

# Texas Department of Housing and Community Affairs



## Board Book

**Thursday, November 7, 2024**

**10:00 AM**

**Texas Capitol,  
1100 Congress Avenue  
Capitol Extension Room E1.012  
Austin, TX 78701**

## Governing Board

*Leo Vasquez III, Chair  
Kenny Marchant, Vice-Chair  
Ajay Thomas, Member  
Anna Maria Farias, Member  
Holland Harper, Member  
Cindy Conroy, Member*

**Texas Department of Housing and Community Affairs  
Programmatic Impact Fiscal Year 2024**

**CY 24 9% LIHTC Program**

- Total Applications Rec'd: 105
- Total Market Rate Units Proposed: 382
- Total Low-Income Units Proposed: 6,761
- Total HTCs Requested: \$147,949,857

*Construction Type:*

- Total Proposed New Construction Projects: 67
- Total Proposed Reconstruction Projects: 5
- Total Proposed Rehab Projects: 23

**CY 24 4% LIHTC Program**

**Active or Approved Applications:**

- Total Applications: 34
- Total Units Proposed: 8,226

**Closed Applications:**

- Total Applications: 31
- Number of Low Income Units Proposed: 7,096

*Construction Type*

- Total Proposed New Construction Projects: 45
- Total Proposed Rehab/Reconstruction Projects: 20

**Owner Financing and Down Payment**

- 30-year, fixed interest rate mortgage loans
- Mortgage credit certificates
- Down payment, closing cost assistance
- Homebuyer education

*Programs:*

- Single Family Homeownership

Expended Funds: \$1,465,239,636  
Total Households Served: 6,160

**Energy Related Assistance**

- Utility bill payment assistance
- Energy consumption education
- Weatherization for energy efficiency

*Programs:*

- Comprehensive Energy Assistance Program (CEAP)
- Weatherization Assistance Program (WAP)

Expended CEAP Funds: \$ 206,365,264  
Total Households Served: 123,398

**Homelessness Services**

- Shelter building rehabilitation, conversion, operations
- Essential services e.g., health services, transportation, job training, employment services

*Programs:*

- Emergency Solutions Grant Program (ESG)
- Homeless Housing and Services Program (HHSP)

Expended Funds: \$21,078,699  
Total Individuals Served: 47,479

**Rental Assistance**

- Short, long term rent payment help
- Assistance linked with services, Transitional assistance

*Programs:*

- Tenant-Based Rental Assistance (TBRA)
- Section 8 Housing Choice Vouchers
- Section 811

Expended Funds: \$31,370,641  
Total Households Served: 3,439

**Owner Rehabilitation Assistance**

- Home rehabilitation, reconstruction
- Manufactured housing unit replacement
- Accessibility modifications e.g., ramp, grab bar installation

*Programs:*

- Homeowner Reconstruction Assistance Program (HRA)\*
- Amy Young Barrier Removal Program Expended

Funds: \$18,725,608  
Total Households Served: 193

**Supportive Services**

Provides administrative support for essential services for low income individuals through Community Action Agencies

*Program:*

- Community Services Block Grant Program (CSBG)

Expended Funds: \$33,275,765  
Total Individuals Served: 309,102

**Single Family Development**

- Single family development, reconstruction, rehabilitation
- NSP, Do-it-yourself, "sweat equity" construction (bootstrap), rehabilitation, Contract for Deed refinance

*Programs:*

- Single Family Development Program (SFD)\*
- Contract for Deed (CFD)

Expended Funds: \$3,651,960  
Total Households Served: 58

**Total Expended Funds: \$2,070,733,718**

**Total Households Served: 504,428**

All FY2024 data as reported in TDHCA's 2024 performance measures.

*Note: Some households may have been served by more than one TDHCA program. For some programs, allocation is used as a proxy for expenditures. Because of timing of funds request, the funds expended for the quarter may be readjusted substantially by year end.*

Reporting Period: 9/1/2023-8/31/2024 (4% and 9% LIHTC Program figures as of 10/15/2024)

\* Administered through the federally funded HOME Investment Partnerships Program

**CALL TO ORDER**

**ROLL CALL**

**CERTIFICATION OF QUORUM**

**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 Tex. Gov't Code, Texas Open Meetings Act. Action may be taken on any item on this agenda, regardless of how designated.

**EXECUTIVE**

- 1. Presentation, discussion, and possible action on the Board meeting minutes summary for October 10, 2024 Beau Eccles

**ASSET MANAGEMENT**

- 2. Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Eden Court (HTC #23428) Rosalio Banuelos
- 3. Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Waterview Apartments (HTC #21414) Rosalio Banuelos
- 4. Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Centerpoint Commons (HTC #24400) Rosalio Banuelos

**RULES**

- 5. Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 1, Subchapter A General Policies and Procedures, §1.9, Household Recipient Privacy Policy for Federal Funds or Assistance; and directing its publication in the Texas Register Brooke Boston

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| 6. | Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and an order adopting new 10 TAC Chapter 12 concerning the Multifamily Housing Revenue Bond Rules, and directing the publication in the Texas Register | Teresa Morales |
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**CONSENT AGENDA REPORT ITEMS**

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| 7.  | Report on the Department's 4th Quarter Investment Report relating to funds held under Bond Trust Indentures   | Scott Fletcher |
| 8.  | Report regarding a Request for Proposal issued by the Texas Department of Housing and Community Affairs (TDHCA) for Master Servicer and selection thereof | Scott Fletcher |
| 9.  | Report on TDHCA One-Time or Temporary Allocations - Pandemic Response and Other Initiatives   | Brooke Boston  |
| 10. | Report on the Department's 4th Quarter Investment Report in accordance with the Public Funds Investment Act   | Joe Guevara    |
| 11. | Media Analysis and Outreach Report, September 2024  | Michael Lyttle |

**ACTION ITEMS**

Executive Session: the Chair may call an Executive Session at this point in the agenda in accordance with the below-cited provisions

**EXECUTIVE**

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| 12. | Executive Director's Report | Bobby Wilkinson |
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**MULTIFAMILY BOND**

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|-----|--|----------------|
| 13. | Presentation, discussion, and possible action regarding the issuance of a Determination Notice for 4% Housing Tax Credits for Creek Bend Apartments in San Antonio (#24478)  | Teresa Morales |
| 14. | Presentation, discussion and possible action regarding a waiver of 10 TAC §11.101(b)(1)(A)(vii) of the Qualified Allocation Plan (QAP) relating to the percentage of efficiency and/or one-bedroom units for Oak Hill Lofts (#24495).                                | Teresa Morales |
| 15. | Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Walnut Springs) Series 2024A-1 and Series 2024A-2 Resolution No. 25-008, an award of Direct Loan funds, and a Determination Notice of Housing Tax Credits | Teresa Morales |

**ASSET MANAGEMENT**

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- 16.** Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application, changes to the ownership structure, and a waiver of 10 TAC §11.9(b)(2)(A) for Avanti Legacy del Sol (HTC #23015) Rosalio Banuelos

**LEGAL**

- 17.** Presentation, discussion, and possible action on recommendation to adopt an Agreed Final Order assessing an administrative penalty relating to Rosemont at Meadow Lane (HTC 03433 / CMTS 3421), and a Final Order of debarment for Evan J. Hunden, David B. Ratliff, and Michael Volz Sascha Stremler

**RULES**

- 18.** Presentation, discussion, and possible action on order proposing the repeal of 10 TAC Chapter 23, Single Family HOME Program, and orders proposing new 10 TAC Chapter 23, Single Family HOME Program Rules, and directing their publication for public comment in the Texas Register Abigail Versyp
- 19.** Presentation, discussion, and possible action on an order adopting amendments to 10 Texas Administrative Code Chapter 10, Uniform Multifamily Rules, Subchapter I, Public Facility Corporation Compliance Monitoring §10.1103 Reporting Requirements and directing it will be published for adoption in the Texas Register Amy Hammond

**MULTIFAMILY FINANCE**

- 20.** Presentation, discussion, and possible action regarding material amendments to previous 9% Competitive Housing Tax Credit Applications to award State Housing Tax Credits and approval of the waiting list for 2024 State Housing Tax Credit Applications. Josh Goldberger
- 21.** Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for 3300 Caroline Cody Campbell
- 22.** Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Beaumont Pioneer Crossing Cody Campbell
- 23.** Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Brownwood Pioneer Crossing Cody Campbell
- 24.** Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Burkburnett Royal Gardens Cody Campbell

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| 25. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Royal Gardens Lufkin   | Cody Campbell   |
| 26. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Estacado Estates       | Cody Campbell   |
| 27. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Parkside on Carrier    | Cody Campbell   |
| 28. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Riverview Manor        | Cody Campbell   |
| 29. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Sweetwater Station     | Cody Campbell   |
| 30. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Trailside Estates      | Cody Campbell   |
| 31. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Avanti Legacy Del Sol  | Josh Goldberger |
| 32. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Avanti Legacy Lyon     | Josh Goldberger |
| 33. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Candlewood Village     | Josh Goldberger |
| 34. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Country Villa          | Josh Goldberger |
| 35. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Vista at Thousand Oaks | Josh Goldberger |
| 36. | Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for The Rushmore           | Josh Goldberger |
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37. Presentation, discussion, and possible action on the adoption of the repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, adoption of new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and directing their publication for adoption in the Texas Register following the statutory opportunity for gubernatorial acceptance, revision, or rejection.

Cody Campbell

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

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;

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;

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;

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

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.

**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.texas.gov](http://www.tdhca.texas.gov) 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 X (Twitter).

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Danielle Leath, 512-475-4606, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Danielle Leath, al siguiente número 512-475-4606 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

There is not a remote online or telephone option for public participation in this meeting, so those wishing to make public comment during the meeting must appear in person. This meeting will, however, be streamed online for public viewing.



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 813**

**Agenda Date: 11/7/2024**

**Agenda #: 1.**

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Presentation, discussion, and possible action on the Board meeting minutes summary for October 10, 2024

**RECOMMENDED ACTION**

Approve the Board meeting minutes summary for October 10, 2024

**RESOLVED**, that the Board meeting minutes summary for October 10, 2024, is hereby approved as presented.

**Texas Department of Housing and Community Affairs Governing Board  
Board Meeting Minutes Summary  
October 10, 2024**

On Thursday, the tenth day of October 2024, at 10:00 a.m., the regular meeting of the Governing Board (Board) of the Texas Department of Housing and Community Affairs (“TDHCA” or “the Department”) was held in Williamson Board Room of the TxDOT Dewitt C. Greer State Highway Building, 125 E. 11th Street, Austin, Texas.

The following members, constituting a quorum, were present and voting:

- Leo Vasquez, III, Chair
- Kenny Marchant, Vice Chair
- Cindy Conroy
- Anna Maria Farias
- Holland Harper
- Ajay Thomas

Mr. Vasquez served as Chair, and James “Beau” Eccles, TDHCA General Counsel, served as Secretary.

1) The Board unanimously approved the Consent Agenda (items 1-5) and Consent Agenda Report Items (items 6-7) except for Item 2 – presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Eden Court (HTC #23428) – which was withdrawn from the agenda.

2) The Board went into Executive Session at 10:03 a.m. and returned at 10:21 a.m., not adopting any policy, position resolution, rule regulation, or any formal action or vote on any item.

3) Action Item 8 – Executive Director’s Report – was presented by Bobby Wilkinson, TDHCA Executive Director. The Board heard the report and took no further action.

4) Action Item 9 – Report regarding a Request for Proposal issued by the Texas Department of Housing and Community Affairs for Servicer Oversight Provider and selection thereof – was presented by Scott Fletcher, TDHCA Director of Bond Finance. The Board heard the report and took no further action.

5) Action Item 10 – Presentation from nonprofit and community stakeholders on matters concerning housing policy – was presented by Cody Campbell, TDHCA Director of Multifamily Finance. The Board heard the presentation and associated public comment (listed below) and took no further action.

- Tanya Lavelle, Disability Rights Texas, provided comments on the item
- Matt Hull, Texas Association of Community Development Corporations, provided comments on the item
- Ben Martin, Texas Housers, provided comments submitted by Ann Lott, Inclusive Communities Project, who was unable to attend
- Eric Samuels, Texas Homeless Network, provided comments on the item
- Steven Fairfield, Covenant Community Capital, provided comments on the item
- Mr. Martin provided comments on the item on behalf of Texas Housers

6) Action Item 11 – Presentation, discussion, and possible action on Resolution No. 25-001 authorizing request to the Texas Bond Review Board for annual waiver of Single Family Mortgage Revenue Bond set-aside requirements; authorizing the execution of documents and instruments relating thereto; making certain findings and determinations in connection therewith; and containing other provisions relating to the subject – was presented by Mr. Fletcher. The Board unanimously adopted staff recommendation to approve the resolution.

7) Action Item 12 – Presentation, discussion, and possible action regarding Resolution No. 25-004 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs single family mortgage revenue bonds or residential mortgage revenue bonds, in one or more series and installments; approving the form and substance of related documents; authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution; and containing other provisions relating to the subject – was presented by Mr. Fletcher. The Board unanimously adopted staff recommendation to approve the resolution.

8) Action Item 13 – Presentation, discussion and possible action regarding a waiver of 10 TAC §11.101(b)(1)(A)(vii) of the Qualified Allocation Plan (QAP) relating to the percentage of efficiency and/or one bedroom units for Oak Hill Lofts (#24495) – was presented by Teresa Morales, TDHCA Director of Multifamily Bonds, with additional information from Mr. Wilkinson and Mr. Eccles. Following public comment (listed below), the Board did not concur with staff recommendation to deny the waiver request but approved by a 5-1 vote (Member Harper voting nay) a measure to table the item to a future meeting.

- Greg Stoll, representing the applicant Broadway Homes and Rose Equities, provided comments in opposition to staff recommendation
- Robbye Meyer, Arx Advantage and representing the applicant, provided comments in opposition to staff recommendation

9) Action Item 14 – Presentation, discussion, and possible action on Inducement Resolution No. 25-006 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority – was presented by Ms. Morales. The Board unanimously adopted staff recommendation to approve the resolution.

10) Action Item 15 – Presentation, discussion, and possible action on Inducement Resolution No. 25-010 for Multifamily Housing Revenue Bonds or Notes regarding authorization for filing applications to be added to the Department’s Waiting List for private activity bond authority and/or submitted for Traditional Carryforward for Braniff Lofts – was presented by Ms. Morales. The Board unanimously adopted staff recommendation to approve the resolution.

11) Action Item 16 – Presentation, discussion, and possible action on Inducement Resolution No. 25-007 for Multifamily Housing Revenue Bonds regarding authorization for filing an application for private activity bond authority for Fiji Lofts (#21608) – was presented by Ms. Morales with additional information from Mr. Wilkinson. Following public comment (listed below), the Board unanimously adopted staff recommendation to approve the resolution.

- Tekevwe Okobiah, the applicant with Sphinx Development Corporation, provided comments in support of staff recommendation
- Miguel Herrera, Cameron County Housing Authority, provided comments on the item

12) Action Item 17 – Presentation, discussion, and possible action on Inducement Resolution No. 25-009 for Multifamily Housing Revenue Bonds regarding authorization for filing an application for private activity bond authority for Murdeaux Villas (#21614) – was presented by Ms. Morales with additional information from Mr. Wilkinson. Following public comment (listed below), the Board adopted by a 5-0 vote (Member Harper abstained) staff recommendation to approve the resolution.

- Adam Horton, the applicant with Trinity Housing Development, provided comments in support of staff recommendation

13) Action Item 18 – Presentation, discussion, and possible action on Inducement Resolution No. 25-005 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority for Legacy Riverside Senior Living Community (#20613) – was presented by Ms. Morales with additional information from Mr. Wilkinson. Following public comment (listed below), the Board unanimously approved a measure to table the item to a future meeting.

- Melissa Fisher, the applicant with Rise Residential, provided comments on the item
- Wallace Reed, the consultant for the applicant with Sonoma Housing Advisors, provided comments on the item

14) Action Item 19 – Presentation, discussion, and possible action on pre-applications received for consideration of an Inducement Resolution for Multifamily Housing Revenue Bonds to be issued by the Department – was pulled from the agenda.

15) Action Item 20 – Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.9(b)(2)(A) and ownership structure change for Estacado Estates (HTC #23807 / #22153) – was presented by Rosalio Banuelos, TDHCA Director of Asset Management. The Board

unanimously approved staff recommendation to approve the waiver request and ownership structure change.

16) Action Item 21 – Presentation, discussion, and possible action regarding an increase to the Housing Tax Credit amount for Bridge at Canyon View (HTC #19411) – was presented by Mr. Banuelos. The Board unanimously approved staff recommendation to increase the tax credit amount for Bridge at Canyon View.

17) Action Item 22 – Presentation, discussion and possible action on regarding approval of a HOME-ARP Allocation Plan Second Amendment to add reallocated funds to the nonprofit capacity building/operating cost assistance, non-congregate shelter activities and administration activities to be released for public comment – was presented by Naomi Cantu, TDHCA Director of the HOME-ARP Program. The Board unanimously adopted staff recommendation to approve the second amendment to the HOME-ARP allocation plan.

18) Action Item 23 – Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Eban Village I (HTC # 95047/ CMTS # 1354) and Eban Village II (HTC # 99022 / CMTS 2087) – was presented by Sascha Stremmer, TDHCA Assistant General Counsel, with additional information from Mr. Eccles. The Board unanimously approved staff recommendation to adopt the agreed final order.

19) Action Item 24 – Presentation, discussion, and possible action on recommendation to debar multiple parties for conduct relating to Plainview II Triplex (HOME 532315 / CMTS 2658) – was presented by Ms. Stremmer. The Board unanimously adopted staff recommendation for a 10-year debarment of the multiple parties referenced in the item.

20) Action Item 25 – Presentation, discussion, and possible action on Program Year 2024 Emergency Solutions Grants Program Awards – was presented by Rosy Falcon, TDHCA Manager of Homeless Programs. The Board unanimously adopted staff recommendation to approve the awards.

21) Action Item 26 – Presentation, discussion, and possible action to ratify staff's actions to accept and implement the Rapid Unsheltered Survivor Housing allocation under the Emergency Solutions Grants Program (ESG RUSH), and to ratify staff's submission of an amendment to the State of Texas 2023 State of Texas One Year Action Plan reflecting such action – was presented by Ms. Falcon. The Board unanimously adopted staff recommendation to ratify the acceptance of the ESG RUSH award allocation, submission of an amendment to the 2023 State of Texas Action Plan, and approve the administration and award the first allocation of ESG RUSH funding, as referenced in the item.

22) Action Item 27 – Presentation, discussion, and possible action authorizing staff to register interest in, apply for, and accept additional Veterans Affairs Supportive Housing vouchers offered by the U.S. Department of Housing and Urban Development, and authorization to subsequently administer such awarded vouchers – was presented by Andre Adams, TDHCA

Manager of the Section 8 Program. The Board unanimously adopted staff recommendation to ratify the submission of the Registrations of Interest, and approve the acceptance and administration of any resulting VASH vouchers, as referenced in the item.

23) Action Item 28 – Presentation, discussion, and possible action to authorize the issuance of the 2025 HOME Investment Partnerships Program Single Family Persons with Disabilities Set-Aside Notice of Funding Availability and publication of the NOFA in the *Texas Register* – was presented by Chad Landry, TDHCA Manager of Single Family Programs. The Board adopted staff recommendation to approve issuance of the NOFA by a vote of 5-0 (Member Conroy was not present on the dais at the time of the vote).

24) Action Item 29 – Presentation, discussion, and possible action on Colonia Self-Help Center Program Awards to Maverick County, Val Verde County, Webb County, and Hidalgo County in accordance with Tex. Gov't Code §2306.582 through Community Development Block Grant Funding – was presented by Mr. Landry. The Board unanimously adopted staff recommendation to approve the awards.

25) Action Item 30 – Presentation, discussion, and possible action regarding a new outside counsel contract, and delegation of contract signature authority to the Executive Director – was presented by Mr. Campbell with additional information from Mr. Eccles. The Board unanimously approved staff recommendation to authorize entering into a new outside counsel contract as referenced in the item.

26) Action Item 31 – Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Vista at Silver Oaks – was presented by Joshua Goldberger, TDHCA Manager of the Competitive (9%) Housing Tax Credit Program. The Board unanimously adopted staff recommendation to approve the force majeure request.

27) Action Item 32 – Presentation, discussion, and possible action regarding a loan and a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for 305 E Round Grove Living – was presented by Mr. Campbell. The Board unanimously adopted staff recommendation to approve the loan and force majeure requests.

28) During the general public comment portion of the meeting, the following comment was heard:

- Marty Mascari, North Texas Council of Governments, provided comments regarding TDHCA's online vacancy clearinghouse

Except as noted otherwise, all materials presented to and reports made to the Board were approved, adopted, and accepted. These minutes constitute a summary of actions taken. The full transcript of the meeting, reflecting who made motions, offered seconds, etc., questions

and responses, and details of comments, is retained by TDHCA as an official record of the meeting.

There being no further business to come before the Board, the meeting adjourned at 2:03 p.m. The next meeting is scheduled for Thursday, November 7, 2024.

