acknowledgments of the submissions were received from the TDHCA which contained the recommendation that the submissions be checked to make sure the links worked. The link for each uploaded document was checked and found to be working at about midday on January 9, 2018. Because the links were working and no edits were needed, Ms. Kavthekar simply exited each Pre-Application, without re-submitting it.

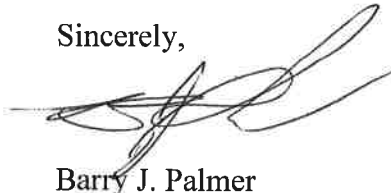
TDHCA Staff notified the developer that all of the eight (8) Pre-Applications have been terminated because the links to certain (but not all!) uploaded documents did not work. Ms. Kavthekar followed the submission instructions completely, and she followed the strong suggestion in the acknowledgment of submission that links be checked, and found that all links worked as of midday on January 9, 2018. Accordingly, we must look elsewhere for a reason why the links did not work. We noted that all of the broken links were ones where the name of the document took up two lines, and none of the working links were two lines. We were also informed that the Pre-Applications were accessed using Safari, which might have caused the link breakage. We were also advised that because the Pre-Applications, as submitted, had all links working when accessed on January 9th for a final review, Ms. Kavthekar did not re-submit the Pre-Applications by hitting the "SUBMIT" button, and this might have caused the problem. In any of these events, the problem, by its very nature, could not be seen by Ms. Kavthekar at the time of submission or final review.

Although we are not able to test these hypotheses because the JotForm Pre-Application forms are no longer accessible, we do suggest that the link breakage, which took place after submission and then final review with re-checking of the links on January 9th, may have been caused by any of the following:

- Safari is known not to support all programs. It is possible that the links were broken because Safari was used.
- Unusually long names were used to identify some of the uploaded documents, and these are the only uploads that do not work. It is possible that the long document names, when used with Safari, resulted in broken links.
- Ms. Kavthekar did not hit "SUBMIT" after she confirmed that the previously submitted forms had working links that lead to complete uploaded documents. None of the directions require that the completed Pre-Applications be re-submitted if there are no edits – however, it may be a characteristic of the JotForm system that such re-submission is necessary.

In any of these events, we request that you take into consideration the long history of Ms. Kavthekar's successful electronic submission of Pre-Applications and her testimony that she followed the TDHCA's directions explicitly. The error appears to have taken place after January 9, 2018, and after the Pre-Applications were outside of her control. Accordingly, we respectfully request that you grant this appeal of the termination of Pre-Applications for Rutherford Park, Monroe Crossing and Lafayette Park Apartments. In the event that you do not grant this appeal, we request that it be heard by the TDHCA Board.

Sincerely,



Barry J. Palmer

Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
February 12, 2018
Page 6

Attachments, Exhibits A - C

cc: Marni Holloway
Sharon Gamble
J. Steve Ford
William Henson
Jeremy Bartholomew
Carrie Ford Compton
Lily Kavthekar

EXHIBIT "A"

AFFIDAVIT OF LILY KAVTHEKAR

AFFIDAVIT

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared LILY KAVTHEKAR, and upon being duly sworn, stated as follows:

1. My name is Lily Kavthekar. I am a resident of the State of Texas and am employed by Henson Ford Investments located at 1500 Post Oak Road #190, Houston, Texas 77055 (the "Company"). I am above the age of eighteen and am competent to make this Affidavit.

2. I have participated in the preparation of the 2018 Competitive Housing Tax Credit Program pre-applications (the "Pre-Applications") for Rutherford Park (TDHCA #18159), Monroe Crossing (TDHCA #18161), Lafayette Park Apartments (TDHCA #18164), Gardens at Baytown (TDHCA #18177), Broadgreen Oaks (TDHCA #18179), Westbury Villas (TDHCA #18180), El Dorado Phase 2 (TDHCA #18207), and Grayton Terrace (TDHCA #18360). It was my job to complete the Pre-Applications using the JotForm system established by the Texas Department of Housing and Community Affairs ("TDHCA"), including uploading required site control and census tract documentation relating to developments proposed in each Pre-Application prior to the deadline on January 9, 2018.

3. For each Pre-Application, I went onto TDHCA's JotForm system and entered the development name and the primary contact's information to get started. The confirmation e-mails with the assigned pre-application numbers for each development were delivered to the applicable primary contact's e-mail account, which were then forwarded to me so that I could access and complete the Pre-Applications.

4. On or before Monday, January 8, 2018, I completed all of the Pre-Applications with the exception of Grayton Terrace and El Dorado Phase 2 which were completed on January 9, 2018. I reviewed the TDHCA guidance on electronic submission of 2018 9% pre-applications prior to completing the Pre-Applications, and kept a copy with me as I completed each Pre-Application to ensure I was following the TDHCA's recommendations. The Company uses mac or Apple computers, and I used Safari to access and complete the Pre-Applications. With respect to my completion of each Pre-Application, I followed the following procedures:

(i) Completed the blanks in the pre-application form, and pressed "BACK" after reaching the end of each page of the form to save the information entered;

(ii) Uploaded the site control documentation, census tract map, and list of amenities on the last page of each pre-application form, waited for each file to fully upload, pressed "BACK" and then returned to the final page where the uploads appeared as hyperlinks; and

(iii) I clicked on each hyperlink to confirm that the documentation had been uploaded properly, which it had, and then entered the "Captcha" text, and pressed "SUBMIT".

