



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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July 3, 2024

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Enrique Flores, IV  
Madhouse Development, Inc  
3933 Steck Ave., Suite B120  
Austin, Texas 78579

RE: APPEAL REGARDING 9% HOUSING TAX CREDIT APPLICATION  
24174 VILLAS AT PRIMROSE (DEVELOPMENT)

Mr. Flores:

The Texas Department of Housing and Community Affairs (the Department) received the Application named above to compete in the 2024 9% Housing Tax Credit round. The Application was submitted to compete within the Urban 11 subregion, and requests \$2,000,000 in Housing Tax Credits for the New Construction of 113 affordable Units serving the elderly population in McAllen.

On May 3, 2024, The Department received a Request for Administrative Deficiency concerning the Application. The Request suggests the Application presents an invalid amenity for use in the tie-breaker established in 10 TAC §11.7(2), which determines priority based on cumulative proximity to several features to the Development Site, such as a full-service grocery store and a public library. The request states that one of the chosen features, a Target location presented as a full-service grocery store, does not meet the established definition as it does not offer several items outlined in the QAP such as fresh meats, poultry, seafood, and a wide selection of different fruits and vegetables. Staff issued an Administrative Deficiency that requested that the Applicant clarify how this Target location meets the standards for a grocery store established in the rules. In that response, the Applicant suggested that the availability of same-day grocery delivery from Target, as well as the store's plans to expand its offerings and become a full-service grocery store at some point in the future, should be sufficient to meet the definition. Staff reviewed this response and determined that this was not sufficient to be considered a full-service grocery store, as the required products such as fresh meat and poultry are not available at the Target location in question. The potential future availability of these products is not relevant, as 10



TAC §11.7(2)(A) is clear that priority is given to Applications that are, “located in closest proximity to the following features as of the Full Application Delivery Date.”

Staff presented this matter to the Department’s Governing Board at the meeting held on June 13, 2024. The Board did not remand the matter back to staff for further consideration. Following the presentation, staff notified the Applicant that the Target location would be excluded from tie-breaker consideration. The Applicant timely appealed the determination on June 20, 2024.

In addition to the points already addressed in this correspondence, the appeal cites the Opportunity Index scoring item in the QAP, which awards points to Development Sites that are located in high opportunity areas in close proximity to certain amenities. While that specific scoring item does state that amenities may be considered so long as site work has commenced by the Pre-Application Final Delivery Date, this scoring item is not relevant to the tie-breaker established at 10 TAC §11.7(2), which specifically states that the features in question must be present as of the Full Application Delivery Date, with no additional language to allow for features that are under construction. The appeal also refers to an Application from 2017 that used an under-construction HEB grocery store as a tie-breaker factor. It is suggested that this situation, in which the appeal was granted, contradicts staff’s determination regarding the Target store. This decision, however, concerned a prior tie-breaker that has since been removed from the QAP and replaced with entirely new language.

Because the Target store did not meet the definition established in 10 TAC §11.7(2) as of the Full Application Delivery Date, your appeal is denied. This matter has been placed on the agenda for the meeting of the Department’s Governing Board to be held on July 11, 2024.

If you have any questions or concerns, please contact Cody Campbell, Director of Multifamily Programs, at 512-475-1676 or by email at [cody.campbell@tdhca.state.tx.us](mailto:cody.campbell@tdhca.state.tx.us).

Sincerely,

A handwritten signature in blue ink, appearing to read "R D Wil II".

Bobby Wilkinson  
Executive Director