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Secretary

Approved:

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Chair



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 779**

**Agenda Date: 11/7/2024**

**Agenda #: 2.**

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Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Eden Court (HTC #23428)

**RECOMMENDED ACTION**

**WHEREAS**, Eden Court (the Development) received an award of 4% Housing Tax Credits (HTCs) in 2023 for the acquisition and rehabilitation of 110 elderly preference units in Seguin, Guadalupe County;

**WHEREAS**, Eden Court Senior Housing LP (the Development Owner or Owner) requests approval for a material amendment to the Application to decrease the number of low-income units from 110 to 109;

**WHEREAS**, one household was discovered to be over income when the management company began income qualifications of the current residents, and the Owner would like to turn the unit into a market unit now to not displace this elderly tenant;

**WHEREAS**, the requested change reduces the applicable fraction from 100% to 98.78%, resulting in a reduction of approximately \$15,000 in annual Housing Tax Credits, which will result in a reduction of approximately \$140,000 to equity proceeds but will not impact the Development's financial feasibility; and

**WHEREAS**, Board approval is required for a reduction in the number of low-income units, and the Development Owner has complied with the amendment requirements in 10 TAC §10.405 (a);

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested amendment for Eden Court is approved as presented at this meeting, and the Executive Director and his designees are each hereby authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

**BACKGROUND**

Eden Court received a 4% HTC award to acquire and rehabilitate 110 units in Seguin, Guadalupe County. In a letter dated August 29, 2024, Tracey Fine, representative for the Development Owner, requested approval to decrease the number of low-income units from 110 to 109. This change represents a material amendment to the Application.

The Development Owner states that a single current household is not income qualified. This household is a long-term resident who is disinclined to move.

The change in the number of low-income units will result in the LURA restricting 28 units at 50% of Area Median Income (AMI); 81 units at 60% AMI; and one unit at market rate.

There is an anticipated loss of approximately \$15,000 in annual tax credits or \$140,000 in equity as a result of this change, which can be absorbed through an increase in deferred developer fee. Rental income and operating expense assumptions remain unchanged from application, representing a nonmaterial impact to the underwriting. The development remains feasible, and the final credit amount will be determined at cost certification.

The Owner indicated that the necessity of this amendment was not reasonably foreseeable at the time of application. The Owner did not know when this transaction was put together if this resident would want to leave prior to income certification, and since this tenant's unit was originally a non-HTC unit, the Owner was not able to certify the tenant's income prior to submitting the Application.

Staff has determined that the proposed change noted above would not have impacted the HTC award.

Staff recommends approval of the amendment request as presented herein.



August, 29, 2024

Rosalio Banuelos  
Director of Multifamily Asset Management  
Texas Department of Housing and Community Affairs  
221 E. 11th Street | Austin, TX 78701  
Office: 512.475.3357

Re: Eden Court 23428  
Application Amendment

Mr. Banuelos,

We are requesting to change Eden Court 23428 from 110 units at 100% LIHTC to 109 LIHTC units and 1 market rate unit, a 2br, 946 SF unit, reducing the applicable fraction to 98.78%.

Eden Court is composed of the combination of 2 adjacent properties including Eden Place, which was originally built under the LIHTC program and has an existing LURA which originally included 4 market rate units.

We planned and submitted the resyndication of Eden Place as 100% LIHTC and hoped that the residents of those 4 “market rate” units would either income qualify or move-out over the 3+ year course to put together the project, close and renovate. While this approach was successful for 3 of the 4 units, one longtime resident, a senior household, is just slightly over-income and does not want to move from her home of many years.

While it would be our preference to remain 100% LIHTC and lease the unit once this household moves out, at their own will, TDHCA has said that is not an option. Since we believe it is cruel to force this elderly woman to move from her home of many years, we don’t believe we have another option other than amending the application to turn one unit into a non-qualified unit.

The reduction in applicable fraction from 100% to 98.78% is very minimal. We lose about 15,000 LIHTCs or \$140k in equity based on our original application. Rent income and operating expense assumptions remain the same. The project remains feasible.

The necessity of the amendment was not reasonably foreseeable at the time of Application. We did not know when we put this transaction together, if this resident would want to leave prior to income certification. Since her unit was originally a non LIHTC unit, we were not able to certify her income prior to submitting the application. Even at this moment, in the event of a major health event that would require this resident to move to higher care living or even death, we would want the unit to be a LIHTC unit. But it appears we are left with no choice, but to turn the unit into a market unit now, so we do not displace this elderly woman.

I have updated the excel application to reflect the change of this one unit. Appreciate your assistance in this matter.



Regards,



Tracey Fine

[tfine@nationalchurchresidences.org](mailto:tfine@nationalchurchresidences.org)

773-860-5747

Senior Director of Housing





Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 806

**Agenda Date:** 11/7/2024

**Agenda #:** 3.

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Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Waterview Apartments (HTC #21414)

**RECOMMENDED ACTION**

**WHEREAS**, Waterview Apartments (the Development) received a 4% Housing Tax Credit (HTC) award in 2021 for the new construction of 300 units in Anna, Collin County;

**WHEREAS**, Anna Crossing Partners LP (the Development Owner or Owner) requests approval to change the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election);

**WHEREAS**, Average Income has an administrative burden and risk of noncompliance with varying income levels, and lenders and syndicators have become increasingly unable to accept income averaging;

**WHEREAS**, with a change to the 40% at 60% set-aside and all of the units at 60% Area Median Income (AMI) to replace income averaging, the Owner was able to close with the lender and syndicator despite less favorable pricing terms;

**WHEREAS**, Board approval is required for a request to implement a revised election under §42 (g) of the Code prior to filing of IRS Form(s) 8609 as directed by 10 TAC §10.405(a)(4)(G), and the Applicant has complied with the amendment requirements under 10 TAC §10.405(a); and

**WHEREAS**, the requested change does not negatively affect the Development, impact the viability of the transaction, impact the scoring of the Application, or impact the HTC award;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material application amendment for Waterview Apartments is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

**BACKGROUND**

Waterview Apartments (HTC #21414) was approved for a 4% HTC award in 2021 for the new

construction of 300 units of general multifamily housing in Anna, Collin County. Construction of the Development is currently in progress. The Owner originally elected Average Income as the Qualified Low Income Housing Development Election, with an average income under 60%, which would allow the property to serve households with incomes ranging from 20% to 80% of the Area Median Income (AMI).

In a letter dated September 20, 2024, John Hickman, the representative for the Owner, requested approval for a material amendment to the Application to revise the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election). With this change, the Development would have all units restricted as 60% AMI units. The average income for the low-income units would remain at 60%.

The Owner states that since initial application in 2021, the financial feasibility for the Development has changed. At application, the tax credit equity pricing was \$0.90 and the debt financing at an interest rate of 3.75%. However, at the time of closing, the tax credit pricing had fallen to \$0.83, and the interest rate had risen to 4.04%. It was not foreseeable that the market would change as quickly as it did. Additionally, lenders and syndicators have become increasingly unable to accept income averaging due to the administrative burden and risk of noncompliance. Income averaging poses difficulties in maintaining compliance with the varying income levels, which increases the risk of errors during compliance monitoring process. The Owner closed with the lender and syndicator despite the less than favorable pricing terms by assuming a set-aside of 100% of the units at 60% AMI instead of the Average Income election. The Owner did not realize the requirement for a material application amendment until the Land Use Restriction for the Development was drafted by the Department reflecting the Average Income restriction.

The requested amendment to the Application does not materially alter the Development, nor does it have a negative financial impact on the Development because the average income remains at 60% of AMI with minimal impact to the potential gross income. The Owner has provided documentation from the lender and the investor acknowledging the requested change.

Staff recommends approval of the material amendment request.



# PROVIDENT

September 20, 2024

**Via Email**

Lucy Weber, Asset Manager  
Asset Management Division  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701

RE: Material Application Amendment Request  
Waterview Apartments, Anna, Texas – TDHCA #21414 / CMTS #5775

Dear Mr. Banuelos and Ms. Weber,

This is a request for a material application amendment on behalf of Anna Crossing Partners LP, a Texas limited partnership (“Owner”), in accordance with Section 10.405(a)(4)(G) of the 2024 Post Award and Asset Management Requirements Rules (the “Rules”). The Owner received an award of 4% Housing Tax Credits for the new construction of Waterview Apartments in the City of Anna, Texas (the “Development”). The 2021 4% Housing Tax Credit Application accurately indicated the Development will serve low-income households with a total of three hundred apartment units, of which all will be rent restricted. We respectfully request an amendment to the Application to implement a revision to the income limitation election under §42(g)(1) of the Internal Revenue Code of 1986, as amended (the “Code”), prior to filing of IRS Form 8609s as outlined in the table below. The Application elected the Average Income Test [ §42(g)(1)(C) ] and we wish to revise that election to the 40-60 Test [ §42(g)(1)(B) ].

	<b>2021 4% Housing Tax Credit Application</b>	<b>Requested Material Application Amendment</b>
Affordability:	75 units @ 50% AMI (25%) 150 units @ 60% AMI (50%) 75 units @ 70% AMI (25%)	300 units @ 60% AMI (100%)
Unit Mix:	34 One Bdrm 106 Two Bdrm 123 Three Bdrm 37 Four Bdrm	No change
Total Units:	300 total units	No change

We believe the requested amendment to the Application does not materially alter the Development, nor does it have a materially negative financial impact on the Development because the average income remains unchanged at 60% of AMI and the Potential Gross Revenue remains the same. Since the Development was not in the Competitive Round, the requested change in income limitation will not impact any other project.



## PROVIDENT

After approval of the Application submitted in 2021, multiple factors influenced the financial feasibility of the Development. The Application presumed tax credit equity pricing of \$0.90 and debt financing at an interest rate of 3.75%. In their respective term sheets included in the Application, both the lender and syndicator acknowledged the average income election by the Owner. By the time of closing, however, the capital markets were deteriorating, the Development's tax credit equity price had fallen to \$0.83, and the interest rate had risen to 4.04%. It was not foreseeable that the market would change as rapidly as it did. Additionally, lenders and syndicators have become increasingly unable to accept income averaging due to the administrative burden and perceived risk of non-compliance. Income averaging introduces difficulties in maintaining compliance with the varying income levels, which increases the risk of errors during the compliance monitoring process.

The Owner was able to close with its lender and syndicator despite the less favorable pricing terms by assuming a set-aside of 100% of the units @ 60% AMI in lieu of income averaging. We did not foresee that this change would require a material application amendment until the draft LURA was produced for review incorporating the average income restriction, otherwise we would not have taken the risk of closing without previously amending the Application. This The requested amendment will help to ensure the long-term financial feasibility of the Development while continuing to serve families with incomes at or below 60% AMI.

Attached are the Development Narrative (Tab #17) and the Rent Schedule (Tab #24) exhibits that have been revised to reflect this proposed change. The ProForma and Schedule of Sources exhibits are not impacted by this change.

Also attached you will find approval of the request herein from both the Owner's lender, Citibank, N.A., and syndicator, Stratford Capital Group LLC (the "Approvals"). In accordance with Section 10.405(a)(7) of the Rules, the Approvals include written acknowledgement that lender and syndicator are aware of the change requested herein which is necessary for the continued financial feasibility of the Development, and confirmation of any changes in terms as a result of the new election.

Included is the Material Amendment Fee of \$2,500.00 in accordance with Section 10.405(a) of the Rules.

Please let us know if you have any further questions or require further documentation.

Sincerely,

John Hickman  
Director  
Provident Realty Advisors, Inc.



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 811**

**Agenda Date: 11/7/2024**

**Agenda #: 4.**

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Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Centerpoint Commons (HTC #24400)

**RECOMMENDED ACTION**

**WHEREAS**, Centerpoint Commons (Development) received an award of 4% Housing Tax Credits (HTCs) in 2024 for the new construction of 363 multifamily units in San Marcos, Hays County;

**WHEREAS**, SL Centerpoint Commons, LP (the Applicant) requests approval for a change in the unit mix due to requirements from the City of San Marcos (the City) not allowing four-bedroom units under its multifamily regulations and also requiring a minimum of 35% of units in affordable housing developments to be three-bedroom units;

**WHEREAS**, the Applicant requests approval to lease the four-bedroom units as three-bedroom units with a den area without impacting the total number of units or impacting the overall income and rent restrictions;

**WHEREAS**, Board approval is required for a modification of the bedroom mix of units as directed in Tex. Gov't Code §2306.6712(d)(2) and 10 TAC §10.405(a)(4)(B), and the Applicant has complied with the amendment requirements therein; and

**WHEREAS**, the requested changes to the bedroom mix do not materially alter the Development in a negative manner, would not have adversely affected the selection of the Application, and do not impact the viability of the transaction;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material amendment to the Application for Centerpoint Commons is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the Board's determination.

**BACKGROUND**

Centerpoint Commons received an award of 4% Housing Tax Credits in 2024 for the new construction of 363 multifamily units, all of which are low-income units, in San Marcos, Hays County. In a letter dated September 16, 2024, Lora Myrick, on behalf of the Applicant, requested approval for a material amendment to the Application. The amendment request

proposes a change in the unit mix and explains that the change is necessary because the City of San Marcos does not allow four-bedroom units under their multifamily regulations. The issue was not brought to the Applicant's attention until the application for a Resolution of No Objection was submitted. It was also realized that the City of San Marcos requires a minimum of 35% of units in affordable housing developments to be three-bedroom units. By incorporating four-bedroom units, it was thought the minimum requirement would be satisfied. To remedy both issues encountered, the Applicant proposes to lease the 24 four-bedroom units as three-bedroom units with a den area. The total number of units will not change.

The Applicant intended to provide larger units for families; however, the City implemented the prohibition of four-bedroom units to deter renting by bedrooms to students, which was an unintended consequence for affordable housing developments. Adjustments were made to some units' Area Median Income (AMI) designation to accommodate for the loss of income from the four-bedroom rents, but the overall income and rent restrictions did not change. The Development still meets the 15% at 30% AMI and 85% at 60% AMI designations for Priority 2 status for the bond financing. Additionally, the square footage of two floor plans have changed. The area of the two-bedroom units increased from 893 square feet to 935 square feet, and the area of the three-bedroom units with a C1 floorplan decreased from 1,079 square feet to 1,029 square feet. Overall, the net rentable square footage increased from 341,733 to 344,331, which represents an increase of less than 1%.

The Development was re-underwritten based on the proposed amendment and revised financial information submitted with the request. The results of the analysis indicate the Development is still feasible with no changes to the costs and financing structure and that there is no change to the HTC award.

Staff recommends approval of the requested material amendment to the Application.



**Addendum to Underwriting Report**

TDHCA Application #: **24400** Program(s): **4% HTC**

**Centerpoint Commons**

Address/Location: SWQ Centerpoint Road and Commercial Loop

City: San Marcos County: Hays Zip: 78666

APPLICATION HISTORY	
Report Date	PURPOSE
10/15/24	Amendment Request
04/10/24	Original Underwriting

**CONDITIONS STATUS**

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.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	55
60% of AMI	60% of AMI	308

**ANALYSIS**

Subsequent to application of Resolution for No Objection, the applicant was informed that the City of San Marcos does not allow 4BR units under their multifamily regulations. They also require a minimum of 35% of units in affordable housing to be 3BR units. To counter both issues the developer has proposed leasing the 4BR units as 3BR units with a den area. The total number of units has been left unchanged, however several changes have been made to the floor plans to accommodate the updated plan.

The following chart details the changes that have been made to the Unit Mix to comply with San Marcos multifamily regulations.

	At Application	Amended
A1		
sf	718	718
30% AMI Units	12	11
60% AMI Units	48	49
Total A1 Units	60	60
A2		
sf	775	775
30% AMI Units	12	14
60% AMI Units	18	16
Total A2 Units	30	30
B1		
sf	893	935
30% AMI Units	11	10
60% AMI Units	133	134
Total B1 Units	144	144
C1		
sf	1079	1029
30% AMI Units	10	12
60% AMI Units	59	57
Total C1 Units	69	69
C2		
sf	1102	1102
30% AMI Units	5	4
60% AMI Units	31	32
Total C2 Units	36	36
C3		
sf	0	1362
30% AMI Units	0	4
60% AMI Units	0	20
Total C3 Units	0	24
D1		
sf	1362	0
30% AMI Units	5	0
60% AMI Units	19	0
Total D1 Units	24	0
Total Net Rentable SF	341,733	344,331
TOTAL UNITS	363	363

**Operating Pro Forma**

Income is updated to 2024 HTC Limits.

Underwritten NOI has increased \$423,642 to \$4,339,226.

**Development Cost**

The Applicant hasn't made any changes to the development cost schedule from the original submission.

**Sources of Funds**

The Applicant hasn't made any changes to the sources of funds from the original submission.

Underwriter recommends an annual tax credit of \$4,236,702 as previously awarded.

Underwriter:	<u>Jack Scholz</u>
Manager of Real Estate Analysis:	<u>Diamond Unique Thompson</u>
Director of Real Estate Analysis:	<u>Jeanna Adams</u>

**UNIT MIX/RENT SCHEDULE**  
**Centerpoint Commons, San Marcos, 4% HTC #24400**

LOCATION DATA	
CITY:	San Marcos
COUNTY:	Hays
Area Median Income	\$126,000
PROGRAM REGION:	7
PROGRAM RENT YEAR:	2023

UNIT DISTRIBUTION							PRO FORMA ASSUMPTIONS		
# Beds	# Units	% Total	Assisted	MDL	ARP	Match	Revenue Growth	2.00%	
Eff	-	0.0%	0	0	0	0	Expense Growth	3.00%	
1	90	24.8%	0	0	0	0	Basis Adjust	130%	
2	144	39.7%	0	0	0	0	Applicable Fraction	100.00%	
3	129	35.5%	0	0	0	0	APP % Acquisition	4.00%	
4	-	0.0%	0	0	0	0	APP % Construction	4.00%	
5	-	0.0%	0	0	0	0	Average Unit Size	949 sf	
<b>TOTAL</b>							<b>363</b>	<b>100.0%</b>	<b>-</b>

55%	Income	20%	30%	40%	50%	60%	70%	80%	EO / MR	TOTAL
Average	# Units	-	55	-	-	308	-	-	-	363
Income	% Total	0.0%	15.2%	0.0%	0.0%	84.8%	0.0%	0.0%	0.0%	100.0%

UNIT MIX / MONTHLY RENT SCHEDULE														
HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				MARKET RENTS	
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Mrkt Analyst	
TC 30%	\$708	11	1	1	718	\$708	\$70	\$638	\$0	\$0.89	\$638	\$7,018	\$1,409	
TC 30%	\$708	14	1	1	775	\$708	\$70	\$638	\$0	\$0.82	\$638	\$8,932	\$1,409	
TC 60%	\$1,417	49	1	1	718	\$1,417	\$70	\$1,347	\$0	\$1.88	\$1,347	\$66,003	\$1,480	
TC 60%	\$1,417	16	1	1	775	\$1,417	\$70	\$1,347	\$0	\$1.74	\$1,347	\$21,552	\$1,480	
TC 30%	\$850	10	2	2	935	\$850	\$91	\$759	\$0	\$0.81	\$759	\$7,590	\$1,564	
TC 60%	\$1,701	134	2	2	935	\$1,701	\$91	\$1,610	\$0	\$1.72	\$1,610	\$215,740	\$1,564	
TC 30%	\$982	12	3	2	1,029	\$982	\$111	\$871	\$0	\$0.85	\$871	\$10,452	\$1,933	
TC 30%	\$982	4	3	2	1,102	\$982	\$111	\$871	\$0	\$0.79	\$871	\$3,484	\$1,960	
TC 60%	\$1,965	57	3	2	1,029	\$1,965	\$111	\$1,854	\$0	\$1.80	\$1,854	\$105,678	\$1,933	
TC 60%	\$1,965	32	3	2	1,102	\$1,965	\$111	\$1,854	\$0	\$1.68	\$1,854	\$59,328	\$1,960	
TC 30%	\$982	4	3	2	1,362	\$982	\$111	\$871	\$0	\$0.64	\$871	\$3,484	\$2,341	
TC 60%	\$1,965	20	3	2	1,362	\$1,965	\$111	\$1,854	\$0	\$1.36	\$1,854	\$37,080	\$2,341	
<b>TOTALS/AVERAGES:</b>		<b>363</b>			<b>344,331</b>				<b>\$0</b>	<b>\$1.59</b>	<b>\$1,505</b>	<b>\$546,341</b>	<b>\$1,699</b>	

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$6,556,092</b>
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\*MFDL units float among Unit Types

## STABILIZED PRO FORMA

*Centerpoint Commons, San Marcos, 4% HTC #24400*

### STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				PRIOR REPORT
	Database		% EGI	Per SF	Per Unit	Amount	Applicant
<b>POTENTIAL GROSS RENT</b>				\$1.59	\$1,505	\$6,556,092	6,098,100
Late Fees, NSF, Pet Deposits					\$20.00	\$87,120	87,120
Total Secondary Income					\$20.00		
<b>POTENTIAL GROSS INCOME</b>						\$6,643,212	\$6,185,220
Vacancy & Collection Loss				7.5% PGI		(498,241)	(463,892)
<b>EFFECTIVE GROSS INCOME</b>						\$6,144,971	\$5,721,329