5. With the exception of Grayton Terrace, El Dorado Phase 2 and Rutherford Park, I had all of the information and documentation needed to complete the Pre-Applications in one sitting without needing to return to the JotForm system to make edits to the Pre-Applications. I initially submitted the Rutherford Park Pre-Application on January 6, 2018, and edited the Pre-Application on January 8, 2018 to adjust the self-score points and to correct a typo in the census tract number. I initially submitted the El Dorado Phase 2 Pre-Application on January 8, 2018, and edited the Pre-Application at about midday on January 9, 2018. I submitted the Grayton Terrace Pre-Application at about midday on January 9, 2018.

6. Upon completion of the Pre-Applications, the applicable primary contact forwarded me the acknowledgement e-mail that TDHCA generates with respect to each JotForm submission which permits you to access the pre-application and make any necessary edits. I reviewed each acknowledgement e-mail and noted the information I had entered as well as the document names of each attachment I uploaded.


7. Midday on January 9, 2018, I used the links that the primary contact for each Pre-Application had forwarded to me in order to access each Pre-Application and confirm that the information appeared as it had when first entered, and to test the links to the uploaded documents. The links to each uploaded document for each Pre-Application were functional, and opened the correct document in each case. After testing the links and confirming that the Pre-Applications appeared in final form, I exited each Pre-Application without pressing "SUBMIT" because no changes were made so nothing needed to be saved which was not already in the JotForm system from my initial completion of each Pre-Application.

8. Further Affiant saith not.

Dated February 12, 2018.


LILY KAVATHEKAR

12th SWORN TO AND SUBSCRIBED TO BEFORE ME, the undersigned authority, this day of February, 2018.



Notary Public in and for Harris County, Texas

My commission expires: March 15, 2018

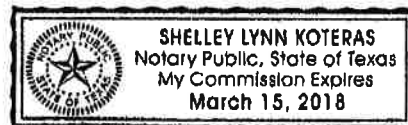


EXHIBIT "B"

PRINT OUT OF FINAL PAGE OF PRE-APPLICATIONS
(AS IMAGED ON-LINE) SHOWING PERSONALIZED LINKS.

Highlighted links are the two-line links that are the only ones that broke.

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed.

Yes

Site Control Documentation

[Rutherford Park
Receipted Earnest Money Contract.pdf](#)

Census Tract Map

[Rutherford Park
CT Map 48201232302.pdf](#)

Amenities List

[Rutherford Park-List of Amenities under Opportunity Index.pdf](#)

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed.

Yes

Site Control Documentation

[Monroe Crossing](#)

[Fully executed and receipted Earnest Money Contract.pdf](#)

Census Tract Map

[Monroe Crossing- Census tract map-48201333901.pdf](#)

Amenities List

[Monroe Crossing-List of Amenities under Opportunity Index.pdf](#)

Total Applicant Self-Score	117
Readiness to Proceed §11.9(c)(8)	5 points
Local Government Support §11.9(d)(1)	17 points
Quantifiable Community Participation §11.9(d)(4)	4 points
Support from State Representative §11.9(d)(5)	Yes
Input from Community Organizations §11.9(d)(6)	4 points
Concerted Revitalization Plan §11.9(d)(7)	0 points
Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed.	Yes
Site Control Documentation	Lafayette Park Receipted Contract.pdf
Census Tract Map	Lafayette Park -CT Map 48201343000 .pdf
Amenities List	Lafayette Park-List of Amenities under Opportunity Index.pdf

Quantifiable Community Participation §11.9(d)(4) 4 points

Support from State Representative §11.9(d)(5) Yes

Input from Community Organizations §11.9(d)(6) 4 points

Concerted Revitalization Plan §11.9(d)(7) 0 points

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed. Yes

Site Control Documentation [Gardens at Bayton Central Earnest money contract and assignment.pdf](#)

Census Tract Map [Gardens at Baytown Central CT MAP 48201253700.pdf](#)

Amenities List [Gardens at Baytown Central-List of Amenities under Opportunity Index.pdf](#)

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed.

Site Control Documentation [Broadgreen- Earnest money Contract.pdf](#)

Census Tract Map [Broadgreen Oaks
CT Map 482012523002.pdf](#)

Amenities List [Broadgreen Oaks-List of Amenities under Opportunity Index.pdf](#)

Concerted Revitalization Plan §11.9(d)(7) 0 points

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed. Yes

Site Control Documentation [Westbury Earnest Money Contract.pdf](#)

Census Tract Map [Westbury Villas Census tract Map 48201422100.pdf](#)

Amenities List [Westbury Villas-List of Amenities under Opportunity Index.pdf](#)

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed.

Yes
[Villas at El Dorado Phase 2 Earnest money contract.pdf](#)

Site Control Documentation

Census Tract Map

[Villas at El Dorado Phase 2 CT Map 48201350601.pdf](#)

Amenities List

[Phase II-List of Amenities under Opportunity Index.pdf](#)

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed.

Yes

Site Control Documentation

[Grayton Terrace Earnest Money Contract.pdf](#)

Census Tract Map

[Grayton Terrace, CT Map 48201232302.pdf](#)

Amenities List

[Grayton Terrace-List of Amenities under Opportunity Index.pdf](#)

EXHIBIT "C"

ACKNOWLEDGMENTS OF SUBMISSION

Highlighted date is date Pre-Application was submitted to TDHCA.

[Note that printout of information from Pre-Application has been omitted for brevity.]

Tamea A. Dula

Subject: FW: 18159 Rutherford Park 2018 Competitive HTC Pre-Application Submission Confirmation

From: TDHCA <htcnotifications@tdhca.state.tx.us>

Date: January 8, 2018 at 9:27:52 AM MST

To: <steve@resolutioninc.net>

Subject: 18159 Rutherford Park 2018 Competitive HTC Pre-Application Submission Confirmation

Reply-To: <htcnotifications@tdhca.state.tx.us>

You have successfully submitted Competitive HTC Pre-Application 18159 Rutherford Park for the 2018 Cycle. If you have not done so already, please submit your pre-application fee, which should be in the amount of 1140, along with a Multifamily Document and Payment Receipt including the pre-application number. Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §10.901(1) of the Uniform Multifamily Rule for more information. Pre-application fees must be received by 5:00pm Austin local time on Tuesday, January 9, 2018. Fees are refundable only if the pre-application is withdrawn.

Details of your submission are included below. This information will be posted to the Department's website along with the site control documentation, census tract map, and any other attachments include in the pre-application submission. Please carefully review this information for accuracy; this includes ensuring that each attachment can be opened using the respective hyperlinks below.

If you find that any of the information submitted is incorrect, please use the Edit Submission link below to make corrections. Any edits must be completed by 5:00pm Austin local time on Tuesday, January 9, 2018.
<https://www.jotform.com/form.php?formID=70174491551152&sid=3910004517511261195&mode=edit>

Please do not respond to this email. If you have questions, please contact Sharon Gamble, Competitive HTC Administrator, at sharon.gamble@tdhca.state.tx.us

Tamea A. Dula

Subject: FW: 18161 Monroe Crossing 2018 Competitive HTC Pre-Application Submission Confirmation

From: TDHCA <htcnotifications@tdhca.state.tx.us>

Date: January 5, 2018 at 4:01:59 PM CST

To: <wd_henson@hotmail.com>

Subject: 18161 Monroe Crossing 2018 Competitive HTC Pre-Application Submission Confirmation

Reply-To: <htcnotifications@tdhca.state.tx.us>

You have successfully submitted Competitive HTC Pre-Application 18161 Monroe Crossing for the 2018 Cycle. If you have not done so already, please submit your pre-application fee, which should be in the amount of 1140, along with a Multifamily Document and Payment Receipt including the pre-application number.

Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §10.901(1) of the Uniform Multifamily Rule for more information. Pre-application fees must be received by 5:00pm Austin local time on Tuesday, January 9, 2018. Fees are refundable only if the pre-application is withdrawn.

Details of your submission are included below. This information will be posted to the Department's website along with the site control documentation, census tract map, and any other attachments include in the pre-application submission. Please carefully review this information for accuracy; this includes ensuring that each attachment can be opened using the respective hyperlinks below.

If you find that any of the information submitted is incorrect, please use the Edit Submission link below to make corrections. Any edits must be completed by 5:00pm Austin local time on Tuesday, January 9, 2018.

<https://www.jotform.com/form.php?formID=70174491551152&sid=3909963167518472483&mode=edit>

Please do not respond to this email. If you have questions, please contact Sharon Gamble, Competitive HTC Administrator, at sharon.gamble@tdhca.state.tx.us

Tamea A. Dula

Subject: FW: 18164 Lafayette Park Apartments 2018 Competitive HTC Pre-Application Submission Confirmation

From: TDHCA <htcnotifications@tdhca.state.tx.us>

Sent: Monday, January 8, 2018 12:05 PM

To: wd_henson@hotmail.com

Subject: 18164 Lafayette Park Apartments 2018 Competitive HTC Pre-Application Submission Confirmation

You have successfully submitted Competitive HTC Pre-Application 18164 Lafayette Park Apartments for the 2018 Cycle. If you have not done so already, please submit your pre-application fee, which should be in the amount of 1140, along with a Multifamily Document and Payment Receipt including the pre-application number. Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §10.901(1) of the Uniform Multifamily Rule for more information. Pre-application fees must be received by 5:00pm Austin local time on Tuesday, January 9, 2018. Fees are refundable only if the pre-application is withdrawn.

Details of your submission are included below. This information will be posted to the Department's website along with the site control documentation, census tract map, and any other attachments include in the pre-application submission. Please carefully review this information for accuracy; this includes ensuring that each attachment can be opened using the respective hyperlinks below.

If you find that any of the information submitted is incorrect, please use the Edit Submission link below to make corrections. Any edits must be completed by 5:00pm Austin local time on Tuesday, January 9, 2018.

<https://www.jotform.com/form.php?formID=70174491551152&sid=3909982047517780764&mode=edit>

Please do not respond to this email. If you have questions, please contact Sharon Gamble, Competitive HTC Administrator, at sharon.gamble@tdhca.state.tx.us

Tamea A. Dula

Subject: FW: 18177 Gardens at Baytown Central 2018 Competitive HTC Pre-Application Submission Confirmation

From: TDHCA <htcnotifications@tdhca.state.tx.us>
Subject: 18177 Gardens at Baytown Central 2018 Competitive HTC Pre-Application Submission Confirmation
Date: January 8, 2018 at 12:01:18 PM CST
To: <carrie@encoreresidential.net>
Reply-To: <htcnotifications@tdhca.state.tx.us>

You have successfully submitted Competitive HTC Pre-Application 18177 Gardens at Baytown Central for the 2018 Cycle. If you have not done so already, please submit your pre-application fee, which should be in the amount of 1120, along with a Multifamily Document and Payment Receipt including the pre-application number. Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §10.901(1) of the Uniform Multifamily Rule for more information. Pre-application fees must be received by 5:00pm Austin local time on Tuesday, January 9, 2018. Fees are refundable only if the pre-application is withdrawn.

Details of your submission are included below. This information will be posted to the Department's website along with the site control documentation, census tract map, and any other attachments include in the pre-application submission. Please carefully review this information for accuracy; this includes ensuring that each attachment can be opened using the respective hyperlinks below.

If you find that any of the information submitted is incorrect, please use the Edit Submission link below to make corrections. Any edits must be completed by 5:00pm Austin local time on Tuesday, January 9, 2018.