General & Administrative	\$181,577	\$500/Unit	3.34%	\$0.60	\$565	\$205,000	\$205,000
Management	\$170,722	3.3% EGI	3.73%	\$0.67	\$631	\$229,203	\$229,203
Payroll & Payroll Tax	\$480,660	\$1,324/Unit	4.88%	\$0.87	\$826	\$300,000	\$300,000
Repairs & Maintenance	\$247,583	\$682/Unit	4.88%	\$0.87	\$826	\$300,000	\$300,000
Electric/Gas	\$107,458	\$296/Unit	1.63%	\$0.29	\$275	\$100,000	\$100,000
Water, Sewer, & Trash	\$283,059	\$780/Unit	4.85%	\$0.87	\$821	\$298,000	\$298,000
Property Insurance	\$202,068	\$0.59 /sf	3.25%	\$0.58	\$551	\$200,000	\$200,000
Property Tax (@ 0%)	\$406,608	\$1,120/Unit	0.00%	\$0.00	\$0	\$0	\$0
Reserve for Replacements			1.48%	\$0.26	\$250	\$90,750	\$90,750
Supportive Services			0.85%	\$0.15	\$144	\$52,272	\$52,272
TDHCA Compliance fees (\$40/HTC unit)			0.24%	\$0.04	\$40	\$14,520	\$14,520
Security			0.12%	\$0.02	\$21	\$7,500	\$7,500
Equity Fee			0.14%	\$0.02	\$23	\$8,500	\$8,500
<b>TOTAL EXPENSES</b>			<b>29.39%</b>	<b>\$5.24</b>	<b>\$4,975</b>	<b>\$1,805,745</b>	<b>\$1,805,745</b>
<b>NET OPERATING INCOME ("NOI")</b>			<b>70.61%</b>	<b>\$12.60</b>	<b>\$11,954</b>	<b>\$4,339,226</b>	<b>\$3,915,584</b>

<b>CONTROLLABLE EXPENSES</b>	\$3,314/Unit
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**TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**  
**Centerpoint Commons, San Marcos, 4% HTC #24400**

		DEVELOPMENT COST / ITEMIZED BASIS				
		APPLICANT COST / BASIS ITEMS				
		Eligible Basis		Total Costs		Prior Underwriting
		Acquisition	New Const. Rehab			Applicant
Land Acquisition				\$22,727 / Unit	\$8,250,000	\$8,250,000
Building Acquisition	\$0			\$ / Unit	\$0	\$0
Off-Sites				\$ / Unit	\$0	\$0
Site Work		\$4,750,000		\$13,085 / Unit	\$4,750,000	\$4,750,000
Site Amenities		\$2,040,996		\$5,623 / Unit	\$2,040,996	\$2,040,996
Building Cost		\$40,165,000		\$116.65 /sf	\$110,647/Unit	\$40,165,000
Contingency		\$3,286,920	7.00%	7.00%	\$3,286,920	\$3,286,920
Contractor Fees		\$6,888,839	13.71%	13.71%	\$6,888,839	\$6,888,839
Soft Costs	\$0	\$4,811,828		\$13,256 / Unit	\$4,811,828	\$4,811,828
Financing	\$0	\$8,904,278		\$25,236 / Unit	\$9,160,793	\$9,160,793
Developer Fee	\$0	\$10,627,179	15.00%	15.00%	\$10,627,179	\$10,627,179
Reserves				2 Months	\$1,000,000	\$1,000,000
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$0</b>	<b>\$81,475,041</b>	<b>\$250,638 / Unit</b>	<b>\$90,981,556</b>	<b>\$90,981,556</b>
Acquisition Cost	\$0				\$0	
Contingency			(\$0)		(\$0)	
Contractor's Fee			\$0		\$0	
Financing Cost			\$0			
Developer Fee	\$0	\$0			\$0	
Reserves					\$0	
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$81,475,040</b>	<b>\$250,638/unit</b>	<b>\$90,981,555</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS Applicant's Uses</b>						<b>\$90,981,555</b>

**TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**  
**Centerpoint Commons, San Marcos, 4% HTC #24400**

CREDIT CALCULATION ON QUALIFIED BASIS		
Applicant		
	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$0	\$81,475,040
Deduction of Federal Grants	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$81,475,040
High Cost Area Adjustment		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$105,917,552
Applicable Fraction	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$105,917,552
Applicable Percentage	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$4,236,702
<b>CREDITS ON QUALIFIED BASIS</b>	\$4,236,702	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8398	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$4,236,702	\$35,581,181	----	----	----
<b>Needed to Fill Gap</b>	\$4,483,510	\$37,653,955	----	----	----
<b>Applicant Request</b>	\$4,236,702	\$35,581,181	<b>\$4,236,702</b>	<b>\$0</b>	<b>\$0</b>

50% Test for Bond Financing for 4% Tax Credits		
Tax-Exempt Bond Amount	\$	50,000,000
		Applicant
Land Cost	\$	8,250,000
Depreciable Bldg Cost **	\$	81,475,041
<b>Aggregate Basis for 50% Test</b>	<b>\$</b>	<b>89,725,041</b>
<b>Percent Financed by Tax-Exempt Bond</b>		<b>55.73%</b>

\*\*Depreciable building cost includes: Total construction contract, total building acquisition, total developer fee, plus eligible financing and soft costs.

**PROPOSED SOURCES OF FINANCING**

**Centerpoint Commons, San Marcos, 4% HTC #24400**

DEBT		Type	Interim		Permanent Period				Debt Service		
			Principal	Rate	Principal	Term	Amort	Rate	DCR	Payment	Fee
Gershman 221d4	Perm Loan	\$0	0.00%	\$53,797,600	40.0	40	5.45%	1.26	\$3,442,224	0.25%	
Adjustment to Debt Per §11.302(c)(2)				(\$470,000)	40.0	40	5.45%	1.27	(\$30,073)	0.25%	
Gershman 221d4	Construction Loan	\$53,797,600	5.45%	\$0	0.0	0	0.00%	1.27		0.00%	
<b>TOTAL</b>				<b>\$53,797,600</b>				<b>1.27</b>	<b>Cumulative DCR</b>		
<b>EQUITY</b>											
Affordable Housing Partners	\$4,236,702 HTC Equity	\$35,581,180		\$35,581,181	credit price	annual credits					
					\$0.84	\$4,236,702					
<b>TOTAL</b>				<b>\$35,581,180</b>	<b>\$35,581,181</b>						
<b>PARTNERSHIP DEBT</b>											
Streamline AP - Cash Flow	Deferred Developer Fee	\$1,602,776		\$2,072,775							
<b>TOTAL</b>				<b>\$1,602,776</b>	<b>\$2,072,775</b>						
<b>TOTAL</b>				<b>\$90,981,556</b>	<b>\$90,981,555</b>						

## Long-Term Pro Forma

*Centerpoint Commons, San Marcos, 4% HTC #24400*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$6,144,971	\$6,267,871	\$6,393,228	\$6,521,092	\$6,651,514	\$7,343,809	\$8,108,159	\$8,952,063	\$9,883,800	\$10,912,514	\$12,048,298	\$13,302,294
TOTAL EXPENSES	3.00%	\$1,805,745	\$1,857,625	\$1,911,016	\$1,965,962	\$2,022,509	\$2,330,949	\$2,687,090	\$3,098,381	\$3,573,444	\$4,122,253	\$4,756,356	\$5,489,117
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$4,339,226</b>	<b>\$4,410,245</b>	<b>\$4,482,212</b>	<b>\$4,555,130</b>	<b>\$4,629,006</b>	<b>\$5,012,861</b>	<b>\$5,421,069</b>	<b>\$5,853,681</b>	<b>\$6,310,356</b>	<b>\$6,790,261</b>	<b>\$7,291,941</b>	<b>\$7,813,177</b>
EXPENSE/INCOME RATIO		29.4%	29.6%	29.9%	30.1%	30.4%	31.7%	33.1%	34.6%	36.2%	37.8%	39.5%	41.3%
<b>MUST -PAY DEBT SERVICE</b>													
Gershman 221d4		\$3,442,224	\$3,441,261	\$3,440,244	\$3,439,170	\$3,438,036	\$3,431,342	\$3,422,557	\$3,411,027	\$3,395,895	\$3,376,034	\$3,349,969	\$3,315,760
TOTAL DEBT SERVICE		\$3,412,151	\$3,411,188	\$3,410,171	\$3,409,097	\$3,407,963	\$3,401,269	\$3,392,484	\$3,380,954	\$3,365,822	\$3,345,962	\$3,319,896	\$3,285,688
DEBT COVERAGE RATIO		1.27	1.29	1.31	1.34	1.36	1.47	1.60	1.73	1.87	2.03	2.20	2.38
<b>ANNUAL CASH FLOW</b>		<b>\$927,075</b>	<b>\$999,057</b>	<b>\$1,072,041</b>	<b>\$1,146,033</b>	<b>\$1,221,043</b>	<b>\$1,611,591</b>	<b>\$2,028,585</b>	<b>\$2,472,727</b>	<b>\$2,944,535</b>	<b>\$3,444,299</b>	<b>\$3,972,045</b>	<b>\$4,527,489</b>
Deferred Developer Fee Balance		\$1,145,700	\$146,643	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		\$0	\$0	\$925,398	\$2,071,431	\$3,292,474	\$10,558,916	\$19,857,123	\$31,321,496	\$45,089,412	\$61,300,170	\$80,093,744	#####



September 16, 2024

Mr. Rosalio Banuelos  
Director of Multifamily Asset Management  
Texas Department of Housing & Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

Via Email: [Rosalio.Banuelos@tdhca.texas.gov](mailto:Rosalio.Banuelos@tdhca.texas.gov)

RE: TDHCA Application #24400 – Centerpoint Commons, San Marcos, TX  
Material Amendment Request

Dear Mr. Banuelos,

On behalf of SL Centerpoint Commons, LP (the Applicant), we are requesting a material amendment to the above-referenced Housing Tax Credit Application. A check for the \$2,500 fee has been sent with our request. Enclosed is the receipt.

This amendment request proposes a change in the unit mix submitted at Application. The reason the change is necessary is because the City of San Marcos does not allow four-bedroom units under their multifamily regulations. The issue was not brought to our attention until the application for a Resolution of No Objection was submitted. At that point, it was also realized the City of San Marcos requires a *minimum* of 35% of units in affordable housing developments to be three-bedroom. By incorporating four-bedroom units, it was thought the minimum requirement would be satisfied. To remedy both issues encountered, the four-bedroom units are proposed to be leased as three-bedroom units with a den area. The total number of units at Centerpoint Commons will not change.

The Applicant intended to provide larger units for families. The City has realized that the prohibition of four-bedroom units was an unintended consequence for affordable housing developments. The regulation was put in place to deter renting by bedrooms for students. The amendment was not reasonably foreseeable, as it is not typical for cities to regulate the number of bedrooms in multifamily developments, nor require such a large number of three-bedroom units.

Adjustments were then made to some units' AMI designation to accommodate for the loss of income from the four-bedroom rents. The development still meets the 15% at 30% AMI and 85% at 60% AMI designations for Priority 2 status.

Additionally, the square footage of two floor plans have changed. The 2BR/2BA (B1 floorplan) increased from 893 sf to 935 sf. The 3BR/2BA (C1 floorplan) has decreased from 1079 sf to 1029 sf. Overall, net rental square footage increased from 341,733 to 344,331. This represents less than a one percent increase. We believe the change in square footage is a notification item that can be approved administratively.

Finally, the development will be called Centerpoint Depot instead of Centerpoint Commons.

Updated rent schedule, proforma, and building unit/configuration forms are included.

	At Application	Amended
A1		
sf	718	718
30% AMI Units	12	11
60% AMI Units	48	49
Total A1 Units	60	60
A2		
sf	775	775
30% AMI Units	12	14
60% AMI Units	18	16
Total A2 Units	30	30
B1		
sf	893	935
30% AMI Units	11	10
60% AMI Units	133	134
Total B1 Units	144	144
C1		
sf	1079	1029
30% AMI Units	10	12
60% AMI Units	59	57
Total C1 Units	69	69
C2		
sf	1102	1102
30% AMI Units	5	4
60% AMI Units	31	32
Total C2 Units	36	36
C3		
sf	0	1362
30% AMI Units	0	4
60% AMI Units	0	20
Total C3 Units	0	24
D1		
sf	1362	0
30% AMI Units	5	0
60% AMI Units	19	0
Total D1 Units	24	0
Total Net Rentable SF	341,733	344,331
TOTAL UNITS	363	363

If you have any questions or would like to discuss these items further, please do not hesitate to contact me directly at (512) 785-3710 or via email at [lora@betcohousinglab.com](mailto:lora@betcohousinglab.com) any time.

Sincerely,

A handwritten signature in blue ink that reads "Lora Myrick". The signature is written in a cursive, flowing style.

Lora Myrick, Principal  
BETCO Consulting, LLC



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 805

**Agenda Date:** 11/7/2024

**Agenda #:** 5.

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Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 1, Subchapter A General Policies and Procedures, §1.9, Household Recipient Privacy Policy for Federal Funds or Assistance; and directing its publication in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, there is currently no clear policy that the information provided by households to the Department or its subrecipients, when applying for assistance, will not have their basic household information released when requested of the Department by a third party;

**WHEREAS**, the Department would like to establish such a policy for federally funded programs that unless required by applicable oversight agencies, such information such as name, address and other specific personal information is not publicly released and is proposing such action via a new rule; and

**WHEREAS**, such proposed rulemaking was published in the *Texas Register* for public comment and one comment was received;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the action herein in the form presented to this meeting, to be published in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preamble.

**BACKGROUND**

There is currently no clear policy that the information provided by households to the Department or its subrecipients, when applying for assistance, is kept private. There is no assurance that their basic household information will not be released to a third party when asked of the Department.

The Department would like to establish such a policy for its federally funded program through the development of a rule. The rule will provide that no individual shall have their name, address, race, gender, disability, or contact information (as provided in an application for assistance to the Department) released to a third-party unless a federal oversight agency has explicitly stipulated that the information must be made available or as otherwise authorized by the individual.

This rule was released for public comment and one comment was received in support of the rule as described in the preamble following. No changes to the rule as proposed are being made.

**Attachment 1: Preamble, including required analysis, for adoption of new §1.9, Household Recipient Privacy Policy for Federal Funds or Assistance**

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC §1.9, Household Recipient Privacy Policy for Federal Funds or Assistance. The purpose of the new section is to provide a policy that protects, when permissible, the personal information provided by households to the Department or its subrecipients, when applying for assistance.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but provides for the privacy of information provided by households that apply for the Department's federal funding assistance.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section is creating a new regulation, but it is a regulation that does not place a burden on users of the Department's programs, but merely offers a privacy policy.
6. The new section will not expand, limit, or repeal an existing regulation.
7. The new section will increase the number of individuals subject to the rule's applicability; however that applicability is a household benefit (privacy).
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the new section as to its possible effects on local economies and

has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be increased privacy with the information provided by households when applying to the Department for federal assistance. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the section does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period was held September 20, 2024 to October 21, 2024, to receive input on the proposed action. One comment was received from the Texas Council on Family Violence (TCFV).

Comment: TCFV specifically offers support for the protection of personally identifying information for participants of any federally funded program or resource administered by the Department, either assisted directly by the Department or indirectly through a Vendor, Subrecipient or Owner. Under the Violence Against Women Act (VAWA), there are critical protections in place to ensure that survivors of domestic violence can access necessary resources without the fear of their sensitive data being mishandled or disclosed. Ensuring the privacy of such information is vital for fostering trust and encouraging individuals to seek assistance. TCFV commends the Department's commitment to enhancing privacy for all Texans and recommend clear guidelines and training for staff to effectively implement this policy.

Department Response: The Department appreciates the support for the policy. No changes to the rule are being made in response to this comment.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute.

### **§1.9. Household Recipient Privacy Policy for Federal Funds or Assistance**

(a) Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Part that govern the program to which a Household or Family level recipient or beneficiary has applied, or as assigned by federal or state law.

(b) This policy applies for any federally funded Program or resource administered by the Department, either assisted directly by the Department or indirectly through a Vendor, Subrecipient or Owner, where the Department must adopt a privacy policy regarding privacy of individually identifiable information.

(c) Except as covered under an intergovernmental data-sharing agreement, or as necessary to administer the business and administrative functions of the Program, no individual shall have their name, address, race, gender, disability, or contact information (as provided in an application for assistance to the Department) released to a third-party unless a federal oversight agency has explicitly stipulated that the information must be made available or as otherwise authorized by the individual.

(c) This privacy policy is supplemented by any more restrictive privacy or protection directives required by a federal oversight agency, or other federal or state law.



INDIVIDUALLY WE POWER CHANGE.  
TOGETHER WE POWER A MOVEMENT.

Texas Department of Housing and Community Affairs

Attn: Brook Boston

P.O. Box 13941

Austin, Texas 78711-3941

[brooke.boston@tdhca.texas.gov](mailto:brooke.boston@tdhca.texas.gov)

October 21, 2024

**RE: Proposed Rule for 10 TAC Chapter 1, Section §1.9, Household Recipient Privacy Policy for Federal Funds or Assistance**

On behalf of the Texas Council on Family Violence (TCFV), we respectfully submit this letter of public comment in response to the Texas Department of Housing and Community Affairs (TDHCA) notice regarding the rule for 10 TAC Chapter 1, Section §1.9, Household Recipient Privacy Policy for Federal Funds or Assistance.

TCFV is the only nonprofit coalition in Texas dedicated solely to creating safer communities and promoting freedom from family violence. With a statewide reach and direct local impact, TCFV - through its collective strength of more than 1,000 individual members, and nearly 100 family violence programs - shapes public policy, equips service providers, and initiates strategic prevention efforts. TCFV elevates the thousands of survivor voices, and the programs that support them, across Texas and has a demonstrated commitment to supporting survivors' access to safe, affordable housing.

TCFV thanks TDHCA for the opportunity to submit comments for the proposed rule for 10 TAC Chapter 1, Section §1.9, Household Recipient Privacy Policy for Federal Funds or Assistance, and for the continued commitment to advancing access to housing and support services for all Texans. TCFV is specifically offering support for the protection of personally identifying information (PII) for participants of any federally funded program or resource administered by the Department, either assisted directly by the Department or indirectly through a Vendor, Subrecipient or Owner. TCFV supports adopting a policy regarding privacy of individually identifiable information.

TCFV strongly supports the Department's efforts to establish a privacy policy that safeguards personal information provided by households applying for federal funding assistance. Under the Violence Against Women Act (VAWA), there are critical protections in

place to ensure that survivors of domestic violence can access necessary resources without the fear of their sensitive data being mishandled or disclosed. Ensuring the privacy of such information is vital for fostering trust and encouraging individuals to seek assistance. We commend the Department's commitment to enhancing privacy for all Texans and recommend clear guidelines and training for staff to effectively implement this policy. Transparency in how personal data is protected and utilized is essential, and we encourage regular public updates and mechanisms for addressing concerns. Additionally, periodic evaluations of the policy will be crucial in identifying areas for improvement, especially for vulnerable populations who rely on these services. Protecting the personal information of survivors is not only a legal obligation but a fundamental aspect of promoting their safety and well-being, so we appreciate that the Department is extending that protection to all Texans.

It is important to recognize that many of the individuals benefiting from federal assistance may be from vulnerable populations, including survivors of domestic violence. Protecting their personal information is not only a federal legal obligation but also a crucial step in ensuring their safety and well-being.

Enhanced safety for domestic violence survivors hinges on strong privacy protections that address critical concerns regarding data misuse. By implementing a comprehensive privacy policy, we can significantly reduce the risks associated with unauthorized access to personal information, protecting survivors from potential tracking or harassment by their abusive partners. When survivors are assured that their data is secure, they are more likely to reach out for assistance, engaging with vital support services without the paralyzing fear of compromising their safety. This proactive approach not only empowers survivors but also fosters trust between them and assistance programs, creating an environment where they feel comfortable sharing sensitive information essential for receiving effective support. Ultimately, enhancing data privacy is a crucial step toward ensuring the safety and well-being of those who have endured domestic violence.

In conclusion, Texas must continue to create opportunities and access for survivors of family violence to obtain safe and affordable housing options, because we know that housing and economic stability leads to increased safety for survivors and their children. If the Department is able to foster privacy for all Texans, especially survivors of domestic violence, TCFV supports the proposed new rule and its focus on safeguarding household recipients' PII. We appreciate the Department's commitment to privacy and encourage the implementation of strong measures to support this policy, particularly for vulnerable populations such as domestic violence survivors.

TCFV also sincerely thanks TDHCA for the time and care evident in the proposed rule and looks forward to the consideration of these comments and ongoing partnership with the Department on creating safe housing solutions for all Texans.

**For follow-up questions please contact:** Molly Voyles, Director of Public Policy, Texas Council on Family Violence, [mvoyles@tcfv.org](mailto:mvoyles@tcfv.org).