<https://www.jotform.com/form.php?formID=70174491551152&sid=3910754167513894866&mode=edit>

Please do not respond to this email. If you have questions, please contact Sharon Gamble, Competitive HTC Administrator, at sharon.gamble@tdhca.state.tx.us

Tamea A. Dula

Subject: FW: 18179 Broadgreen Oaks 2018 Competitive HTC Pre-Application Submission Confirmation

From: TDHCA <htcnotifications@tdhca.state.tx.us>
Subject: 18179 Broadgreen Oaks 2018 Competitive HTC Pre-Application Submission Confirmation
Date: January 8, 2018 at 11:23:23 AM CST
To: <carrie@encoreresidential.net>
Reply-To: <htcnotifications@tdhca.state.tx.us>

You have successfully submitted Competitive HTC Pre-Application 18179 Broadgreen Oaks for the 2018 Cycle. If you have not done so already, please submit your pre-application fee, which should be in the amount of 1140, along with a Multifamily Document and Payment Receipt including the pre-application number. Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §10.901(1) of the Uniform Multifamily Rule for more information. Pre-application fees must be received by 5:00pm Austin local time on Tuesday, January 9, 2018. Fees are refundable only if the pre-application is withdrawn.

Details of your submission are included below. This information will be posted to the Department's website along with the site control documentation, census tract map, and any other attachments include in the pre-application submission. Please carefully review this information for accuracy; this includes ensuring that each attachment can be opened using the respective hyperlinks below.

If you find that any of the information submitted is incorrect, please use the Edit Submission link below to make corrections. Any edits must be completed by 5:00pm Austin local time on Tuesday, January 9, 2018.

<https://www.jotform.com/form.php?formID=70174491551152&sid=3910711647513744140&mode=edit>

Please do not respond to this email. If you have questions, please contact Sharon Gamble, Competitive HTC Administrator, at sharon.gamble@tdhca.state.tx.us

Tamea A. Dula

Subject: FW: 18180 Westbury Villas 2018 Competitive HTC Pre-Application Submission Confirmation

From: TDHCA <htcnotifications@tdhca.state.tx.us>
Date: January 8, 2018 at 4:41:38 PM CST
To: <steve@resolutioninc.net>
Subject: 18180 Westbury Villas 2018 Competitive HTC Pre-Application Submission Confirmation
Reply-To: <htcnotifications@tdhca.state.tx.us>

You have successfully submitted Competitive HTC Pre-Application 18180 Westbury Villas for the 2018 Cycle. If you have not done so already, please submit your pre-application fee, which should be in the amount of 1000, along with a Multifamily Document and Payment Receipt including the pre-application number. Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §10.901(1) of the Uniform Multifamily Rule for more information. Pre-application fees must be received by 5:00pm Austin local time on Tuesday, January 9, 2018. Fees are refundable only if the pre-application is withdrawn.

Details of your submission are included below. This information will be posted to the Department's website along with the site control documentation, census tract map, and any other attachments include in the pre-application submission. Please carefully review this information for accuracy; this includes ensuring that each attachment can be opened using the respective hyperlinks below.

If you find that any of the information submitted is incorrect, please use the Edit Submission link below to make corrections. Any edits must be completed by 5:00pm Austin local time on Tuesday, January 9, 2018.
<https://www.jotform.com/form.php?formID=70174491551152&sid=3910691387517516798&mode=edit>

Please do not respond to this email. If you have questions, please contact Sharon Gamble, Competitive HTC Administrator, at sharon.gamble@tdhca.state.tx.us

Tamea A. Dula

Subject: FW: Villas at El Dorado Phase 2 2018 HTC Pre-Application Submission Confirmation

From: TDHCA <htcnotifications@tdhca.state.tx.us>

Subject: Villas at El Dorado Phase 2 2018 HTC Pre-Application Submission Confirmation

Date: January 9, 2018 at 11:28:50 AM CST

To: <lily@lbk ltd.net>

Reply-To: <htcnotifications@tdhca.state.tx.us>

You have successfully submitted Competitive HTC Pre-Application 18207 Villas at El Dorado Phase 2 for the 2018 Cycle. If you have not done so already, please submit your pre-application fee, which should be in the amount of 360, along with a Multifamily Document and Payment Receipt including the pre-application number. Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §10.901(1) of the Uniform Multifamily Rule for more information. Pre-application fees must be received by 5:00pm Austin local time on Tuesday, January 9, 2018. Fees are refundable only if the pre-application is withdrawn.

Details of your submission are included below. This information will be posted on the Department's website along with the site control documentation, census tract map, and any other attachments include in the pre-application submission. Please carefully review this information for accuracy.

If you find that any of the information submitted is incorrect, be sure that any edits are completed by 5:00pm Austin local time on Tuesday, January 9, 2018. A link to edit the submission has been sent to the person entered as the primary contact.

Please do not respond to this email. If you have questions, please contact Sharon Gamble, Competitive HTC Administrator, at sharon.gamble@tdhca.state.tx.us

Tamea A. Dula

Subject:

FW: Grayton Terrace 2018 HTC Pre-Application Submission Confirmation

From: TDHCA <htcnotifications@tdhca.state.tx.us>

Subject: Grayton Terrace 2018 HTC Pre-Application Submission Confirmation

Date: January 9, 2018 at 11:02:34 AM CST

To: <lily@lkltd.net>

Reply-To: <htcnotifications@tdhca.state.tx.us>

You have successfully submitted Competitive HTC Pre-Application 18360 Grayton Terrace for the 2018 Cycle. If you have not done so already, please submit your pre-application fee, which should be in the amount of 1100, along with a Multifamily Document and Payment Receipt including the pre-application number. Certain Qualified Nonprofits are eligible for a 10% discount, which should be taken at the time of payment and indicated on the Multifamily Document and Payment Receipt. Please see §10.901(1) of the Uniform Multifamily Rule for more information. Pre-application fees must be received by 5:00pm Austin local time on Tuesday, January 9, 2018. Fees are refundable only if the pre-application is withdrawn.