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 809

**Agenda Date:** 11/7/2024

**Agenda #:** 6.

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Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules, and an order adopting new 10 TAC Chapter 12 concerning the Multifamily Housing Revenue Bond Rules, and directing the publication in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (the Department) is authorized to issue multifamily housing revenue bonds for the State of Texas;

**WHEREAS**, the Department developed the Multifamily Housing Revenue Bond Rules to establish the procedures and requirements relating to the issuance of bonds;

**WHEREAS**, the proposed repeal and new 10 TAC Chapter 12 were published in the September 20, 2024, issue of the *Texas Register* for public comment; and

**WHEREAS**, the public comment period ended October 18, 2024, and no comments were received relating to this rule;

**NOW, therefore, it is hereby**

**RESOLVED**, that the final order adopting the repeal and new 10 TAC Chapter 12 regarding the Multifamily Housing Revenue Bond Rules, together with the preamble presented to this meeting, are approved for publication in the *Texas Register*, and

**FURTHER RESOLVED** that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed for and on behalf of the Department, to cause the amendments to the Multifamily Housing Revenue Bond Rules, together with the preamble in the form presented to this meeting, to be published in the *Texas Register* and in connection therewith, make non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

**BACKGROUND**

The Board approved the proposed changes to Chapter 12 regarding the 2024 Multifamily Housing Revenue Bond Rules (the Bond Rules) at the Board meeting of September 5, 2024, to be published in the *Texas Register* for public comment. The Department did not receive any comments relating to the Bond Rules. Staff is recommending the Bond Rules be adopted as reflected herein. Staff notes that should there be changes made to the 2025 QAP by the Board that would affect the Bond Rules, staff will make those changes required for consistency.

## **Attachment 1: Preamble, including required analysis, for repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules**

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules (the Bond Rules). The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

### **a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX GOV'T CODE §2001.0221.**

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, the issuance of Private Activity Bonds (PAB).

2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce workload to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department or a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation but is associated with a simultaneous readoption making changes to an existing activity, the issuance of PABs.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect this state's economy.

### **b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX GOV'T CODE §2006.002.**

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

### **c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX GOV'T CODE §2007.043.**

The repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

### **d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic

effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(5).

Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule for administering the issuance of PAB. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(4).

Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 20, 2024, and October 18, 2024, with no comments on the repeal itself received.

The Board adopted the final order adopting the repeal on November 7, 2024.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repealed sections affect no other code, article, or statute.

## **10 TAC Chapter 12, Multifamily Housing Revenue Bond Rule**

**§12.1. General.**

**§12.2. Definitions.**

**§12.3. Bond Rating and Investment Letter.**

**§12.4. Pre-Application Process and Evaluation.**

**§12.5. Pre-Application Threshold Requirements.**

**§12.6. Pre-Application Scoring Criteria.**

**§12.7. Full Application Process.**

**§12.8. Refunding Application Process**

**§12.9. Occupancy Requirements.**

**§12.10. Fees.**

## **Attachment 2: Preamble, including required analysis, for adopting new 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules**

The Texas Department of Housing and Community Affairs (the Department) adopts, without changes from the published draft, new 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules (Bond Rules). The purpose of the new section is to provide compliance with Tex. Gov't Code §2306.359, to make minor administrative revisions, and to ensure that it is reflective of changes made in the Department's Qualified Allocation Plan where applicable.

Tex. Gov't Code §2001.0045(b) does not apply to the action on this rule pursuant to item (9), which excepts rule changes necessary to implement legislation. The rule provides compliance with Tex. Gov't Code §2306.359, which requires the Department to provide for specific scoring criteria and underwriting considerations for multifamily private activity bond activities.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

### **a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule will be in effect:

1. The rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, the issuance of Private Activity Bonds ("PAB").
2. The rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce workload to a degree that eliminates any existing employee positions.
3. The rule does not require additional future legislative appropriations.
4. The rule changes will not result in an increase in fees paid to the Department, but may, under certain circumstances, result in a decrease in fees paid to the Department regarding Tax-Exempt Bond Developments.
5. The rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The rule does not increase or decrease the number of individuals subject to the rule's applicability.
8. The rule will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX GOV'T CODE §2006.002.** The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306.359. Although these rules mostly pertain to the filing of a bond pre-application, some stakeholders have reported that their average cost of filing a full Application is between \$50,000 and

\$60,000; which may vary depending on the specific type of Application, location of the Development Site, and other non-state of Texas funding sources utilized. The proposed rules do not, on average result in an increased cost of filing an application as compared to the existing program rules.

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures in place for entities applying for multifamily PAB. Only those small or micro-businesses that participate in this program are subject to this rule. There are approximately 100 to 150 businesses, which could possibly be considered small or micro-businesses, subject to the rule for which the economic impact of the rule would be a flat fee of \$11,000 which includes the filing fees associated with submitting a bond pre-application.

The Department bases this estimate on the potential number of Applicants and their related parties who may submit applications to TDHCA for PAB (and accompanying housing tax credits). There could be additional costs associated with pre-applications depending on whether the small or micro-businesses outsource how the application materials are compiled. The fee for submitting an Application for PAB layered with LIHTC is based on \$30 per unit, and all Applicants are required to propose constructing, at a minimum, 16 Units.

These Application Fee costs are not inclusive of external costs required by the basic business necessities underlying any real estate transaction, from placing earnest money on land, conducting an Environmental Site Assessment, conducting a market study, potentially retaining counsel, hiring an architect and an engineer to construct basic site designs and elevations, and paying any other related, third-party fees for securing the necessary financing to construct multifamily housing. Nor does this estimate include fees from the Department for Applications that successfully attain an award.

There are approximately 1,300 rural communities potentially subject to the new rule for which the economic impact of the rule is projected to be \$0. 10 TAC Chapter 12 places no financial burdens on rural communities, as the costs associated with submitting an Application are born entirely by private parties. In an average year the volume of applications for PAB that are located in rural areas is not more than 20% of all PAB applications received. In those cases, a rural community securing a PAB Development will experience an economic benefit, not least among which is the potential increased property tax revenue from a large multifamily Development.

3. The Department has determined that because there are rural PAB awardees, this program helps promote construction activities and long term tax base in rural areas of Texas. Aside from the fees and costs associated with submitting an Application, there is a probable positive economic effect on small or micro-businesses or rural communities that receive PAB awards and successfully use those awards to construct multifamily housing, although the specific impact is not able to be quantified in advance.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX GOV'T CODE §2007.043. The rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the rule may provide a possible positive

economic effect on local employment in association with this rule since PAB Developments, layered with housing tax credits, often involve a total input of, typically at a minimum, \$5 million in capital, but often an input of \$10 million - \$30 million. Such a capital investment has concrete direct, indirect, and induced effects on the local and regional economies and local employment. However, because the exact location of where program funds or developments are directed is not determined in rule, and is driven by real estate demand, there is no way to determine during rulemaking where the positive effects may occur. Furthermore, while the Department knows that any and all impacts are positive, that impact is not able to be quantified for any given community until PABs and LIHTCs are actually awarded to a proposed Development, given the unique characteristics of each proposed multifamily Development.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that significant construction activity is associated with any PAB Development layered with LIHTC and each apartment community significantly increases the property value of the land being developed, there are no probable negative effects of the rule on particular geographic regions. If anything, positive effects will ensue in those communities where developers receive PAB awards.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(5). Mr. Wilkinson, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule for administering the issuance of PABs and corresponding allocation of housing tax credits. There is no change to the economic cost to any individuals required to comply with the new section because the same processes described by the rule have already been in place through the rule found at this section being repealed. The average cost of filing a pre-application and application remain unchanged based on these rule changes. The rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

f. FISCAL NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the same processes described by the rule have already been in place through the rule found at this section being repealed.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comments between September 20, 2024, and October 18, 2024. No Comments were received.

The Board adopted the final order adopting the new rule on November 7, 2024. The rule has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

## SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS

Public comments were accepted between September 20, 2024, and October 18, 2024. No comments were received.

## **§12.1. General.**

(a) Authority. The rules in this chapter apply to the issuance of multifamily housing revenue bonds, notes, or other evidences of indebtedness (Bonds) by the Texas Department of Housing and Community Affairs (Department). The Department is authorized to issue Bonds pursuant to Tex. Gov't Code, Chapter 2306. Notwithstanding anything in this chapter to the contrary, Bonds which are issued to finance the Development of multifamily rental housing are subject to the requirements of the laws of the State of Texas, including but not limited to Tex. Gov't Code, Chapters 1372 and 2306, and federal law pursuant to the requirements of Internal Revenue Code (Code), §142.

(b) General. The purpose of this chapter is to state the Department's requirements for issuing Bonds, the procedures for applying for Bonds and the regulatory and land use restrictions imposed upon Bond financed Developments. The provisions contained in this chapter are separate from the rules relating to the Department's administration of the Housing Tax Credit program. Applicants seeking a Housing Tax Credit Allocation should consult Chapter 11 of this title (relating to the Housing Tax Credit Program Qualified Allocation Plan) for the current program year. In general, the Applicant will be required to satisfy the eligibility and threshold requirements of the Qualified Allocation Plan (QAP) in effect at the time the Certificate of Reservation is issued by the Texas Bond Review Board (TBRB). If the applicable QAP contradicts rules set forth in this chapter, the applicable QAP will take precedence over the rules in this chapter except in an instance of a conflicting statutory requirement, which shall always take precedence. To the extent applicable to each specific Bond issuance, the Department's conduit multifamily Bond transactions will be processed in accordance with 34 TAC Part 9, Chapter 181, Subchapter A (relating to Bond Review Board Rules) and Tex. Gov't Code, Chapter 1372.

(c) Costs of Issuance. The Applicant shall be responsible for payment of all costs related to the preparation and submission of the pre-application and Application, including but not limited to, costs associated with the publication and posting of required public notices and all costs and expenses associated with the issuance of the Bonds, regardless of whether the Application is ultimately approved or whether Bonds are ultimately issued. At any point during the process, the Applicant is solely responsible for determining whether to proceed with the Application and the Department disclaims any and all responsibility and liability in this regard.

(d) Taxable Bonds. The Department may issue taxable Bonds and the requirements associated with such Bonds, including occupancy requirements, shall be determined by the Department on a case by case basis. Taxable bonds will not be eligible for an allocation of tax credits.

(e) Waivers and Appeals. Requests for any permitted waivers of program rules must be made in accordance with §11.207 of this title (relating to Waiver of Rules). The process for appeals and grounds for appeals may be found under §1.7 of this title (relating to Appeals Process).

## **§12.2 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section

shall have the meaning as defined in Tex. Gov't Code, Chapter 2306, §§141, 142, and 145 of the Internal Revenue Code, and Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan).

(1) Bond Trustee--A financial institution, usually a trust company or the trust department in a commercial bank, that holds collateral for the benefit of the holders of municipal securities. The Bond Trustee's obligations and responsibilities are set forth in the Indenture.

(2) Institutional Buyer--Shall have the meaning prescribed under 17 CFR §230.501(a), but excluding any natural person or any director or executive officer of the Department (17 CFR §230.501(a)(4) - (6)), or as defined by 17 CFR §230.144(a), promulgated under the Securities Act of 1933, as amended.

(3) Persons with Special Needs--Shall have the meaning prescribed under Tex. Gov't Code §2306.511.

### **§12.3 Bond Rating and Investment Letter**

(a) Bond Ratings. All publicly offered Bonds issued by the Department to finance Developments shall have a debt rating the equivalent of at least an "A" rating assigned to long-term obligations by Standard & Poor's Ratings Services, or Moody's Investors Service, Inc. If such rating is based upon credit enhancement provided by an institution other than the Applicant or Development Owner, the form and substance of such credit enhancement shall be subject to approval by the Board, evidenced by a resolution authorizing the issuance of the credit enhanced Bonds.

(b) Investment Letters. Bonds rated less than "A" or Bonds which are unrated must be placed with one or more Institutional Buyers and must be accompanied by an investor letter acceptable to the Department. Subsequent purchasers of such Bonds must also be qualified as Institutional Buyers and must execute and deliver to the Department an investor letter in a form satisfactory to the Department. Bonds rated less than "A" and Bonds which are unrated shall be issued in physical form, in minimum denominations of one hundred thousand dollars (\$100,000), and must carry a legend requiring any purchasers of the Bonds to be Institutional Buyers and sign and deliver to the Department an investor letter in a form acceptable to the Department.

### **§12.4 Pre-Application Process and Evaluation**

(a) Pre-Inducement Questionnaire. Prior to the filing of a pre-application, the Applicant shall submit the Pre-Inducement Questionnaire, in the form prescribed by the Department, so the Department can have a preliminary understanding of the proposed Development plan before a pre-application and corresponding fees are submitted. After reviewing the pre-inducement questionnaire, Department staff will follow-up with the Applicant to discuss the next steps in the process and may schedule a pre-inducement conference call or meeting. Prior to the submission of a pre-application, it is essential that the Department and Applicant communicate regarding the Department's objectives and policies in the development of affordable housing throughout the State using Bond financing. The acceptance of the questionnaire by the Department does not constitute a pre-application or Application and does not bind the Department to any formal action regarding an inducement resolution.

(b) Neighborhood Risk Factors. If the Development Site has any of the characteristics described in §11.101(a)(3)(D) of this title (relating to Neighborhood Risk Factors), the Applicant must disclose the presence of such characteristics to the Department. Disclosure may be done at time of pre-application and handled in connection with the inducement or it can be addressed at the time of Application submission. The Applicant understands that any determination made by staff or the Board at the time of bond inducement regarding Site eligibility based on the documentation presented, is preliminary in nature. Should additional information related to any of the Neighborhood Risk Factors become available while the Tax-Exempt Bond Development Application is under review, or the information by which the original determination was made changes in a way that could affect eligibility, then such information will be re-evaluated and presented to the Board.

(c) Pre-Application Process. An Applicant who intends to pursue Bond financing from the Department shall submit a pre-application by the corresponding pre-application submission deadline, as set forth by the Department. The required pre-application fee as described in §12.10 of this chapter (relating to Fees) must be submitted with the pre-application in order for the pre-application to be considered accepted by the Department. Department review at the time of the pre-application is limited and not all issues of eligibility, fulfillment of threshold requirements in connection with the full Application, and documentation submission requirements pursuant to Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) are reviewed. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or other deficiencies at the time of pre-application. If the Development meets the criteria as described in §12.5 of this chapter (relating to Pre-Application Threshold Requirements), the pre-application will be scored and ranked according to the selection criteria as described in §12.6 of this chapter (relating to Pre-Application Scoring Criteria). The selection criteria, as further described in §12.6 of this chapter, reflects a structure that gives priority consideration to specific criteria as outlined in Tex. Gov't Code, §2306.359, as well as other important criteria. Should two or more pre-applications receive the same score, the Department will utilize the tie breaker factors in this paragraph, which will be considered in the order they are presented herein, to determine which pre-application will receive preference in consideration of a Certificate of Reservation:

(1) To the pre-application that was on the waiting list with the TBRB but did not have an active Certificate of Reservation at the time of the TBRB lottery and achieved the maximum number of points under §12.6(12) of this chapter; and

(2) To the pre-application with the highest number of positive points achieved under §12.6(9) of this chapter.

(d) Inducement Resolution. After the pre-applications have been scored and ranked, the pre-application will be presented to the Department's Board for consideration of an inducement resolution declaring the Department's initial intent to issue Bonds with respect to the Development. Approval of the inducement resolution does not guarantee final Board approval of the Bond Application. Department staff may recommend that the Board not approve an inducement resolution for a pre-application. Notwithstanding the foregoing, Department staff may, but is not required to, recommend that an inducement resolution be approved despite the presence of neighborhood risk factors,

undesirable site features, or requirements that may necessitate a waiver, that have not fully been evaluated by staff at pre-application. The Applicant recognizes the risk involved in moving forward should this be the case and the Department assumes no responsibility or liability in that regard. Each Development is unique, and therefore, making the final determination to issue Bonds is often dependent on the issues presented at the time the full Application is considered by the Board.

### **§12.5 Pre-Application Threshold Requirements**

The threshold requirements of a pre-application include the criteria listed in paragraphs (1) - (8) of this section. As the Department reviews the pre-application the assumptions as reflected in Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) will be utilized even if not reflected by the Applicant in the pre-application. The threshold requirements of a pre-application include:

- (1) Submission of the required tabs of the Uniform Application as prescribed by the Department in the Multifamily Bond Pre-Application Procedures Manual;
- (2) Submission of the completed Bond Pre-Application Supplement in the form prescribed by the Department;
- (3) Completed Bond Review Board Residential Rental Attachment for the current program year;
- (4) Site Control, evidenced by the documentation required under §11.204(10) of this title (relating to Required Documentation for Application Submission). The Site Control must be valid through the date of both the Board meeting at which the inducement resolution is considered and subsequent submission of the application to the TBRB. For Lottery applications, Site Control must meet the requirements of 34 TAC §190.3(b)(13) (relating to Filing Requirements for Applications for Reservation);
- (5) Boundary survey or plat clearly identifying the location and boundaries of the subject Property;
- (6) Organizational Chart showing the structure of the Development Owner and of any Developer and Guarantor, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner, Developer and Guarantor, as applicable, and completed List of Organizations form, as provided in the pre-application. The List of Organizations form must include all Persons identified on the organizational charts, and further identify which of those Persons listed exercise Control of the Development;
- (7) Evidence of Entity Registration or Reservation with the Texas Office of the Secretary of State; and
- (8) A certification, as provided in the pre-application, that the Applicant met the requirements and deadlines for public notifications as identified in §11.203 of this title (relating to Public Notifications (§2306.6705(9))). In general, notifications should not be older than three months prior to the date of Application submission. In addition, should the jurisdiction of the official holding any position or role described in §11.203 of this title change between the submission of a pre-application and the submission of an Application in a manner that results in the Development being within a new

jurisdiction, Applicants are required to notify the new entity no later than the Full Application Delivery Date.

### **§12.6 Pre-Application Scoring Criteria**

This section identifies the scoring criteria used in evaluating and ranking pre-applications. Any scoring items that require supplemental information to substantiate points must be submitted in the pre-application, as further outlined in the Multifamily Bond Pre-Application Procedures Manual. Applicants proposing multiple sites will be required to submit a separate pre-application for each Development Site, unless staff determines that one pre-application is more appropriate based on the specifics of the transaction. Each individual pre-application will be scored on its own merits and the final score will be determined based on an average of all of the individual scores. Ongoing requirements, as selected in the pre-application, will be reflected in the Bond Regulatory and Land Use Restriction Agreement and must be maintained throughout the State Restrictive Period, unless otherwise stated or required in such Agreement.

(1) Income and Rent Levels of the Tenants. Pre-applications may qualify for up to ten (10 points) for this item.

(A) Priority 1 designation includes one of clauses (i) - (iii) of this subparagraph. (10 points)

(i) set aside 50% of Units rent capped at 50% AMGI and the remaining 50% of Units rent capped at 60% AMGI; or

(ii) set aside 15% of Units rent capped at 30% AMGI and the remaining 85% of Units rent capped at 60% AMGI; or

(iii) set aside 100% of Units rent capped at 60% AMGI for Developments located in a census tract with a median income that is higher than the median income of the county, MSA, or PMSA in which the census tract is located.

(B) Priority 2 designation requires the set aside of at least 80% of the Units rent capped at 60% AMGI (7 points).

(C) Priority 3 designation. Includes any qualified residential rental development. Market rate Units can be included under this priority (5 points).

(2) Cost of Development per Square Foot. (1 point) For this item, costs shall be defined as the Building Cost as represented in the Development Cost Schedule, as originally provided in the pre-application. This calculation does not include indirect construction costs or site work. Pre-applications that do not exceed \$150 per square foot of Net Rentable Area will receive one (1) point. Rehabilitation Developments will automatically receive this point.

(3) Unit Sizes. (6 points) The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications

involving Rehabilitation (excluding Reconstruction).

(A) Five-hundred (500) square feet for an Efficiency Unit;

(B) Six-hundred (600) square feet for a one Bedroom Unit;

(C) Eight-hundred-fifty (850) square feet for a two Bedroom Unit;

(D) One-thousand-fifty (1,050) square feet for a three Bedroom Unit; and

(E) One-thousand, two-hundred-fifty (1,250) square feet for a four Bedroom Unit.

(4) Extended Affordability. A pre-application may qualify for up to three (3) points under this item.

(A) Development Owners that agree to extend the State Restrictive Period for a Development to a total of 40 years (3 points).

(B) Development Owners that agree to extend the State Restrictive Period for a Development to a total of 35 years (2 points).

(5) Unit and Development Construction Features. A pre-application may qualify for nine (9) points, as certified in the pre-application, for providing specific amenity and quality features in every Unit at no extra charge to the tenant. The amenities and corresponding point structure is provided in §11.101(b)(6)(B) of this title (relating to Unit, Development Construction, and Energy and Water Efficiency Features), which includes a minimum number of points that must come from Energy and Water Efficiency Features. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. Rehabilitation Developments will start with a base score of (5 points).

(6) Common Amenities. All Developments must provide at least the minimum threshold of points for common amenities based on the total number of Units in the Development as provided in subparagraphs (A) - (F) of this paragraph. An Applicant may choose to exceed the minimum number of points necessary based on Development size; however, the maximum number of points under this item which a Development may be awarded under this section shall not exceed 22 points. The common amenities include those listed in §11.101(b)(5) of this title and must meet the requirements as stated therein. The Owner may change, from time to time, the amenities offered; however, the overall points as selected at Application must remain the same.

(A) Developments with 16 to 40 Units must qualify for (2 points);

(B) Developments with 41 to 76 Units must qualify for (4 points);

(C) Developments with 77 to 99 Units must qualify for (7 points);

(D) Developments with 100 to 149 Units must qualify for (10 points);

(E) Developments with 150 to 199 Units must qualify for (14 points); or

(F) Developments with 200 or more Units must qualify for (18 points).

(7) Resident Supportive Services. A pre-application may qualify for up to ten (10) points for this item. By electing points, the Applicant certifies that the Development will provide supportive services, which are listed in §11.101(b)(7) of this title, appropriate for the residents and that there will be adequate space for the intended services. The Owner may change, from time to time, the services offered; however, the overall points as selected at pre-application must remain the same. Should the QAP in subsequent years provide different services than those listed in §11.101(b)(7)(A) - (E) of this title, the Development Owner may be allowed to select services as listed therein upon written consent from the Department and any services selected must be of similar value to the service it is intending to replace. The Development Owner will be required to substantiate such service(s) at the time of compliance monitoring, if requested by staff. The services provided should be those that will directly benefit the Target Population of the Development and be accessible to all. No fees may be charged to the residents for any of the services. Unless otherwise specified, services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item. These services are intended to be provided by a qualified and reputable provider in the specified industry such that the experience and background of the provider demonstrates sufficient knowledge to be providing the service. In general, on-site leasing staff or property maintenance staff would not be considered a qualified provider. Where applicable, the services must be documented by a written agreement with the provider. Unless otherwise noted in a particular clause, courses and services must be offered by an onsite instructor(s).

(A) The Development Owner shall provide resident services sufficient to substantiate ten (10) points; or

(B) The Development Owner shall provide resident services sufficient to substantiate eight (8) points.

(8) Underserved Area. An Application may qualify to receive up to four (4) points if the Development Site meets the criteria described in §11.9(c)(6)(A) - (E) of this title. The pre-application must include evidence that the Development Site meets this requirement. Regardless of the varying point options listed under §11.9(c)(6) of this title, the number of points attributed to this scoring item shall be four (4) points.

(9) Development Support/Opposition. (Maximum +24 to -24 points) Each letter will receive a maximum of +3 to -3 points and must be received 10 business days prior to the Board's consideration of the pre-application. Letters must clearly state support or opposition to the specific Development. State Representatives or Senators as well as local elected officials must be in office when the pre-application is submitted and represent the district containing the proposed Development Site. Letters of support from State or local elected officials that do not represent the district containing the proposed Development Site will not qualify for points. Neutral letters that do not specifically refer to the Development or do not explicitly state support will receive (zero 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") counts as a neutral letter except in the case of State elected officials. A letter from a State elected official that does not directly indicate support by the

official, but expresses support on behalf of the official's constituents or community (i.e., "My constituents support the Development and I am relaying their support") counts as a support letter. A resolution specifically expressing support that is adopted by the applicable Governing Body will count as support under this scoring item for a maximum of 3 points.

(A) State Senator and State Representative of the districts whose boundaries include the proposed Development Site;

(B) Mayor of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);

(C) Elected member of the Governing Body of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction) who represents the district in which the Development Site is located;

(D) Presiding officer of the Governing Body of the county in which the Development Site is located;

(E) Elected member of the Governing Body of the county who represents the district in which the Development Site is located;

(F) Superintendent of the school district in which the Development Site is located; and

(G) Presiding officer of the board of trustees of the school district in which the Development Site is located.

(10) Preservation Initiative. (2 points) Preservation Developments, including Rehabilitation proposals on Properties which are nearing expiration of an existing affordability requirement within the next two years or for which there has been a rent restriction requirement in the past 10 years may qualify for points under this item. Evidence must be submitted in the pre-application.

(11) Declared Disaster Areas. (7 points) A pre-application may receive points if the Development Site is located in an area declared a disaster area under Tex. Gov't Code §418.014 at the time of submission, or at any time within the two-year period preceding the date of submission.

(12) Waiting List. (5 points) A pre-application that is on the Department's waiting list with the TBRB and does not have an active Certificate of Reservation at the time of the Private Activity Bond Lottery may receive points under this item if participating in the Lottery for the upcoming program year. These points will be added by staff once all of the scores for Lottery applications have been finalized.

(A) For pre-applications that participated in the prior year Private Activity Bond Lottery (5 points); or

(B) For pre-applications that had an Inducement Resolution adoption date of November of the prior calendar year through March of the current calendar year (3 points); or

(C) For pre-applications that had an Inducement Resolution adoption date of April through July of the

current calendar year (1 point).

(13) Tax-Exempt Bond 50% Test. (5 points) A pre-application may receive points under this item based on the amount of the Development financed with Tax-Exempt Bond proceeds relative to the amount necessary to meet the 50% Test. The 50% Test is calculated by dividing the Tax-Exempt Bond proceeds by the aggregate basis of the Development and shall be based on such amounts as reflected in the pre-application once staff's review is complete and all Administrative Deficiencies have been resolved. Normal rounding shall apply. Should there be changes to this federal requirement, the percentage ranges noted below shall be modified accordingly by the same range. Moreover, should the Private Activity Bond ceiling be subject to the restrictions under Tex. Gov't Code Section 1372.037(b), the amount of bond proceeds to be utilized at closing will be capped at the percentage as stated therein and not based on the points claimed under this scoring item.

(A) The pre-application reflects a 50% Test amount that is greater than or equal to 55.0% and less than 60% (5 points); or

(B) The pre-application reflects a 50% Test amount that is greater than or equal to 60% and less than or equal to 64% (3 points).

(14) Assisting Households with Children. (42(m)(1)(C)(vii)) A pre-application may receive one point under this item if at least 15% of the Units in the Development contain three or more bedrooms. The specific number of three or more bedrooms may change from pre-application to full Application, but the minimum percentage must still be met. Applications proposing Rehabilitation (excluding Reconstruction) and Elderly Developments will automatically receive this point.

### **§12.7 Full Application Process**

(a) Application Submission. Once the inducement resolution has been approved by the Board, an Applicant who elects to proceed with submitting a full Application to the Department must submit the complete tax credit Application pursuant to §11.201 of this title (relating to Procedural Requirements for Application Submission). While a Certificate of Reservation is required under §11.201 of this title prior to submission of the complete tax credit Application, staff may allow the Application to be submitted prior to the issuance of a Certificate of Reservation depending on circumstances associated with the Development Site, structure of the transaction, volume cap environment, or other factors in the Department's sole discretion.

(b) Eligibility Criteria. The Department will evaluate the Application for eligibility and threshold at the time of full Application pursuant to Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). If there are changes to the Application at any point prior to closing that have an adverse effect on the score and ranking order and that would have resulted in the pre-application being placed below another pre-application in the ranking, the Department may terminate the Application and withdraw the Certificate of Reservation from the Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points). The Development and the Applicant must satisfy the requirements set forth in Chapter 11 of this title in addition to Tex. Gov't Code, Chapter 1372, the applicable requirements of Tex. Gov't Code Chapter 2306, and the Code.

The Applicant will also be required to select a Bond Trustee from the Department's approved list as published on its website.

(c) Bond Documents. Once the Application has been submitted and the Applicant has deposited funds to pay initial costs, the Department's bond counsel shall draft Bond documents.

(d) Public Hearings. The Department will hold a public hearing to receive comments pertaining to the Development and the issuance of the Bonds. A representative of the Applicant or member of the Development Team must be present at the public hearing and will be responsible for conducting a brief presentation on the proposed Development and providing handouts at the hearing that should include at minimum, a description of the Development, maximum rents and income restrictions. If the proposed Development is Rehabilitation, the presentation should include the proposed scope of work that is planned for the Development. The handouts must be submitted to the Department for review at least two days prior to the public hearing. Publication of all notices required for the public hearing shall be at the sole expense of the Applicant, as well as any facility rental fees or required deposits, if applicable.

(e) Approval of the Bonds. Subject to the timely receipt and approval of commitments for financing, an acceptable evaluation for eligibility, financial feasibility, the satisfactory negotiation of Bond documents, and the completion of a public hearing, the Board will consider the approval of the final Bond resolution relating to the issuance, substantially final Bond documents and in the instance of privately placed Bonds, the pricing, terms and interest rate of the Bonds. For Applications that include local funding, Department staff may choose to delay Board consideration of the Bond issuance until such time it has been confirmed that the amount or terms associated with such local funding will not change and remain consistent with what was represented in the Department's underwriting analysis.

(f) Local Permits. Prior to closing on the Bond financing, all necessary approvals, including building permits from local municipalities, counties, or other jurisdictions with authority over the Development Site must have been obtained or evidence that the permits are obtainable subject only to payment of certain fees. In instances where such permits will be not received prior to bond closing, the Department may, on a limited and case-by-case basis allow for the closing to occur, subject to receipt of confirmation, acceptable to the Department, by the lender and/or equity investor that they are comfortable proceeding with closing.

### **§12.8 Refunding Application Process**

(a) Application Submission. Owners who wish to refund or modify tax-exempt bonds that were previously issued by the Department must submit to the Department a summary of the proposed refunding plan or modifications. To the extent such modifications constitute a re-issuance under state law the Applicant shall then be required to submit a refunding Application in the form prescribed by the Department pursuant to the Bond Refunding Application Procedures Manual.

(b) Bond Documents. Once the Department has received the refunding Application and the Applicant has deposited funds to pay initial costs, the Department's bond counsel will draft the necessary Bond documents.

(c) Public Hearings. Depending on the proposed modifications to existing Bond covenants a public hearing may be required. Such hearing must take place prior to obtaining Board approval and must meet the requirements pursuant to §12.7(d) of this chapter (relating to Full Application Process) regarding the presence of a member of the Development Team and providing a summary of proposed Development changes.

(d) Rule Applicability. Refunding Applications must meet the applicable requirements pursuant to Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). At the time of the original award the Application would have been subject to eligibility and threshold requirements under the QAP in effect the year the Application was awarded. Therefore, it is anticipated the Refunding Application would not be subject to the site and development requirements and restrictions pursuant to §11.101 of this title (relating to Site and Development Requirements and Restrictions). The circumstances surrounding a refunding Application are unique to each Development; therefore, upon evaluation of the refunding Application, the Department is authorized to utilize its discretion in the applicability of the Department's rules as it deems appropriate.

### **§12.9 Occupancy Requirements**

(a) Filing and Term of Regulatory Agreement. A Bond Regulatory and Land Use Restriction Agreement will be filed in the property records of the county in which the Development is located for each Development financed from the proceeds of Bonds issued by the Department. Such Regulatory and Land Use Restriction Agreement shall include provisions relating to the Qualified Project Period, the State Restrictive Period, along with points claimed for other provisions that will be required to be monitored throughout the State Restrictive Period, and shall also include provisions relating to Persons with Special Needs. The minimum term of the Regulatory Agreement will be based on the criteria as described in paragraphs (1) - (3) of this subsection, as applicable:

(1) 30 years, or such longer period as elected under §12.6(4) of this chapter (relating to Pre-Application Scoring Criteria), from the date the Development Owner takes legal possession of the Development;

(2) The end of the remaining term of the existing federal government assistance pursuant to Tex. Gov't Code, §2306.185; or

(3) The period required by the Code.

(b) Federal Set Aside Requirements.

(1) Developments which are financed from the proceeds of Private Activity Bonds must be restricted under one of the two minimum set-asides as described in subparagraphs (A) and (B) of this paragraph. Regardless of an election that may be made under Section 42 of the Code relating to income averaging, a Development will be required under the Bond Regulatory and Land Use Restriction Agreement to meet one of the two minimum set-asides described in subparagraphs (A) and (B) of this paragraph. Any proposed market rate Units shall be limited to 140% of the area median income and be considered restricted units under the Bond Regulatory and Land Use Restriction Agreement for purposes of using Bond proceeds to construct such Units.

(A) At least 20% of the Units within the Development shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 50% of the area median income; or

(B) At least 40% of the Units within the Development shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 60% of the area median income.

(2) The Development Owner must, at the time of Application, indicate which of the two federal set-asides will apply to the Development and must also designate the selected priority for the Development in accordance with Tex. Gov't Code, §1372.0321. Units intended to satisfy set-aside requirements must be distributed equally throughout the Development, and must include a reasonably proportionate amount of each type of Unit available in the Development.

(3) No tenant qualifying under either of the minimum federal set-asides shall be denied continued occupancy of a Unit in the Development because, after commencement of such occupancy, such tenant's income increases to exceed the qualifying limit. However, should a tenant's income, as of the most recent determination thereof, exceed 140% of the applicable federal set-aside income limit and such tenant constitutes a portion of the set-aside requirement of this section, then such tenant shall only continue to qualify for so long as no Unit of comparable or smaller size is rented to a tenant that does not qualify as a Low-Income Tenant.

### **§12.10 Fees**

(a) Pre-Application Fees. The Applicant is required to submit, at the time of pre-application, a pre-application fee of \$1,000, along with the fees noted on the Schedule of Fees posted on the Department's website specific to the Department's bond counsel and the Texas Bond Review Board (TBRB) pursuant to Tex. Gov't Code, §1372.006(a)). These fees cover the costs of pre-application review by the Department and its bond counsel and filing fees associated with application submission for the Certificate of Reservation to the TBRB.

(b) Application Fees. At the time of Application the Applicant is required to submit a tax credit application fee of \$30 per Unit based on the total number of Units and a bond application fee of \$20 per Unit based on the total number of Units, unless otherwise modified by a specific program NOFA. Such fees cover the costs associated with Application review and the Department's expenses in connection with providing financing for a Development. For Developments proposed to be structured as a portfolio the bond application fees may be reduced on a case by case basis at the discretion of Department staff.

(c) Closing Fees. The closing fee for Bonds, other than refunding Bonds, is equal to 50 basis points of the issued principal amount of the Bonds, unless otherwise modified by the Executive Director. The Applicant will also be required to pay at closing of the Bonds the first two years of the administration fee equal to 20 basis points of the issued principal amount of the Bonds, with the first year prorated based on the actual closing date, and a Bond compliance fee equal to \$25/Unit (excludes market rate Units). Such compliance fee shall be applied to the third year following closing.

(d) Application and Issuance Fees for Refunding Applications. For refunding an Application the application fee will be \$10,000 unless the refunding is not required to have a public hearing, in which case the fee will be \$5,000. The closing fee for refunding Bonds is equal to 25 basis points of the issued principal amount of the refunding Bonds. If applicable, administration and compliance fees due at closing may be prorated based on the current billing period of such fees. If additional volume cap is being requested other fees may be required as further described in the Bond Refunding Applications Procedures Manual. Transactions previously issued that involved a financing structure that would constitute a re-issuance under state law, but do not fit under §12.8 of this chapter (relating to Refunding Application Process), will be required to pay a closing fee that shall not exceed 25 basis points of the re-issued principal amount of the bonds which may be reduced in the sole determination of the Department as commensurate with the review by staff in obtaining Board approval at the time of conversion.

(e) Administration Fee. The annual administration fee is equal to 10 basis points of the outstanding bond amount at the inception of each payment period and is paid as long as the Bonds are outstanding, unless otherwise modified by a specific program NOFA.

(f) Bond Compliance Fee. The Bond compliance monitoring fee is equal to \$25/Unit (excludes market rate Units as defined in the Regulatory Agreement), and is paid for the duration of the State Restrictive Period under the Regulatory Agreement, regardless of whether the Bonds have been paid off and are no longer outstanding. For Developments for which (1) the Department's Bonds are no longer outstanding and (2) new bonds or notes have been issued and delivered by the Department, the bond compliance monitoring fee may be reduced on a case by case basis at the discretion of Department staff.



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

File #: 801

Agenda Date: 11/7/2024

Agenda #: 7.

Report on the Department's 4th Quarter Investment Report relating to funds held under Bond Trust Indentures

**BACKGROUND**

The Department's Investment Policy excludes funds invested under a bond trust indenture for the benefit of bond holders because the trustee for each trust indenture controls the authorized investments in accordance with the requirements of that indenture. Management of assets within an indenture is the responsibility of the Trustee. This internal management report is for informational purposes only and, while not required under the Public Funds Investment Act, it is consistent with the prescribed format and detail as required by the Public Funds Investment Act. It details the types of investments, maturity dates, carrying (face amount) values, and fair market values at the beginning and end of the quarter.

Overall, the portfolio carrying value increased by approximately \$248.8 million (see page 3), resulting in an end of quarter balance of \$3,710,377,180.

The portfolio consists of those investments described in the attached Bond Trust Indentures Supplemental Management Report.

	<b>Beginning Quarter</b>	<b>Ending Quarter</b>
Mortgage Back Securities (MBS)	83%	82%
Guaranteed Investment Contracts / Investment Agreements	1%	1%
Repurchase Agreements (Cash Equivalents)	10%	12%
Account Control Agreements (Cash Equivalents)	0%	0%
Commercial Paper	1%	0%
Municipal Bonds	0%	0%
Treasury Backed Mutual / Funds	2%	2%
Treasury Notes / Bonds / SLGs	3%	3%

The decrease in percentage of MBS is due to the repayment of mortgage principal on MBS. The increase of Repurchase Agreements is due to the issuance of residential mortgage revenue bonds, and the temporary reinvestment of mortgage repayments until funds are utilized for bond debt service.

**Portfolio activity for the quarter:**

The MBS purchases this quarter were approximately \$181.3 million, due to the issuance of RMRB and multifamily bonds and the investment of proceeds in MBS.

The maturities in MBS were approximately \$29.3 million, which represent loan repayments or payoffs.

The table below shows the trend in MBS activity.

	4 <sup>th</sup> Qtr Fy23	1 <sup>st</sup> Qtr Fy24	2 <sup>nd</sup> Qtr Fy24	3 <sup>rd</sup> Qtr Fy24	4 <sup>th</sup> Qtr Fy24	Total
Purchases	\$210,107,636	\$277,050,951	\$378,233,466	\$145,860,302	\$181,385,590	\$1,192,637,945
Sales						
Maturities	\$22,440,177	\$23,898,674	\$22,728,554	\$25,521,843	\$29,322,589	\$123,911,837
Transfers						

The process of valuing investments at fair market value identifies unrealized gains and losses. These gains or losses do not impact the overall portfolio because the Department typically holds MBS investments until maturity.

The fair market value (the amount at which a financial instrument could be exchanged in a current transaction between willing parties) increased \$80.7 million (see pages 3 and 4), with fair market value more than the carrying value. The national average for a 30-year fixed rate mortgage, as reported by the Freddie Mac Primary Mortgage Market Survey as of August 29, 2024, was 6.35%, down from 7.03% at the end of May 2024. Various factors affect the fair market value of these investments, but there is a correlation between the prevailing mortgage interest rates and the change in market value.

Given the current financial environment, this change in market value is to be expected.

The ability of the Department's investments to provide the appropriate cash flow to pay debt service and eventually retire the related bond debt is of more importance than the assessed relative value in the bond market as a whole.