Details of your submission are included below. This information will be posted on the Department's website along with the site control documentation, census tract map, and any other attachments include in the pre-application submission. Please carefully review this information for accuracy.

If you find that any of the information submitted is incorrect, be sure that any edits are completed by 5:00pm Austin local time on Tuesday, January 9, 2018. A link to edit the submission has been sent to the person entered as the primary contact.

Please do not respond to this email. If you have questions, please contact Sharon Gamble, Competitive HTC Administrator, at sharon.gamble@tdhca.state.tx.us

Executive Director's Response

18159 Rutherford Park
18161 Monroe Crossing
18164 Lafayette Park Apartments



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Leo Vasquez, Member

February 15, 2018

Writer's direct phone # 512-475-3296

Email: tim.irvine@tdhca.state.tx.us

Mr. Barry J. Palmer
Coats | Rose
9 Greenway Plaza, Ste. 1100
Houston, TX 77046

RE: TERMINATION OF HTC PRE-APPLICATIONS #18159 RUTHERFORD PARK, HOUSTON; #18161 MONROE CROSSING, HOUSTON; AND #18164 LAFAYETTE PARK APARTMENTS, LA PORTE

Dear Mr. Palmer:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your appeal, dated February 12, 2018, of the termination of the above referenced pre-applications. The pre-applications were terminated because the pre-applications did not include information regarding Site Control as required by 10 TAC §11.8(b)(1)(A) of the 2018 Qualified Allocation Plan ("QAP"). During review of the pre-applications, staff was unable to review the Site Control documents because the hyperlinks to these documents were inoperable.

The appeal asserts that the Applicant took all necessary steps to ensure that the Site Control documents were properly uploaded to JotForm. I will address individually each of the assertions made, combining them where appropriate. Each response draws upon one salient point: staff guidance on pre-application submission and the pre-application form itself, made it clear that applicants should check the hyperlinks for each uploaded document to ensure that the document was properly uploaded.

1. *"Each Pre-Application displayed individualized document names for the uploaded documents, evidencing that Ms. Kavthekar actually did upload the documents."*

The pre-applications show hyperlinks for documents, but this alone does not confirm that a document was successfully uploaded to the JotForm system. As was indicated on the pre-application form and by staff guidance, the test is in whether the hyperlinks successfully connect to an uploaded document when the link is selected. In the case of these pre-applications, some of the hyperlinks provided do not connect to an actual document and therefore it cannot be confirmed that the document was properly uploaded.

2. *"Per the attached Affidavit of Ms. Kavthekar (please see Exhibit A), she followed the TDHCA's directions and (i) uploaded the document; (ii) hit "BACK"; (iii) confirmed that the links were visible; (iv) clicked on the links to open the documents, confirmed that they were present and complete and pressed "SUBMIT"; and (v) on January 9th she accessed*



each Pre-Application and clicked on the links to open the documents and confirmed that they were present and complete.” [NOTE: The last assertion in the appeal letter regarding checking the hyperlinks is similar in outcome and is not re-printed.]

I feel compelled to point out that it would not have been possible for Ms. Kavthekar to click on the links to open the documents, confirm that they were present, and complete and press “SUBMIT.” Documents are only uploaded to JotForm when the “SUBMIT” button is clicked, as the hyperlink is only created once a web address is created for it. Until the document is submitted, the document only resides on the computer from which it will be uploaded. That is why the pre-application form itself provides the following direction:

WAIT! Are you ready to submit?

DO THIS! Save your form by hitting the Back button, then hit the Next button to come back. The titles of your attachments should show up as hyperlinks. The document is now saved. After the document is submitted, you should come back to your uploads, click each link and inspect documents to ensure that you uploaded a correct and complete document. If the link does not work, or if the upload is not complete, delete the document and retry (i.e., if the last page is missing do not upload the page as a single file, reload the entire document).

3. *“The contact for each Pre-Application received an email acknowledgment of the submission of the Pre-Application which stated: ‘You have successfully submitted Competitive HTC Pre-Application 18159 Rutherford Park for the 2018 Cycle.’ The acknowledgment went on to provide a print-out of all information inserted into the Pre-Application form and indicated the attachments that had been uploaded. The acknowledgment does caution applicants to confirm that the links work, and although Ms. Kavthekar had already done so, she used the link in the acknowledgment emails to access each Pre-Application and clicked on each attachment uploaded and confirmed that each uploaded document opened.”* [NOTE: The next assertion in the appeal letter regarding checking the links without pressing the submit button is similar in outcome and is not re-printed.]

When this issue initially arose, Ms. Kavthekar sent to staff a copy of the .pdf pre-application for 18159 Rutherford Park that she had saved with a note stating “[p]lease see copy of the prep submitted pre app (*sic*) showing that all the files were submitted.” The document actually confirms that the links in the pre-application are not complete and would not work (see Attachment A-A3). Staff requested that Ms. Kavthekar provide with her appeal any documentation she has in the form of an email or copy of a pre-application where the subject hyperlinks showed successful upload of the missing documents. No such evidence has been provided.

4. *“Although all of the links on each Pre-Application worked when Ms. Kavthekar confirmed that they would open, some now fail to connect to the uploaded document. We note that in each case, the broken links are instances where Ms. Kavthekar had identified the document with an unusually long name which took up two lines in the Pre-Application. (Please see Exhibit B). Only the links that are two lines long are inaccessible, and all of the links that are two lines long are inaccessible. All links with names that only require a single line still work. The consistency of this factor over eight submissions leads us to believe that the problem in accessing the uploaded document*

occurred not as a result of any impropriety in the uploading of the documents, but instead occurred in the TDHCA's JotForm system, when the long document name was divided into two lines. This may have been a result of the use of the Safari browser to open the JotForm pre-Application form, since it is known that Safari does not support all types of files or programs. Safari (as opposed to Chrome, Internet Explorer or Mozilla Firefox) is the default browser choice when the applicant is using a mac computer, and was a permitted choice in opening the JotForm. We are not able to test the theory that Safari caused the links to break after submission, or the theory that opening links without pressing "SUBMIT" again breaks the links, because the JotForm software is no longer accessible, having been closed down at the submission deadline." [NOTE: The next two assertions in the appeal letter regarding software compatibility and the length of document documents names are similar in outcome and are not re-printed.]

The pre-application included no limitations on the number of characters that could be used in the name of a document (which would be used to form the hyperlink). Attachment B is an example from another pre-application with a much longer named document that was not affected when the file name was saved as a hyperlink. As for the possibility that the problem might have been caused by the Applicant's software, the Applicant alone bears responsibility for the operation of the Applicant's computer systems. It is noteworthy that all pre-applications submitted by Ms. Kavthekar and only pre-applications submitted by Ms. Kavthekar were affected by this issue.

5. *"The directions do not advise that every time a Pre-Application is accessed, the "SUBMIT" button must be pressed, whether or not any edits were made during the session. The fact that Ms. Kavthekar did not re-submit any of the eight submissions suggests that perhaps this was the critical factor which caused all eight submissions to be broken."*

Staff has not advised this because this is not a requirement. According to staff's testing, when a submitted pre-application was accessed and the "SUBMIT" button was not pressed, no "EDIT" email was received and no change was recorded in the pre-application file residing on JotForm.

6. *"We believe that the process set forth in the 2018 Multifamily Programs Applications Procedures Manual did not require re-opening to edit an uploaded document. ...As previously indicated, Page 10 of the Manual required that the applicant use the Back button to review the entire pre-application before submission, since once the Back button is used, the pre-application uploads should show up as hyperlinks. They did show up as hyperlinks, and Ms. Kavthekar did make sure that the documents opened and were complete, as required in the Manual."*

The 2018 Multifamily Programs Application Procedures Manual suggests but does not require that Applicants check to ensure that documents were uploaded properly; it is merely suggested as a best practice. Page 10, of the manual includes the direction as stated above, and page 11 of the manual goes on to state:

Once the Applicant is satisfied with the pre-application, read the final certification, complete the "Captcha" and hit the **Submit Pre-application** button.

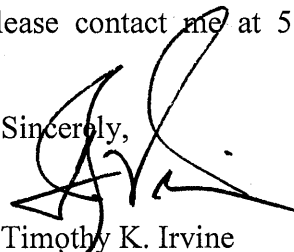
The browser will display a submission confirmation page. The Applicant will also receive an email confirmation which will detail the information submitted, including hyperlinks to the files attached by the Applicant. In the event that an error is identified after submission (including a file that cannot be opened from the hyperlinks), the Applicant should use the **Edit Submission** link in the confirmation email to go back to the pre-application and make the necessary corrections (the link in the initiation email will no longer work) prior to the submission deadline.

I have concluded that the directions provided by staff in the manual were sufficient to have prevented this issue. Further, attached as Exhibit C are .pdf versions of the last pages of each of the pre-applications addressed in this appeal. On each page, just above the "SUBMIT" button, is a final conspicuous notice encouraging the applicant to go to the submitted pre-application and test those hyperlinks. I find that the Applicant has not provided sufficient evidence that the Applicant ensured that all required documents were successfully uploaded and submitted with the pre-application.

I do not find that the points raised in your appeal clearly demonstrate that the pre-applications should not have been terminated, and accordingly I must deny the appeal. If you are not satisfied with this decision, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2018 Uniform Multifamily Rules for full instruction on the appeals process. Should you have any further documentation to provide for an appeal to be presented at the February 22, 2018 meeting of the Governing Board, please submit those to Sharon Gamble, Competitive Tax Credit Program Administrator, at sharon.gamble@tdhca.state.tx.us by 12:00 p.m., Austin local time, on February 16, 2018.

If you have any questions or concerns, please contact me at 512-475-3296 or by email at tim.irvine@tdhca.state.tx.us.

Sincerely,



Timothy K. Irvine
Executive Director

TKI

The image shows a screenshot of the Adobe Acrobat Pro interface. The window title is "18159.pdf - Adobe Acrobat Pro". The menu bar includes "File", "Edit", "View", "Window", and "Help". The toolbar contains icons for "Open", "Create", "Save", "Cloud", "Print", "Sign", "Mail", and "Settings". The navigation pane on the left shows page 6 of 8 at 49.4% zoom. The main content area displays a form with the following fields:

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed.	Yes
Site Control Documentation	Rutherford Park Receipted Earnest Money Contract.pdf
Census Tract Map	Rutherford Park CT Map
Amenities List	Rutherford Park-List of Amenities under Opportunity Index.pdf

A yellow callout box highlights the following URL: <https://www.jotform.com/uploads/TDHCA/70174491551152/3910004517511261195/Rutherford Park>. A red arrow points from a red-bordered box containing the text "Notice hyperlink address." to the highlighted URL.