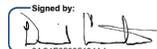
The more relevant measures of indenture parity are reported on page 5 in the Bond Trust Indenture Parity Comparison. This report shows parity (ratio of assets to liabilities) by indenture with assets greater than liabilities in a range from 103.07% to 103.49%, which would indicate the Department has sufficient assets to meet its obligations.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
 HOUSING FINANCE DIVISION  
 PUBLIC FUNDS INVESTMENT ACT  
 Internal Management Report (Sec. 2256.023)  
 Quarter Ending August 31, 2024

Investment Type	FAIR VALUE (MARKET) @ 5/31/2024	CARRYING VALUE @ 5/31/2024	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 8/31/2024	FAIR VALUE (MARKET) @ 8/31/2024	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT REC/VBL GAIN	RECOGNIZED GAIN
<b>INDENTURE RELATED:</b>											
Single Family	1,484,230,663.12	1,544,726,183.56	32,816,669.10	(7,480,743.60)	(17,719,993.47)	-	1,552,342,115.59	1,528,446,704.15	36,600,109.00	5,775,389.53	-
RMRB	1,317,493,754.28	1,359,429,278.31	421,252,145.98	(184,297,994.45)	(9,947,144.04)	-	1,586,436,285.80	1,572,754,017.93	28,253,256.16	5,248,653.12	-
Taxable Mortgage Program	7,538,045.15	8,428,825.18	35,416.83	(61,553.71)	(144,780.95)	-	8,257,907.35	7,617,342.15	250,214.83	854,543.97	-
Multi Family	482,654,277.70	548,947,679.61	83,524,787.95	(67,620,925.39)	(1,510,670.54)	-	563,340,871.63	512,643,428.25	15,595,958.53	1,797,079.72	-
	<b>3,291,916,740.25</b>	<b>3,461,531,966.66</b>	<b>537,629,019.86</b>	<b>(259,461,217.15)</b>	<b>(29,322,589.00)</b>	<b>0.00</b>	<b>3,710,377,180.37</b>	<b>3,621,461,492.48</b>	<b>80,699,538.52</b>	<b>13,675,666.34</b>	<b>0.00</b>

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:  
 David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on November 13 and 14, 2023  
 Scott Fletcher completed 5.0 hrs. of training on the Texas Public Funds Investment Act on June 27, 2024

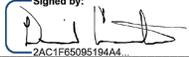
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David Cervantes Director of Administration		
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Scott Fletcher Director of Bond Finance		

**BOND FINANCE DIVISION  
BOND TRUST INDENTURES  
Supplemental Management Report  
Quarter Ending August 31, 2024**

INVESTMENT TYPE	FAIR VALUE (MARKET) @ 5/31/2024	CARRYING VALUE @ 5/31/2024	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 8/31/2024	FAIR VALUE (MARKET) @ 8/31/2024	CHANGE IN FAIR VALUE (MARKET)	RECOGNIZED GAIN
<b>INDENTURE RELATED:</b>										
Mortgage-Backed Securities	2,710,244,583.20	2,878,086,761.51	181,385,590.82	-	(29,322,589.00)	-	3,030,149,763.33	2,941,491,473.79	79,183,888.77	-
Guaranteed Inv Contracts	38,941,440.85	38,941,440.85	4,000,000.00	(100,000.00)	-	-	42,841,440.85	42,841,440.85	-	-
Investment Agreements	830,000.00	830,000.00	-	(575,000.00)	-	-	255,000.00	255,000.00	-	-
Treasury-Backed Mutual Funds	73,271,899.63	73,271,899.63	21,492,792.56	(16,345,112.32)	-	-	78,419,579.87	78,419,579.87	-	-
Account Control Agreements	15,549.98	15,549.98	695,724.18	-	-	-	711,274.16	711,274.16	(0.00)	-
Commercial Paper	29,578,059.39	30,904,296.20	-	(30,904,296.20)	-	-	0.00	0.00	1,326,236.81	-
Municipal Bonds	-	-	-	-	-	-	0.00	-	-	-
Repurchase Agreements	358,674,811.58	358,674,811.58	268,718,641.09	(191,165,291.76)	-	-	436,228,160.91	436,228,160.91	-	-
SLG Securities	47,673,271.00	47,673,271.00	61,302,878.91	(13,937,753.91)	-	-	95,038,396.00	95,038,396.00	-	-
Treasury Notes / Bonds	32,687,124.62	33,133,935.91	33,392.30	(6,433,762.96)	-	-	26,733,565.25	26,476,166.90	189,412.94	0.00
	<b>3,291,916,740.25</b>	<b>3,461,531,966.66</b>	<b>537,629,019.86</b>	<b>(259,461,217.15)</b>	<b>(29,322,589.00)</b>	<b>0.00</b>	<b>3,710,377,180.37</b>	<b>3,621,461,492.48</b>	<b>80,699,538.52</b>	<b>0.00</b>

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David Cervantes Director of Administration		
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Scott Fletcher Director of Bond Finance		



# Texas Department of Housing and Community Affairs

## Governing Board

### Board Action Request

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**File #: 802**

**Agenda Date: 11/7/2024**

**Agenda #: 8.**

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Report regarding a Request for Proposal issued by the Texas Department of Housing and Community Affairs (TDHCA) for Master Servicer and selection thereof

### **BACKGROUND**

TDHCA has utilized Idaho Housing Finance Authority (IHFA) as primary servicer of both bond- funded and TBA mortgage loans since 2016. IHFA is currently servicing \$8.6 billion of TDHCA loans. The current IHFA servicing agreement is a “retained servicing” model whereby TDHCA receives some portion of servicing income throughout the life of the loans. As the agreement is drafted, TDHCA also retains ongoing financial exposure to the servicing portfolio.

The Department sought to hire a new master servicer in an effort to diversify our [its](#) servicing book, reduce our [its](#) ongoing financial exposure and shift to a “released servicing” model whereby the TDHCA will be paid a Service Release Premium (SRP) when the loan is purchased by the servicer.

Moving to an SRP model will provide increased certainty on mortgage loan pricing, enhance liquidity, provide the Department with more flexibility in structuring bond deals, and enable the Department to provide more aggressive TBA rates for low and moderate-income home buyers.

On February 14, 2024, the Department issued a Request for Proposals (RFP) for firms interested in serving as Master Servicer. The RFP had a submission deadline of March 22, 2024. One proposal was. A review team of Department staff evaluated the response and selected The Money Source to serve as Master Servicer to the Department.

The contract is expected to begin on November 8, 2024. The term of the award is three years, with the ability to renew and extend for one year per renewal, for a maximum of two consecutive renewal years.



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 803

**Agenda Date:** 11/7/2024

**Agenda #:** 9.

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Report on TDHCA One-Time or Temporary Allocations - Pandemic Response and Other Initiatives

**BACKGROUND**



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**TDHCA One-Time or Temporary Allocations – Pandemic Response and Other Initiatives  
Report for November 7, 2024**

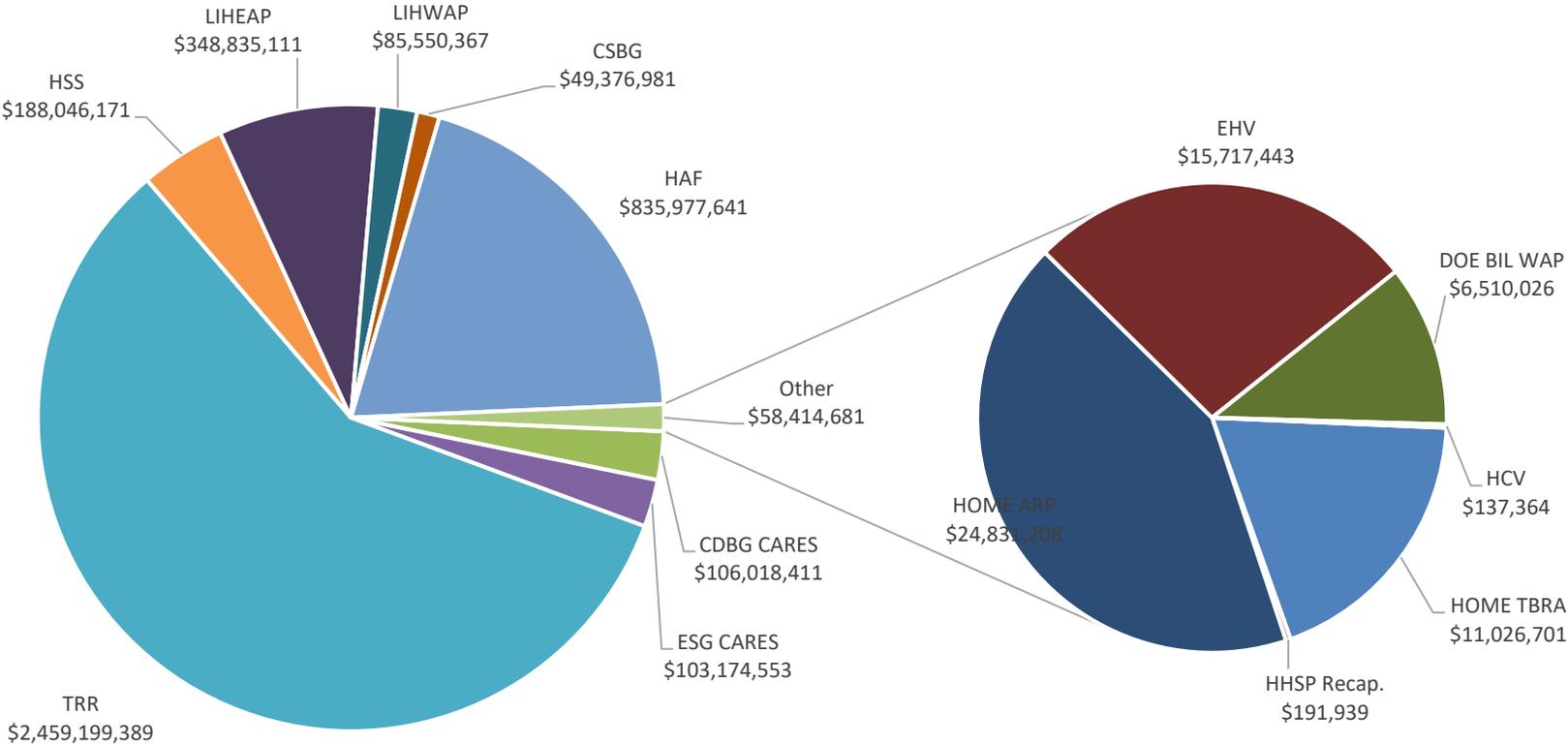
This report reflects one-time or temporary federally awarded allocations of funds, in addition to those funds focused specifically on the programs TDHCA has targeted to assist with Texas’ response to COVID-19. Programs reflected include those that were reprogramming of existing funds and those awarded through the administration of federal bills. All completed programs are reported at the end of the report.

**PERFORMANCE TO DATE ACROSS ALL OPEN AND CLOSED PROGRAMS**

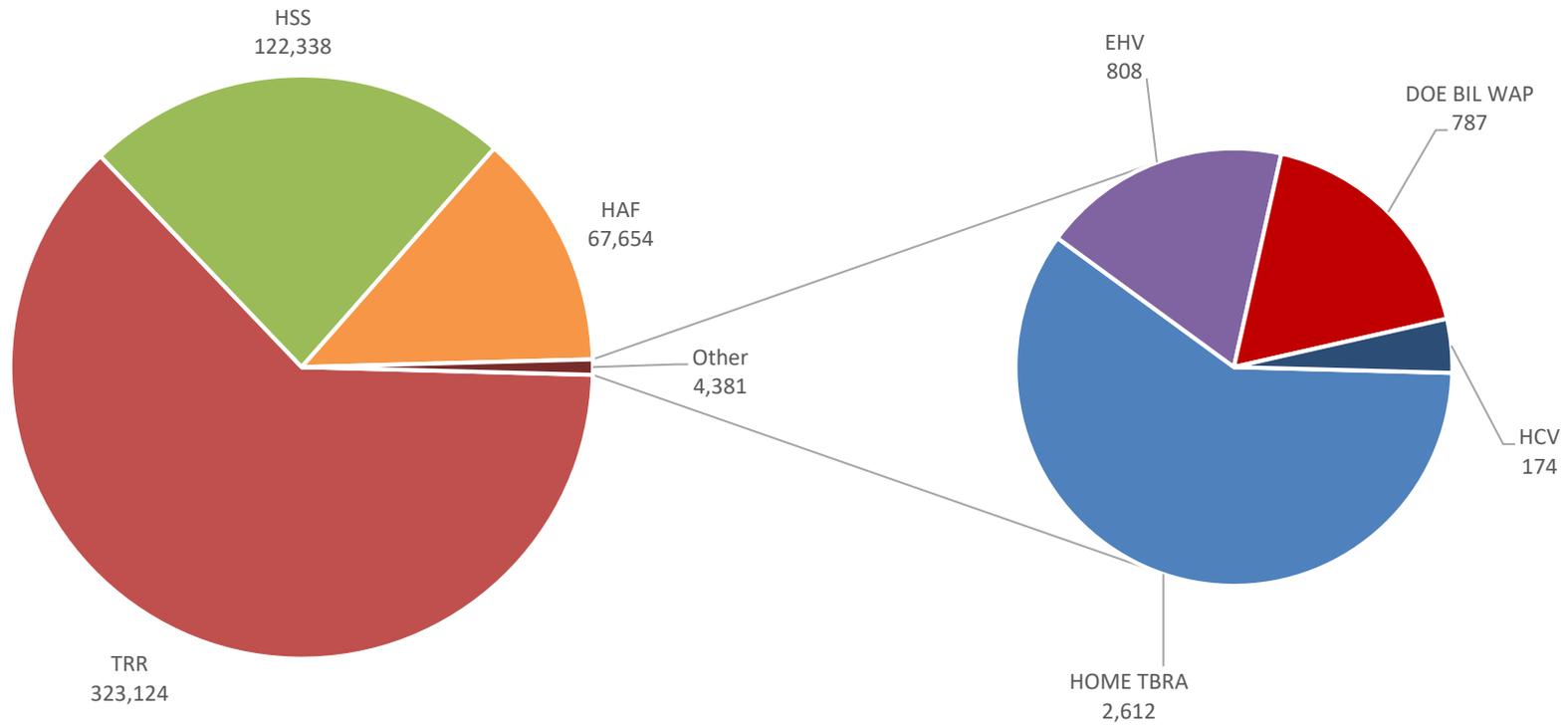
Cumulative Performance to Date Across All Programs Reported			
Total of All Funding	Total Funds Obligated <sup>1,2</sup>	Total Funds Spent <sup>1</sup>	Total Served to Date <sup>3,4,5,6</sup>
<b>\$4,629,321,498</b>	<b>\$4,439,964,665 (95.91%)</b>	<b>\$4,234,593,305 (91.47%)</b>	<b>517,497 households 4,739,613 persons 394 units committed</b>

*1. May include administrative funds obligated and expended. 2. For TRR and HAF, funds are only considered ‘Obligated’ when they are expended. 3. Based on reporting requirements, some programs report households and some report persons. Persons reported above do not comprise the members of the households reported, but are separate persons assisted. 4. For comparability purposes, if the average Texas household size of 2.85 is applied to the number of households served and converted to an estimate of individuals, that estimate would be 1,474,866; when combined with the 4,739,613 of individuals reported that would result in an estimated 6,214,479 individuals assisted with these programs. 5. An additional 871,632 meals have been served through the HSS Program that are not otherwise reflected in either the count of households or persons served. 6. Units committed are from HOME-ARP (331 units) and ERA Multifamily development funds (63 units).*

### TDHCA COVID-19 Programs Funds Expended (inc. TRR and HAF)



### TDHCA COVID-19 Programs: Households Served (inc. TRR and HAF)



**OPEN PROGRAMS**

<b>Pram</b>	<b>Timelines / Contract Periods</b>	<b>Planned Activities</b>	<b>Program Status</b>	<b>Staffing  Admin Funds</b>	<b>Served to Date</b>	<b>Total Program Funding  Obligated (%) Expended (%)</b>	<b>Other Notes</b>
<b>CARES ACT</b>							
<b>CDBG CARES – Phases I, II and III</b>	<p>Board approved general use of the funds for CDBG Phase I in April 2020 and Plan Amendments in October 2020, January 2021, and July 2021 (all approved). HUD agreement executed November 2020.</p> <p>Funds must be expended by November 3, 2026</p> <p>90-day closeout period</p>	<p>Completed Activities: rental assistance in 42 cities/counties; mortgage payment assistance in all 254 counties; assistance for providers of persons with disabilities; and food expenses. Pending remaining activities: community resiliency program (CRP) and legal services for persons with disabilities. <i>See Also Attached Report.</i></p> <p><i>Geography:</i> Varies by activity type. <i>Income Eligibility:</i> For persons at or below 80% of AMI or Area Benefit for locations where at least 51% of residents are at or below 80% of AMI</p>	<p><i>See Attached Report.</i></p> <p>In April 2023 HUD removed the requirement that 80% of funds must be expended by November 3, 2023. Program is on target to expend all funds by the November 2026 deadline.</p>	<p>8 positions filled.</p> <p>All FTEs are Art. IX</p> <p>Up to 7% admin and TA budget (\$9,484,238)</p>	<p>3,533,842 Persons**</p>	<p>1<sup>st</sup> allocation: \$40,000,886 2<sup>nd</sup> Allocation: \$63,546,200 3<sup>rd</sup> Allocation: \$38,299,172</p> <p>Total: \$141,846,258</p> <p>\$141,846,258* 100%</p> <p>\$106,018,411.18* 74.74%</p>	<p>* Figure includes TDHCA admin funds. ** CRP activities are for area benefit and therefore individual households assisted is not readily captured.</p>
<b>Housing Stability Services (HSS) Program (funded by ERA1 and 2)</b>	<p>These funds are a subset of the ERA funds in the row above. A portion of the funds from ERA1 and ERA2 are authorized for housing stability.</p> <p>ERA1: All program funds were expended by the December 29, 2022, deadline and the final report was submitted to Treasury on April 27, 2023.</p> <p>ERA2: Must expend funds by September 30, 2025</p>	<p>Program provides funds to local communities or nonprofits for them to provide eligible Texans with a variety of services that help household maintain or obtain stable housing including legal services, outreach services, shelter services, community services, and services offered at permanent supportive housing properties.</p> <p><i>Geography:</i> Available where Subrecipients are located. <i>Income Eligibility:</i> For households at or below 80% AMI.</p> <p>Any ERA1 and ERA2 funds reallocated by Treasury (as noted by TRR below) and allocated to HSS will be reflected in this row.</p>	<p><u>ERA1:</u> 28 contracts completed and closed.</p> <p><u>ERA2:</u> 47 contracts (19 of which are closed as of 9/19/24); MOU with TVC completed for SFY 2023-24.</p> <p>18 Subrecipients were awarded both ERA1 and ERA2 contracts.</p> <p>Program is on target to expend all funds by the deadline.</p>	<p>3 Art. IX FTEs plus support of 2 staff at TVC</p> <p>ERA1: \$798,506</p> <p>ERA2: \$3,415,582</p>	<p><u>ERA 1</u> 583,247 meals served</p> <p><u>ERA 1</u> 43,051 households</p> <p><u>ERA 2</u> 288,385 meals served</p> <p><u>ERA 2</u> 79,287 households</p>	<p>Total* \$213,345,630</p> <p><u>HSS ERA1</u> Obligated and Expended \$63,295,298 <b>100%</b></p> <p><u>HSS ERA2</u> Obligated: \$150,050,332 <b>100%</b></p> <p>Expended*: \$124,750,873 83.14%</p>	<p>*figure includes TDHCA Admin funds</p>

Program	Timelines / Contract Periods	Planned Activities	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<p><b>Texas Rent Relief (TRR) Program (Funded with ERA1 and ERA2)</b></p>	<p>The program dedicated funds through Treasury specifically for rental and utility assistance.</p> <p>The first allocation (Consolidated Appropriations Act) was ERA1. The second allocation (American Rescue Plan Act, Section 3201) was ERA2.</p> <p>ERA1: All direct assistance was obligated by program deadline of December 29, 2022. Final report was submitted to Treasury in April, 2023.</p> <p>ERA2: Required to obligate all funds by September 30, 2025.</p>	<p>Program provided up to 18 months of rental and utility assistance including arrears. Households could reapply every 3 months. Established a 10% set-aside for eviction diversion; households facing eviction were prioritized for processing.</p> <p>A portion of ERA funds are for Housing Stability Services (see row above). \$11.5M of ERA2 funds were designated by the Board for other affordable rental housing which is being administered by TDHCA's Multifamily Direct Loans (MFDL) program.</p> <p><u>Treasury Reallocation:</u> TRR received \$299.1M in reallocated funds from the Treasury and local/county programs in Texas.</p> <p><u>Geography:</u> Statewide. <u>Income Eligibility:</u> For households at or &lt;80% AMI.</p>	<p>Program closing announcement made July 7, 2023. Final payments to approved households made as of October 6, 2023. Now that all direct assistance funds have been distributed, TRR staff continues working on reconciliation, audit, reporting, and closeout.</p> <p>The Board has approved two ERA awards for affordable rental housing (administered by the MF Division). As of 10/09/24, of \$1.55M obligated for Freedom's Path at Waco, \$320K has been disbursed. Of \$4.3M obligated for Inn Town Lofts in Lubbock, \$956K has been disbursed.</p>	<p>TRR Positions filled include Director, 6 staff positions, and 1 part-time temporary staff position. Staffing also includes a separate team for the Housing Stability Services activity (see above).</p> <p>All FTEs are Art. IX</p> <p><i>Admin Allowed (All ERA):</i> 10% ERA1 15% ERA2 \$330,898,385</p>	<p>323,124 households served*</p> <p>To date, 63 rental units approved by Board</p>	<p>Total ERA Budget: \$2,689,725,564</p> <p><u>TRR Direct Assistance Expended*:</u> \$2,221,318,459</p> <p><u>TRR Admin:</u> Total Available: \$243,561,484 Obligated: \$243,561,484 100% Expended**: \$237,880,930 97.67%</p> <p><u>Other ERA:</u> HSS: \$213,345,621 (see row above) MFDL: \$11,500,000</p>	<p>* Per internal report 08/15/24. Subject to some payment adjustments as staff continues to work on reconciliation and closeout.</p> <p>** Per internal report as of 10/18/24. Expended admin funds are a subset of obligated admin funds.</p>
<b>AMERICAN RESCUE PLAN (ARPA) – Public Law 117-2</b>							
<p><b>HOME ARP Program</b></p>	<p>Section 3205 of the American Rescue Plan. Funded by HUD for typical HOME activities as well as homeless services and non-congregate shelter</p> <p>Must expend funds by September 30, 2030</p>	<p>Funds are programmed for development of rental housing, development of non-congregate shelter, and operating costs/capacity building for eligible nonprofit organizations. The previous waiver from the Governor relating to limits on using the funds in rural areas allowed the funds to assist homeless persons in urban and rural areas.</p> <p><u>Geography:</u> Statewide for rental; high needs areas for non-congregate shelter. <u>Households Eligibility:</u> (See Other Notes)</p>	<p>Awarded \$57.6 M in rental development. Awarded \$3.2M in nonprofit capacity building/operating. Non-congregate shelter Invitation to Apply released for approx. \$56M.</p> <p>Funds obligated reflect executed contracts.</p>	<p>6 Art. IX FTEs</p> <p>10% for admin/planning</p> <p>\$13,296,915</p>	<p>331 rental units obligated</p>	<p>*\$119,672,232</p> <p>\$56,399,842 47%</p> <p>\$24,831,208 21%</p>	<p>*Excludes admin.</p> <p>Eligibility: homeless, at risk of homelessness, those fleeing Domestic Violence, populations with housing instability</p>

Program	Timelines / Contract Periods	Planned Activities	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>Homeowner Assistance Fund (HAF)</b>	<p>Passed as section 3206 of the American Rescue Plan, dedicates funds through Treasury specifically for preventing mortgage delinquencies, defaults, foreclosures, loss of utilities and displacement.</p> <p>Must expend funds by September 30, 2026</p>	<p>The HAF Program avoids displacement through giving assistance payments up to \$65,000 per qualified household for: 1) Mortgage payments and mortgage reinstatement assistance including up to three months of full monthly payment assistance to qualified homeowners; 2) payments to resolve delinquent property charges, including past due property taxes, insurance premiums, condo and homeowner association fees, and cooperative maintenance or common charges; and 3) up to \$10,000 in utility payment assistance (within the \$65,000 cap).</p> <p>Treasury approved the HAF Plan on January 28, 2022. Subsequent plan and budget amendments have been submitted and approval received.</p> <p><i>Geography:</i> Statewide <i>Income Eligibility:</i> Household income at or below greater of 100% AMI or 100% of national median income.</p>	<p>The program became available statewide on March 2, 2022. Closure of the program to new applications occurred October 10, 2023.</p> <p>Funds from the existing contract are being used to assist homeowners by paying applications that were previously denied due to grant funds being exhausted. Mortgage cases are being paid as refunds continue to be received. HAF staff will continue working on reconciliation, audit, reporting, and closeout.</p>	<p>5.31 Art. IX FTEs remaining</p> <p>Up to 10.87% (\$91,585,797) for admin</p> <p>Reduction in some program staff began in December 2023.</p> <p>HAF Subrecipient staff merged with HAF Team in April 2024.</p>	<p>58,522 hholds</p>	<p><u>Total HAF Budget:</u> \$842,214,006</p> <p><u>HAF Direct Assistance Expended:</u> \$740,690,233* 99.91%</p> <p><u>HAF Admin:</u> Total Available: \$84,915,110 Expended: \$79,387,884 93.49%</p> <p><u>Other HAF Expended:</u> Subrecipients: \$15,899,524 (see row below)</p>	<p>*Total Available for Direct Assistance is \$739,344,907</p> <p>\$9.9B nationally.</p>
<b>HAF Subrecipient Activities</b>	<p>Program was originally funded for \$30.5 million. \$14.5 million has been returned to be used for HAF assistance to households, leaving current funding at \$15.9 million.</p> <p>Must expend funds by September 30, 2026.</p>	<p>Program provides funds to local communities or nonprofits for them to provide one or more of three eligible types of assistance: 1) serve as an Intake Center to assist households in applying for HAF funds, 2) provide Housing Counseling Services, and/or 3) provide Legal Services related to Homeownership.</p> <p><i>Geography:</i> Available where Subrecipients are located. <i>Income Eligibility:</i> Household income at or below greater of 100% AMI or 100% of national median income.</p>	<p>Final contract close out was complete June 30, 2024.</p>	<p>There are no remaining HAF Subrecipient Division staff dedicated only to that area; the remaining activities left have now been absorbed by the HAF Team.</p>	<p><u>Unduplicated Hholds Served:</u> 9,132</p> <p><u>Outreach Events:</u> 1,676</p>	<p>Total \$15,953,990</p> <p>Obligated: 15,899,524 99.66%</p> <p>Expended: \$15,899,524 99.66%</p>	<p>Served: <u>Intake</u> 4,479 <u>Legal Services</u> 1,418 <u>Housing Counsel</u> 3,235 Foreclosures Prevented* 242 (intake) 164 (legal and housing) *potential overlap</p>

Program	Timelines / Contract Periods	Planned Activities	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<p align="center"><b>Emergency Housing Vouchers (EHV)</b></p>	<p>Passed as Section 3202 of the American Rescue Plan, dedicates vouchers through HUD for emergency rental assistance.</p> <p>EHV appropriation will be available for obligation until September 30, 2030, and will be cancelled September 30, 2035. This indicates that any funds not spent by this time will no longer be available and will be returned to Treasury.</p>	<p>TDHCA was allocated 798 vouchers by HUD. The award includes funds for the vouchers (\$7,933,560) plus funds to provide services (\$2,793,000) and funds for admin (\$763,788). Vouchers are for households who are: (1) homeless, (2) at risk of homelessness, (3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, or (4) recently homeless. TDHCA was able to maximize the use of waivers, assisting households that normally would not be offered a voucher.</p> <p>HUD awarded supplemental Housing Assistance Payment (HAP) funds. Due to the surge in lease-ups and an increase in cost-per-unit, there has been an escalation in average subsidy. An amendment or supplement notice from HUD is anticipated.</p> <p><i>Geography:</i> Balance of State Continuum of Care counties underserved by an EHV-awarded PHA, Heart of Texas Homeless Coalition service area and Tarrant County Homeless Coalition (TCHC) service areas.</p> <p><i>Income Eligibility:</i> Not to exceed 50% AMI</p>	<p>CoC partner contracts are in final stages.</p> <p>Vouchers Issued: 953 Vouchers on the Street: 0 Housed: 808 Vouchers Declined after issuance: 89</p> <p>Note that with rental assistance programs, funds expend fairly slowly as rent for the eligible household is paid monthly.</p>	<p>Program being administered by Section 8 area.</p> <p>4 Art. IX positions created using EHV/CSBG administrative funds.</p>	<p>808 of 798 Housed 101%</p>	<p>Total \$11,490,348</p> <p>Rent Payments Avail: \$7,933,560</p> <p>HAP Obligated: \$13,416,207 169.11%</p> <p>HAP Expended: \$13,419,007 169.14%</p> <p>Service Contracts Avail: \$2,793,000</p> <p>Obligated: \$2,793,000 100%</p> <p>Expended: \$2,298,436.03 82.29%</p>	<p>\$5 billion allocated nationally.</p> <p>\$3,500 per unit service fee included, separate from rental assistance payment. The fee total is not tied to each voucher, but is a combined total of funds for services.</p>

Program	Timelines / Contract Periods	Planned Activities	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>OTHER ONE-TIME FEDERAL FUND ALLOCATIONS</b>							
<b>LIHEAP IJJA*</b>	<p>Passed as Section 501 of the Infrastructure Investment and Jobs Act (PL 117-58), dedicates funds through HHS for home energy costs.</p> <p>Must expend funds by: September 30, 2026</p>	<p>Funds nationally to be released in annual increments of \$100 million each year for the next 5 years. These funds will be made available to each state as part of its annual LIHEAP allocation; the Department therefore will handle these as part of our annual allocation.</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 150% of poverty</p>	<p>On March 1, 2022, flexibilities were granted. The statewide provider has been the recipient of these funds to date. That provider closed its portal on September 15, 2023. Note that the funds will only become available annually, therefore expenditure will be reflected slowly over 5 Years.</p> <p>To date, three annual allocations have been received in the amounts of \$7,532,384 and \$9,627,413 and \$8,394,348</p>	FTEs noted under CARES LIHEAP will be utilized for both allocations.	21,580 persons	<p><u>Estimated 5-Year Total*</u>: \$37,661,920</p> <p><u>Received by TDHCA</u>: \$25,554,145</p> <p><u>Obligated</u>: \$25,554,145 Of Rcvd: 100% Of 5-Year: 68%</p> <p>Expended: \$18,683,366 Of Rcvd: 73.11% Of 5-Year: 49.61%</p>	\$500 million nationally
<b>BIL WAP</b> (Bipartisan Infrastructure Law Weatherization Assistance Program)	<p>Passed as Section 40551 of the Infrastructure Investment and Jobs Act (Public Law 117-58), dedicates funds through Department of Energy for home weatherization.</p> <p>DOE strongly recommends activities be completed within 5 years of receipt of the funds.</p>	<p>Single family and multifamily weatherization of units. Additional restrictions added to the program through the bill beyond typical DOE WAP include Davis-Bacon, Buy American, NEPA, etc. In addition, DOE has applied several Administration priorities, including a focus on workforce development and Diversity in delivering funds.</p> <p>Because this award amount is more than 20 times the typical annual DOE award, Board granted authority in December 2021 to procure a statewide DOE WAP vendor to augment the work of the network.</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 200% of poverty</p>	<p>In September 2022 DOE directed TDHCA to proceed with release of its 5-Year Plan for public comment. Staff had obtained Board authority to do so in May 2022. The Plan has now been approved.</p> <p>Statewide subrecipient Request for Applications has been released. Awards are being made at this June 2024 Board meeting. Network subrecipient contracts for the first half of funds are now executed.</p>	4 Current FTE's \$11,349,839 6.55% Admin	787 units	<p>\$173,162,598*</p> <p>Obligated: \$56,153,409 32.43%</p> <p>Expended: \$6,510,026 3.76%</p>	<p>*\$142,944,233 for Program and \$30,218,365 for Training and TA</p> <p>15% of grant made available initially As of March 23, 2023 50% of the grant is available</p>

Program	Timelines / Contract Periods	Planned Activities	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
<b>LIHEAP (23CR) Supplemental Funding</b>	<p>Passed as an additional contribution to the 2023 LIHEAP allocation through the <i>Continuing Appropriations Act (CR), 2023</i> (Public Law 117-180), dedicates funds through HHS for home energy costs.</p> <p>Must expend funds by: September 30, 2024</p>	<p>Funds nationally of an additional \$1 billion added to the annual 2023 allocation.</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 150% of poverty</p>	<p>On March 1, 2022, flexibilities were granted. A statewide provider to provide LIHEAP was selected in May 2022 and made funds available in July 2022. That statewide provider has been used for these funds as well. That provider closed its portal on September 15, 2023.</p>	<p>FTEs noted under CARES LIHEAP, and regular non-temporary LIHEAP, will be utilized.</p>	<p>193,639 persons</p>	<p>Total \$84,732,886</p> <p>\$82,190,900 97%</p> <p>\$81,325,095 95.98%</p>	<p>\$1 billion nationally</p>
<b>LIHEAP (23CR) Supplemental Disaster Funding</b>	<p>Passed as an additional contribution to the 2023 LIHEAP allocation through the <i>Continuing Appropriations Act (CR), 2023</i> (Public Law 117-180), dedicates funds through HHS for home energy costs.</p> <p>Must expend funds by: September 30, 2024</p>	<p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 150% of poverty</p>	<p>On March 1, 2022, flexibilities were granted. A statewide provider to provide LIHEAP was selected in May 2022 and made funds available in July 2022. That statewide provider has been used for these funds as well. That provider closed its portal on September 15, 2023. Now seeking several subrecipients to expend the funds remaining - refunds and unused funds.</p>	<p>FTEs noted under CARES LIHEAP, and regular non-temporary LIHEAP, will be utilized.</p>	<p>79,701 persons</p>	<p>Total \$55,322,964</p> <p>55,322,964 100%</p> <p>\$52,869,816 95.57%</p>	<p>\$1 billion nationally</p>

**CLOSED /COMPLETED PROGRAMS**

<b>Program</b>	<b>Timelines / Contract Periods</b>	<b>Activities Performed</b>	<b>Notes on Program Completion</b>	<b>Staffing Admin Funds</b>	<b>Total Served</b>	<b>Total Program Funding Obligated (%) Drawn (%)</b>
<b>EARLY REPROGRAMMING OF EXISTING TDHCA PROGRAM FUNDS</b>						
<b>HOME Program Tenant Based Rental Assistance (TBRA) for COVID-19 DR</b>	NA: Reservation Agreements	Program provided 3-6 months of rental assistance through existing or new HOME subrecipients. All necessary waivers were authorized by the OOG and HUD.  <i>Geography:</i> Was available where subrecipients applied. 23 administrators covered 120 counties <i>Income Eligibility:</i> Households at or below 80% AMFI	<b>COMPLETED</b>  100% expended  (* Total Program Funding was first authorized up to \$11,290,076. Ultimately 97.7% of that (\$11,026,701) was obligated and utilized.)	No added TDHCA staffing  No added admin funds	2,612 households	\$11,026,701*  \$11,026,701 <b>100%</b>  \$11,026,701 <b>100%</b>  <b>FINAL</b>
<b>Reprogram 2019 and 2020 CSBG Discretionary and Admin. Funds</b>	<ul style="list-style-type: none"> <li>Board approval March 2020</li> <li>Recipients contracts were effective March 26, 2020</li> <li>Expenditure Deadline was August 31, 2020</li> </ul>	Used the existing network of 38 Community Action Agencies to provide direct client assistance to low income households economically impacted by COVID-19.  <i>Geography:</i> Available statewide (excluding CWCCP and CSI) <i>Income Eligibility:</i> 200% poverty (normally is 125%)	<b>COMPLETED</b>  100% expended	No added TDHCA staffing  No added admin funds	9,468 persons	\$1,434,352  1,434,352 <b>100%</b>  \$1,434,352 <b>100%</b>  <b>FINAL</b>
<b>Recaptured 2018/2019 HHSP</b>	<ul style="list-style-type: none"> <li>Board approval March 2020</li> <li>2018 had to be spent by August 31, 2020; 2019 had to be spent by December 31, 2020</li> </ul>	Allowed the 9 subrecipients to perform HHSP eligible activities in addressing homelessness and those at risk of homelessness.  <i>Geography:</i> Available 9 largest metro areas <i>Income Eligibility:</i> Generally 30% AMFI if applicable	<b>COMPLETED</b>  100% expended	No added TDHCA staffing  No added admin funds	462 persons	\$191,939.53  \$191,939.53 <b>100%</b>  \$191,939.53 <b>100%</b>  <b>FINAL</b>

Program	Timelines / Contract Periods	Planned Activities	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Drawn (%)
<b>CARES ACT FUNDS</b>						
<b>LIHEAP CARES</b>	<ul style="list-style-type: none"> <li>Board approved April 2020</li> <li>Expend deadline was Sept. 30, 2021</li> <li>45 day closeout period</li> </ul>	99% to CEAP subs for households affected by COVID-19; 1% for state admin (no weatherization).  <i>Geography:</i> Available statewide <i>Income Eligibility:</i> 150% of poverty	<p style="text-align: center;"><b>COMPLETED</b></p> (An estimated \$29,676,554 was not expended by subrecipients by the deadline. Unused funds were returned to HHS.)	1 Art. IX FTE for CEAP TA/capacity <i>No Longer Filled</i>  1% admin (\$892,670)	181,215 persons	\$94,023,896 \$93,483,658 99% \$63,898,418 68% <p style="text-align: center;"><b>FINAL</b></p>
<b>Housing Choice Voucher Program Admin</b>	Expend deadline was Dec. 31, 2021  <ul style="list-style-type: none"> <li>1<sup>st</sup> Award: \$117,268</li> <li>2<sup>nd</sup> Award: \$140,871</li> </ul>	<ul style="list-style-type: none"> <li>Software upgrades with Housing Pro to allow more efficient remote interface</li> <li>Landlord incentive payments</li> <li>Ordered 3 tablets for inspections</li> <li>October 2020 Board approved use of funds for retention payments to existing owners to ensure their ongoing participation in the program</li> </ul>	<p style="text-align: center;"><b>COMPLETED</b></p> (\$174,439 of admin was returned to HUD. Funds were not allowed to be used for direct household assistance nor were there higher admin expenses.)	No added TDHCA staffing.	142 Land-lord renewals  17 new landlords added	\$258,139 \$83,700 32.42% \$83,700 32.42% <p style="text-align: center;"><b>FINAL</b></p>
<b>Housing Choice Voucher Program MVP</b>	Had to issue vouchers by December 31, 2021.  Orig. Allocation: \$105,034*	15 additional MVP vouchers consistent with our award of MVP, which for TDHCA is for Project Access households.  Received award from HUD. Issued the 15 vouchers on May 22, 2020. All 15 were leased.	<p style="text-align: center;"><b>COMPLETED</b></p> 100% of vouchers utilized  (Effective Dec. 31, 2021, the funding authority for the 15 housed families was rolled into TDHCA's regular yearly HAP authority.)	No added TDHCA staffing.  No added admin funds.	15 families	\$110,302 <u>HAP Paid*</u> \$53,664 48.65% <p style="text-align: center;"><b>FINAL</b></p>

Program	Timelines / Contract Periods	Planned Activities	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Drawn (%)
<b>CSBG CARES</b>	<ul style="list-style-type: none"> <li>Board approved April 2020</li> <li>Must expend 90% by August 31, 2022</li> <li>45 day closeout period</li> </ul>	<p>90% went to 40 CAAs using regular CSBG formula for households affected by COVID-19; 2% (\$949,120) to Texas Homeless Network (THN); 7% for an eviction diversion pilot program; 1% for state admin.</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 200% of poverty</p>	<p><b>COMPLETED</b></p> <p>(*Expenditure was not 100% because of refunds received after program close-out.)</p>	<p>1 Art. IX FTE for CSBG reporting <i>No Longer Filled</i></p> <p>1% admin (\$474,560)</p>	<p>146,462 persons</p>	<p>\$48,102,282</p> <p>\$48,102,282 <b>100%</b></p> <p>\$47,942,629 99.67% <b>FINAL*</b></p>
<b>ESG CARES: Phase 1 &amp; 2</b>	<ul style="list-style-type: none"> <li>ESG1 awards made July 23, 2020 and ESG2 awards made January 14, 2021</li> <li>Deadline to expend 80% by March 31, 2022 was removed by HUD; new benchmark for June 2022 was met</li> <li>Met September 30, 2023 ESG2 expenditure deadline</li> <li>Expended reallocated ESG3 funds received March 2023 (\$5,854,004) by June 30, 2024</li> </ul>	<ul style="list-style-type: none"> <li>ESG1: Existing subs were offered funds. ESG Coordinators decided via local process for their CoC; in three areas without ESG Coordinators awards offered to CoC awardees (also used for Legal/ HMIS)</li> <li>ESG2: Funding provided for Homelessness Prevention, Rapid Rehousing, HMIS, Street Outreach &amp; Emergency Shelter</li> <li><i>Geography:</i> Locations of all funded grantees</li> </ul> <p><i>Income Eligibility:</i> 50% AMI for homeless prevention</p>	<p><b>COMPLETED</b></p> <p>160 contracts</p> <p>(* All project funds expended. Expenditure was not 100% because some unused administrative funds remained.)</p>	<p>2 1 Art. IX FTE <i>No Longer Filled</i></p> <p>Up to 5 % admin (\$5,187,681)</p>	<p>98,805 persons</p>	<p>\$103,646,620</p> <p>\$103,646,620* <b>100%</b></p> <p>\$103,174,553* 99.54% <b>FINAL*</b></p>
<b>Low-Income Household Water Assistance Program (LIHWAP1)</b>	<p>HHS approved TDHCA's LIHWAP Plan on October 22, 2021</p> <p>Must obligate and expend funds by: March 31, 2024. This is an extension from the original deadline of September 30, 2023.</p>	<p>Program provided funds to assist low-income households with water and wastewater bills. Funds are directed through the LIHEAP network of subs and a statewide program called Texas Utility Help operated by a vendor.</p> <p><i>Geography:</i> Statewide <i>Income Eligibility:</i> 150% federal poverty level</p>	<p><b>COMPLETED</b></p> <p>(*Significant refunds have been received, which made it a challenge for subrecipients to keep funds fully expended. Refunds have continued to come in after the federal program deadline.)</p>	<p>3 Art. IX FTEs <i>No Longer Filled</i></p> <p>Admin 15%</p> <p>Any FTES will be Art. IX</p>	<p>183,687 persons</p>	<p>\$51,801,876</p> <p>\$47,557,420 91.81%</p> <p>\$47,557,420 91.81% <b>FINAL*</b></p>

Program	Timelines / Contract Periods	Planned Activities	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Drawn (%)
<b>AMERICAN RESCUE PLAN (ARPA) – Public Law 117-2</b>						
<b>LIHEAP ARP</b>	<p>Passed as Section 2911 of the American Rescue Plan, dedicates funds through HHS for home energy costs.</p> <p>Must expend funds by: September 30, 2023</p>	<p>99% of funds were programmed in April 2021 to CEAP subs using a modified formula; 1% for state admin. A statewide provider to provide CEAP ARP was selected in May 2022 and made funds available in July 2022; that provider closed its portal on September 15, 2023.</p> <p><i>Geography:</i> Available statewide <i>Income Eligibility:</i> 150% of federal poverty level</p>	<p style="text-align: center;"><b>COMPLETED</b></p> <p>(While all funds were initially expended, refunds received by the program after close out were returned to HHS.)</p>	<p>FTEs noted under CARES LIHEAP were utilized for both allocations</p> <p>.13% admin \$181,532</p>	<p>194,061 persons</p>	<p>\$134,407,308</p> <p>\$134,407,308 <b>100%</b></p> <p>\$132,058,416 98.25% <b>FINAL*</b></p>
<b>LIHWAP2</b>	<p>Passed as Section 2912 of the American Rescue Plan, dedicates funds through HHS for home water costs</p> <p>Must obligate and expend funds by: March 31, 2024. This is an extension from the original deadline of September 30, 2023</p>	<p>See LIHWAP1 above. This allocation of funds was directed to the statewide provider.</p> <p>Executed agreement for funds on April 22, 2021. HHS approved TDHCA's LIHWAP Plan on October 22, 2021.</p> <p><i>Geography:</i> Statewide <i>Income Eligibility:</i> TBD</p>	<p style="text-align: center;"><b>COMPLETED</b></p> <p>(*Significant refunds have been received, which made it a challenge for the vendor to keep funds fully expended. Refunds have continued to come in after the federal program deadline.)</p>	<p>No additional FTEs other than those noted in LIHWAP1.</p> <p>Admin: currently 14.43%</p>	<p>96,691 Persons</p>	<p>\$40,597,082</p> <p>\$40,597,082 <b>100%</b></p> <p>\$37,992,947 93.41% <b>FINAL*</b></p>