Browser address bar: <https://files.jotform.com/jufs/TDHCA/70174491551152/3910004517511261195/Rutherford%20Park?i> HTTP 404 Not Found

Browser menu: File Edit View Favorites Tools Help

Browser tabs: Web Soil Survey TDHCA Rules REA HUD USER capps webmail HUD res Crime Map ADAAG TEA 2016 TEA JotForm · Logi



The webpage cannot be found

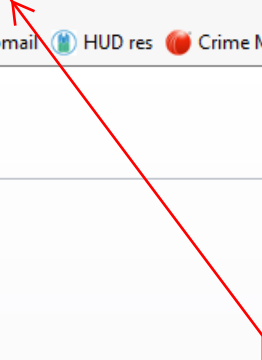
HTTP 404

Most likely causes:

- There might be a typing error in the address.
- If you clicked on a link, it may be out of date.

What you can try:

- Retype the address.
- Go back to the previous page.
- Go to and look for the information you want.
- More information



Address does not work.

18159.pdf - Adobe Acrobat Pro

File Edit View Window Help

Open Create [Save] [Cloud] [Print] [Sign] [Envelope] [Settings]

6 / 8 49.4% Tools Fill & Sign Comment

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed. Yes

Site Control Documentation [Rutherford Park](#)
[Receipted Earnest Money Contract.pdf](#)

Census Tract Map [Rutherford Park](#)
[CT Map 48201232302.pdf](#)

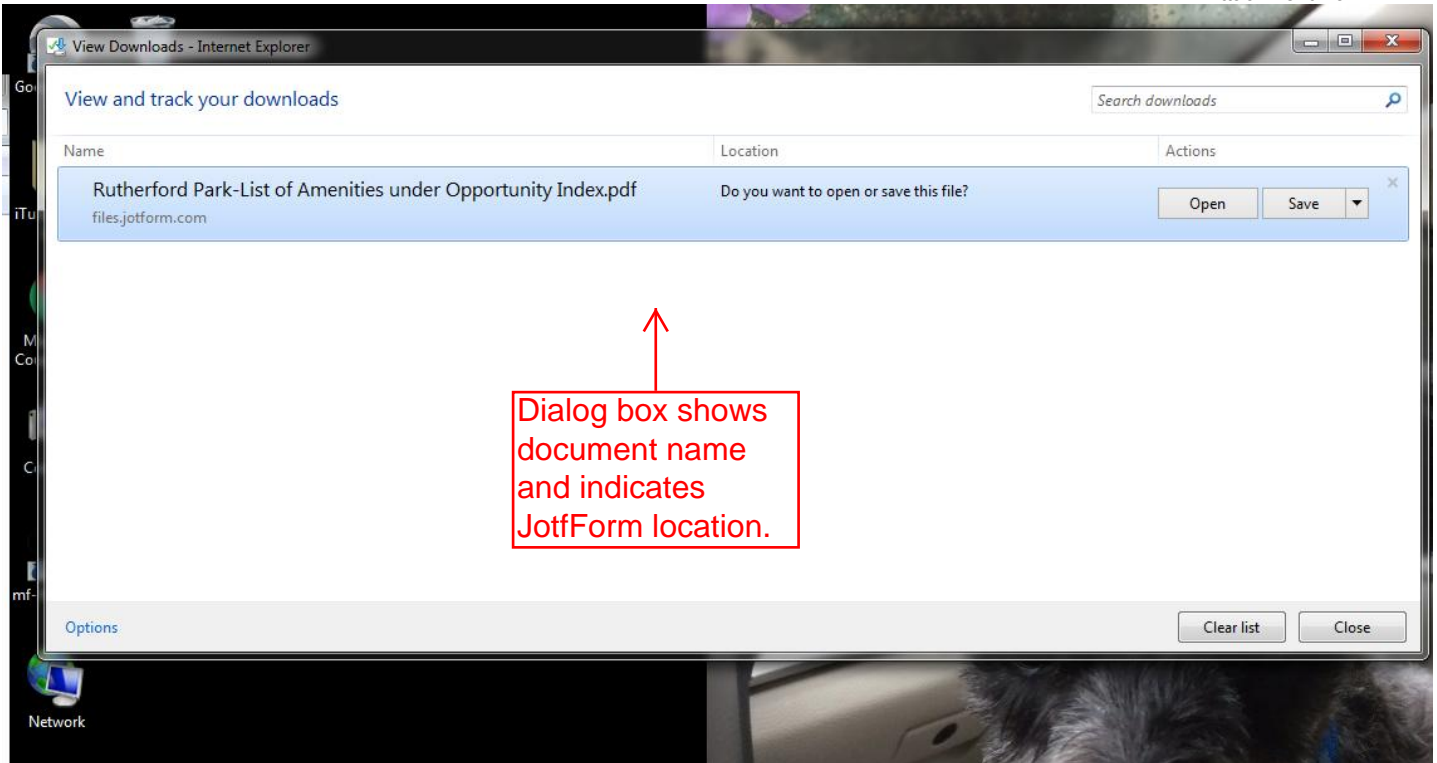
Amenities List [Rutherford Park-List of Amenities under Opportunity Index.pdf](#)

<https://www.jotform.com/uploads/TDHCA/70174491551152/3910004517511261195/Rutherford Park-List of Amenities under Opportunity Index.pdf>

↑
Notice hyperlink address.

-incomplete

Date modified	Type
26/2018 1:15 PM	Adobe A
18/2018 11:00 AM	Outlook
8/2018 12:09 PM	Adobe A



Local Government Support §11.9(d)(1) 17 points

Quantifiable Community Participation §11.9(d)(4) 4 points

Support from State Representative §11.9(d)(5) Yes

Input from Community Organizations §11.9(d)(6) 4 points

Concerted Revitalization Plan §11.9(d)(7) 7 points

Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)? If yes, attach list that includes the name and address of physical amenities claimed. Yes

Site Control Documentation

[FIRST AMENDMENT TO CONTRACT OF SALE- Shiloh 010418 HUD.pdf](#)
[Shiloh Assignment_of_Contract 010518 Executed.pdf](#)
[Shiloh SHG Contract of Sale 101017 Executed & Receipted.pdf](#)

Census Tract Map

[CT 48113018900 Site Identified.pdf](#)
[CT 48113018900 from American FF.pdf](#)

Amenities List

[Evergreen Garland Amenities.pdf](#)

18151 Rutherford Park

https://www.jotform.com/edit/3910004517511261195?utm_sourc... Multifamily ... JotForm · S... The Easiest ... 2018 Co... x

File Edit View Favorites Tools Help

Web Soil Survey TDHCA Rules REA HUD USER capps webmail HUD res

Page Safety Tools

Site Control Documentation *

Up to three documents can be attached

[Rutherford Park](#)

[Receipted Earnest Money Contract.pdf](#)

By attaching the Site Control Documentation, Applicant affirms that the site control conforms to all applicable requirements including §10.204(10) of the Uniform Multifamily Rules.

Census Tract Map *

Up to three documents can be attached

[Rutherford Park](#)

[CT Map 48201232302.pdf](#)

If a discrepancy exists between the census tract map and the number entered on the Development Information page, staff will use the census tract listed on the map.

Amenities List *

Up to three documents can be attached

[Rutherford Park-List of Amenities under Opportunity Index.pdf](#)

Undesirable Neighborhood Characteristics Disclosure

Up to three documents can be attached

Other Pertinent Information

Use this space to upload up to five additional documents (additional Census Tract/Site Control documents, Staff Determinations, Narrative, etc.).

WAIT! Are you ready to submit?

DO THIS! Save your form by hitting the Back button, then hit the Next button to come back. The titles of your attachments should show up as hyperlinks. The document is now saved. After the document is submitted, you should come back to your uploads, click each link and inspect documents to ensure that you uploaded a correct and complete document. If the link does not work, or if the upload is not complete, delete the document and retry (i.e., if the last page is missing do not upload the page as a single file, reload the entire document).

If you are ready to submit the Pre-Application, please continue. If you are not ready to submit, save the form and use the "edit submission" link included in your initiation confirmation email to

100%

18161 Monroe Crossing

Applicant to file pre-application and full application documents by means of electronic transmission for the duration of this Agreement and as specified by Department Procedures. By submitting this pre-application the Applicant affirms that the electronic submission of application documents will be in a manner prescribed by the Department.

Site Control Documentation *

Upload a File

Up to three documents can be attached

[Monroe Crossing](#)

[Fully executed and receipted Earnest Money Contract.pdf](#)

By attaching the Site Control Documentation, Applicant affirms that the site control conforms to all applicable requirements including §10.204(1D) of the Uniform Multifamily Rules.

Census Tract Map *

Upload a File

Up to three documents can be attached

[Monroe Crossing- Census tract map-48201333901.pdf](#)

If a discrepancy exists between the census tract map and the number entered on the Development Information page, staff will use the census tract listed on the map.

Amenities List *

Upload a File

Up to three documents can be attached

[Monroe Crossing-List of Amenities under Opportunity Index.pdf](#)

Undesirable Neighborhood Characteristics Disclosure

Upload a File

Up to three documents can be attached

Other Pertinent Information

Upload a File

Use this space to upload up to five additional documents (additional Census Tract/Site Control documents, Staff Determinations, Narrative, etc.).

WAIT! Are you ready to submit?

DO THIS! Save your form by hitting the Back button, then hit the Next button to come back. The titles of your attachments should show up as hyperlinks. The document is now saved. After the document is submitted, you should come back to your uploads, click each link and inspect documents to ensure that you uploaded a correct and complete document. If the link does not work, or if the upload is not complete, delete the document and retry (i.e., if the last page is missing do not upload the page as a single file, reload the entire document).

100%

18164 Lafayette Park Apartments

Applicant to file pre-application and full application documents by means of electronic transmission for the duration of this Agreement and as specified by Department Procedures. By submitting this pre-application the Applicant affirms that the electronic submission of application documents will be in a manner prescribed by the Department.

Site Control Documentation *

Upload a File

Up to three documents can be attached

[Lafayette Park](#)

[Receipted Contract.pdf](#)

By attaching the Site Control Documentation, Applicant affirms that the site control conforms to all applicable requirements including §10.204(10) of the Uniform Multifamily Rules.

Census Tract Map *

Upload a File

Up to three documents can be attached

[Lafayette Park -CT Map 48201343000 .pdf](#)

If a discrepancy exists between the census tract map and the number entered on the Development Information page, staff will use the census tract listed on the map.

Amenities List *

Upload a File

Up to three documents can be attached

[Lafayette Park-List of Amenities under Opportunity Index.pdf](#)

Undesirable Neighborhood Characteristics Disclosure

Upload a File

Up to three documents can be attached

Other Pertinent Information

Upload a File

Use this space to upload up to five additional documents (additional Census Tract/Site Control documents, Staff Determinations, Narrative, etc.).

WAIT! Are you ready to submit?

DO THIS! Save your form by hitting the Back button, then hit the Next button to come back. The titles of your attachments should show up as hyperlinks. The document is now saved. After the document is submitted, you should come back to your uploads, click each link and inspect documents to ensure that you uploaded a correct and complete document. If the link does not work, or if the upload is not complete, delete the document and retry (i.e., if the last page is missing do not upload the page as a single file, reload the entire document).

100%