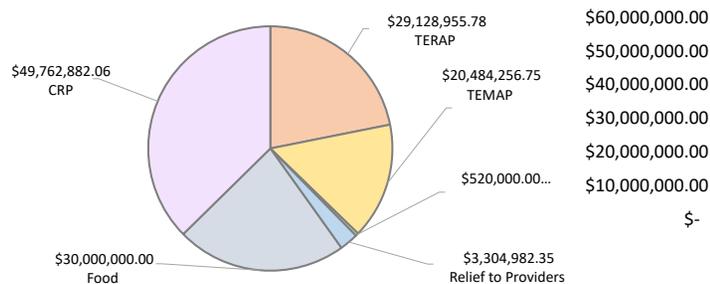


# Texas Department of Housing and Community Affairs

## CDBG CARES (Coronavirus Aid, Relief, and Economic Security) Act Programs

Texas Emergency Rental Assistance Program (TERAP)	Texas Emergency Mortgage Assistance Program (TEMAP)	Legal Services to Persons with Disabilities	Relief to Service Providers for Persons with Disabilities	Food Distribution	Community Resiliency Program
<b>COMPLETED</b> Rental assistance (up to six months, including arrears) to income-eligible households impacted by COVID-19 to help provide housing stability during the pandemic. Funds can also be used for eviction diversion, which provides rental assistance to tenants who have been sued for eviction. TERAP was initially funded for \$33,981,073.89, however small amounts of funds have been unused or deobligated*.	<b>COMPLETED</b> Mortgage assistance (up to six months, including arrears) to income-eligible homeowners who have been economically impacted by COVID-19 to help provide housing stability during the pandemic.	Legal services assistance for persons with disabilities to obtain or retain housing as a result of COVID-19. Legal services include legal advice and legal representation by licensed attorneys in good standing with the State Bar of Texas.	<b>COMPLETED</b> Assistance to help providers continue serving residential persons with disabilities during the pandemic by reimbursing for allowable expenses undertaken to prevent, prepare for, or respond to COVID-19. Assistance was initially programmed for \$5,000,000, but \$1,695,017.65 was unused and deobligated by the administrator*.	<b>COMPLETED</b> Assistance to eligible food bank providers that have been economically impacted by COVID-19. Funds will be utilized to reimburse food banks for bulk food purchases to be distributed statewide.	Assistance to low- and moderate-income persons, and rural and small metro communities, to create, expand or enhance public facilities that provide medical care, social services, and/or emergency housing to prevent the transmission of COVID-19 and allow for adequate social distancing or remote access.
<b>Start Date:</b> January 15, 2021 <b>Persons Assisted:</b> 16,606	<b>Start Date:</b> June 15, 2021 <b>Persons Assisted to Date:</b> 11,777	<b>Start Date:</b> April 1, 2021 <b>Persons Assisted:</b> 750	<b>Start Date:</b> April 15, 2021 <b>Persons Assisted:</b> 3,592 <b>Providers Assisted:</b> 50	<b>Start Date:</b> October 1, 2021 <b>Persons Assisted:</b> 3,501,117	<b>Start Date:</b> May 2022
<b>Program Administrators:</b> 42 entitlement city and county governments throughout Texas	<b>Program Administrators:</b> 48 cities, counties and other local and regional service providers	<b>Program Administrator:</b> Disability Rights Texas	<b>Program Administrator:</b> My Health My Resources of Tarrant County	<b>Program Administrator:</b> Feeding Texas, a network of 21 member food banks	<b>Program Administrators:</b> 18 Non-Entitlement Communities throughout Texas
<b>Service Area:</b> 42 entitlement cities and counties	<b>Service area:</b> Statewide - All 254 counties in Texas	<b>Service area:</b> Statewide - All 254 counties in Texas	<b>Service area:</b> Statewide - All 254 counties in Texas	<b>Service area:</b> Statewide - All 254 counties in Texas	<b>Service Area:</b> 18 Non-Entitlement communities in Texas
<b>Programmed Funds:</b> \$29,128,955.78	<b>Programmed Funds:</b> \$20,484,256.75	<b>Programmed Funds:</b> \$520,000.00	<b>Programmed Funds:</b> \$3,304,982.35	<b>Programmed Funds:</b> \$30,000,000.00	<b>Programmed Funds:</b> \$49,762,882.06
<b>Contracted Funds:</b> \$29,128,955.78	<b>Contracted Funds:</b> \$20,484,256.75	<b>Contracted Funds:</b> \$520,000.00	<b>Contracted Funds:</b> \$3,304,982.35	<b>Contracted Funds:</b> \$30,000,000.00	<b>Contracted Funds:</b> \$49,762,882.06
<b>Expended Funds:</b> \$29,128,955.78	<b>Expended Funds:</b> \$20,484,256.75	<b>Expended Funds:</b> \$451,288.04	<b>Expended Funds:</b> \$3,304,982.35	<b>Expended Funds:</b> \$30,000,000.00	<b>Expended Funds:</b> \$17,322,913.16

CDBG CARES Funds by Program



CDBG CARES Program Funds by Status



\* In the case of funds unused by administrators or deobligated, funds will be reprogrammed and used for awards under the Community Resiliency Program or another existing program.



## Texas Department of Housing and Community Affairs

### Governing Board

### Board Action Request

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**File #: 804**

**Agenda Date: 11/7/2024**

**Agenda #: 10.**

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Report on the Department's 4th Quarter Investment Report in accordance with the Public Funds Investment Act

### **BACKGROUND**

The Department's investment portfolio consists of two distinct parts. One part is related to bond funds under trust indentures that are not subject to the Public Funds Investment Act (PFIA), and the remaining portion is related to accounts excluded from the indentures but covered by the PFIA. The Department's total investment portfolio is \$3,787,729,695 of which \$3,710,377,180 is not subject to the PFIA. This report addresses the remaining \$77,352,515 (see page 1 of the Internal Management Report) in investments covered by the PFIA. These investments are deposited in the General Fund, Housing Trust Fund, Compliance, and Housing Initiative accounts, which are all held at the Texas Treasury Safekeeping Trust Company (TTSTC), primarily in the form of overnight repurchase agreements. These investments are fully collateralized and secured by U.S. Government Securities. A repurchase agreement is the daily purchase of a security with an agreement to repurchase that security at a specific price and date, which in this case was September 1, 2024, with an effective interest rate of 5.3%. These investments safeguard principal while maintaining liquidity. The overnight repurchase agreements, subject to the PFIA, earned \$978,127 in interest during the quarter.

**Below is a description of each fund group and its corresponding accounts.**

- The **General Fund** accounts maintain funds for administrative purposes to fund expenses related to the Department's ongoing operations. These accounts contain balances related to bond residuals, fee income generated from the Mortgage Credit Certificate (MCC) Program, escrow funds, single family and multifamily bond administration fees, and balances associated with the Below Market Interest Rate (BMIR) Program.
- The **State Housing Trust Fund** accounts maintain funds related to programs set forth by the Housing Trust Fund funding plan. The Housing Trust Fund provides loans and grants to finance, acquire, rehabilitate, and develop decent and safe affordable housing.
- The **Compliance** accounts maintain funds from compliance monitoring fees and asset management fees collected from multifamily developers. The number of low income units and authority to collect these fees is outlined in the individual Land Use Restriction Agreements (LURAs) that are issued to each Developer. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the monitoring and administration of these properties.

- The **Housing Initiative** accounts maintain funds from fees collected from Developers in connection with the Department's Housing Tax Credit Program. The majority of fees collected are application fees and commitment fees. The authority for the collection of these fees is outlined in the Department's Multifamily Rules. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the administration of the Tax Credit Program.
- The **Ending Homelessness Trust Fund** account maintains funds from donations collected from individuals through the Texas Department of Motor Vehicles in connection with the Department's Ending Homelessness Program. The authority for the collection of these donations is outlined in Tex. Transp. Code §502.415. These donations are collected and disbursed for the purpose of providing grants to counties and municipalities to combat homelessness.

This report is in the format required by the Public Funds Investment Act. It shows in detail the types of investments, their maturities, their carrying (face amount) values, and fair values at the beginning and end of the quarter. The detail for investment activity is on Pages 1 and 2.

During the 4<sup>th</sup> Quarter, as it relates to the investments covered by the PFIA, the carrying value increased by \$8,331,053 (see page 1) for an ending balance of \$77,352,515. The change is described below by fund groups.

**General Fund:** The General Fund increased by \$2,725,937. This consists primarily of \$1,130,065 received in multifamily bond fees and \$1,400,000 transferred from the Single Family Bond Program.

**The State Housing Trust Fund:** The Housing Trust Fund decreased by \$158,593. This consists primarily of \$1,373,703 received in loan repayments and interest earnings offset by disbursements including \$1,500,967 for loans, grants, and escrow payments.

**Compliance:** Compliance funds increased by \$2,187,893. This consists primarily of \$1,957,025 received in compliance fees.

**Housing Initiative:** Housing Initiative funds increased by \$3,689,142. This consists primarily of \$3,689,803 received in fees and interest earnings related to tax credit activities.

**Ending Homelessness Fund:** Ending Homelessness funds decreased by \$113,326. This consists of \$66,542 donations and interest earnings on current investment balances, offset by disbursements of \$179,801 for grants.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
HOUSING FINANCE DIVISION

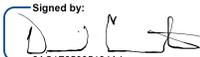
PUBLIC FUNDS INVESTMENT ACT  
INTERNAL MANAGEMENT REPORT (SEC. 2256.023)  
QUARTER ENDING AUGUST 31, 2024

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
 HOUSING FINANCE DIVISION  
 PUBLIC FUNDS INVESTMENT ACT  
 Internal Management Report (Sec. 2256.023)  
 Quarter Ending August 31, 2024

	Investment Type	FAIR VALUE (MARKET) @ 5/31/2024	CARRYING VALUE @ 5/31/2024	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 8/31/2024	FAIR VALUE (MARKET) @ 8/31/2024	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT RECVBL GAIN	RECOGNIZED GAIN
NON-INDENTURE RELATED:												
General Fund	Repurchase Agreements	6,789,849.14	6,789,849.14	2,731,683.27	(5,746.49)	-	-	9,515,785.92	9,515,785.92	-	2,791.31	-
Housing Trust Fund	Repurchase Agreements	19,102,631.85	19,102,631.85	1,053,848.59	(1,212,441.85)	-	-	18,944,038.59	18,944,038.59	-	5,557.17	-
Compliance	Repurchase Agreements	14,066,132.72	14,066,132.72	2,187,893.01	-	-	-	16,254,025.73	16,254,025.73	-	4,767.85	-
Housing Initiatives	Repurchase Agreements	28,290,767.66	28,290,767.66	3,689,142.71	-	-	-	31,979,910.37	31,979,910.37	-	9,380.97	-
Ending Homelessness Trust Fund	Repurchase Agreements	772,080.89	772,080.89	-	(113,326.42)	-	-	658,754.47	658,754.47	-	193.23	-
NON-INDENTURE RELATED TOTAL		69,021,462.26	69,021,462.26	9,662,567.58	(1,331,514.76)	0.00	0.00	77,352,515.08	77,352,515.08	0.00	22,690.53	0.00

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:  
 David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on November 13 and 14, 2023  
 Scott Fletcher completed 5.0 hrs. of training on the Texas Public Funds Investment Act on June 27, 2024

Signed by:  2AC1F66095194A4... David Cervantes Director of Administration	Date: <u>October 28, 2024</u>
DocuSigned by:  21FDE80039154AE... Scott Fletcher Director of Bond Finance	Date: <u>October 28, 2024</u>

Texas Department of Housing and Community Affairs  
Non-Indenture Investment Summary  
For Period Ending August 31, 2024

Investment Type	Issue	Current Interest Rate	Current Purchase Date	Current Maturity Date	Beginning Carrying Value 5/31/2024	Beginning Market Value 5/31/2024	Accretions/Purchases	Amortizations/Sales	Maturities	Transfers	Ending Carrying Value 8/31/2024	Ending Market Value 8/31/2024	Change In Market Value	Recognized Gain
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	1,344,101.72	1,344,101.72	256,586.58	-	-	-	1,600,688.30	1,600,688.30	-	-
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	0.02	0.02	-	-	-	-	0.02	0.02	-	-
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	9,771.68	9,771.68	15,044.59	-	-	-	24,816.27	24,816.27	-	-
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	103,413.77	103,413.77	1,510,640.96	-	-	-	1,614,054.73	1,614,054.73	-	-
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	3,251,545.31	3,251,545.31	927,516.43	-	-	-	4,179,061.74	4,179,061.74	-	-
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	464,333.69	464,333.69	-	(5,746.49)	-	-	458,587.20	458,587.20	-	-
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	833,948.62	833,948.62	11,264.05	-	-	-	845,212.67	845,212.67	-	-
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	781,603.69	781,603.69	10,625.04	-	-	-	792,228.73	792,228.73	-	-
Repo Agmt	General Fund	5.28	8/30/2024	9/3/2024	1,130.64	1,130.64	5.62	-	-	-	1,136.26	1,136.26	-	-
	<b>General Fund Total</b>				<b>6,789,849.14</b>	<b>6,789,849.14</b>	<b>2,731,683.27</b>	<b>(5,746.49)</b>	-	-	<b>9,515,785.92</b>	<b>9,515,785.92</b>	-	-
Repo Agmt	Housing Trust Fund	5.28	8/30/2024	9/3/2024	55,646.96	55,646.96	7,972.87	-	-	-	63,619.83	63,619.83	-	-
Repo Agmt	Housing Trust Fund	5.28	8/30/2024	9/3/2024	319,452.72	319,452.72	31,725.23	-	-	-	351,177.95	351,177.95	-	-
Repo Agmt	Housing Trust Fund	5.28	8/30/2024	9/3/2024	519,593.72	519,593.72	35,896.29	-	-	-	555,490.01	555,490.01	-	-
Repo Agmt	General Revenue Appn	5.28	8/30/2024	9/3/2024	761,422.76	761,422.76	145,357.63	-	-	-	906,780.39	906,780.39	-	-
Repo Agmt	General Revenue Appn	5.28	8/30/2024	9/3/2024	96,723.46	96,723.46	303,137.86	-	-	-	399,861.32	399,861.32	-	-
Repo Agmt	General Revenue Appn	5.28	8/30/2024	9/3/2024	1,205,236.72	1,205,236.72	-	(27,243.06)	-	-	1,177,993.66	1,177,993.66	-	-
Repo Agmt	General Revenue Appn	5.28	8/30/2024	9/3/2024	674,534.21	674,534.21	77,258.71	-	-	-	751,792.92	751,792.92	-	-
Repo Agmt	General Revenue Appn	5.28	8/30/2024	9/3/2024	228,497.90	228,497.90	-	-	-	-	228,497.90	228,497.90	-	-
Repo Agmt	Housing Trust Fund-GR	5.28	8/30/2024	9/3/2024	234,873.75	234,873.75	-	-	-	-	234,873.75	234,873.75	-	-
Repo Agmt	Housing Trust Fund-GR	5.28	8/30/2024	9/3/2024	3,219,861.32	3,219,861.32	-	(534,916.49)	-	-	2,684,944.83	2,684,944.83	-	-
Repo Agmt	Housing Trust Fund-GR	5.28	8/30/2024	9/3/2024	1,466,618.00	1,466,618.00	-	-	-	-	1,466,618.00	1,466,618.00	-	-
Repo Agmt	Bootstrap -GR	5.28	8/30/2024	9/3/2024	3,411,385.58	3,411,385.58	-	(6,782.30)	-	-	3,404,603.28	3,404,603.28	-	-
Repo Agmt	Bootstrap -GR	5.28	8/30/2024	9/3/2024	4,608,784.75	4,608,784.75	-	(643,500.00)	-	-	3,965,284.75	3,965,284.75	-	-
Repo Agmt	Bootstrap -GR	5.28	8/30/2024	9/3/2024	2,300,000.00	2,300,000.00	452,500.00	-	-	-	2,752,500.00	2,752,500.00	-	-
	<b>Housing Trust Fund Total</b>				<b>19,102,631.85</b>	<b>19,102,631.85</b>	<b>1,053,848.59</b>	<b>(1,212,441.85)</b>	-	-	<b>18,944,038.59</b>	<b>18,944,038.59</b>	-	-
Repo Agmt	Multi Family	5.28	8/30/2024	9/3/2024	891,387.15	891,387.15	285,059.65	-	-	-	1,176,446.80	1,176,446.80	-	-
Repo Agmt	Multi Family	5.28	8/30/2024	9/3/2024	1,031,323.70	1,031,323.70	118,378.05	-	-	-	1,149,701.75	1,149,701.75	-	-
Repo Agmt	Low Income Tax Credit Prog.	5.28	8/30/2024	9/3/2024	12,143,421.87	12,143,421.87	1,784,455.31	-	-	-	13,927,877.18	13,927,877.18	-	-
	<b>Compliance Total</b>				<b>14,066,132.72</b>	<b>14,066,132.72</b>	<b>2,187,893.01</b>	-	-	-	<b>16,254,025.73</b>	<b>16,254,025.73</b>	-	-
Repo Agmt	Asset Management	5.28	8/30/2024	9/3/2024	2,398,242.42	2,398,242.42	225,608.34	-	-	-	2,623,850.76	2,623,850.76	-	-
Repo Agmt	Low Income Tax Credit Prog.	5.28	8/30/2024	9/3/2024	30,000.00	30,000.00	-	-	-	-	30,000.00	30,000.00	-	-
Repo Agmt	Low Income Tax Credit Prog.	5.28	8/30/2024	9/3/2024	2,661,474.05	2,661,474.05	175,198.78	-	-	-	2,836,672.83	2,836,672.83	-	-
Repo Agmt	Low Income Tax Credit Prog.	5.28	8/30/2024	9/3/2024	22,829,282.73	22,829,282.73	3,283,330.89	-	-	-	26,112,613.62	26,112,613.62	-	-
Repo Agmt	Low Income Tax Credit Prog.	5.28	8/30/2024	9/1/2024	371,768.46	371,768.46	5,004.70	-	-	-	376,773.16	376,773.16	-	-
	<b>Housing Initiatives Total</b>				<b>28,290,767.66</b>	<b>28,290,767.66</b>	<b>3,689,142.71</b>	-	-	-	<b>31,979,910.37</b>	<b>31,979,910.37</b>	-	-
Repo Agmt	Homelessness - HB4102	5.28	8/30/2024	9/3/2024	772,080.89	772,080.89	-	(113,326.42)	-	-	658,754.47	658,754.47	-	-
	<b>Homelessness - HB4102 Total</b>				<b>772,080.89</b>	<b>772,080.89</b>	-	<b>(113,326.42)</b>	-	-	<b>658,754.47</b>	<b>658,754.47</b>	-	-
	<b>Total Non-Indenture Related Investment Summary</b>				<b>69,021,462.26</b>	<b>69,021,462.26</b>	<b>9,662,567.58</b>	<b>(1,331,514.76)</b>	-	-	<b>77,352,515.08</b>	<b>77,352,515.08</b>	-	-



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 814

**Agenda Date:** 11/7/2024

**Agenda #:** 11.

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Media Analysis and Outreach Report, September 2024

**Report follows this page.**



## TDHCA Outreach and Media Analysis, September 2024

A compilation of TDHCA media analysis designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public, and outreach activities, such as trainings and webinars. The following is an analysis of print, online and broadcast news, and social media reporting for the time period of September 1-30, 2024 (news articles that specifically mentioned TDHCA generally or along with Department programs).

Total number of articles referencing TDHCA: 21

Breakdown by Medium:<sup>1</sup>

- Print: 6 (Editorials/Columnists = 0)
- Broadcast: 5
- Trade, Government or Internet-Based Publications: 10

Figure 1 News Tone

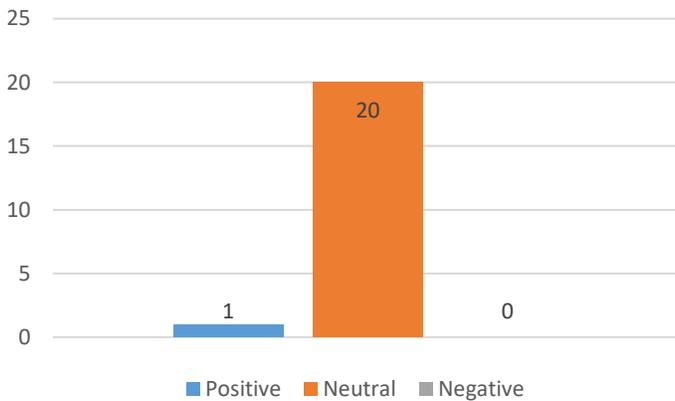
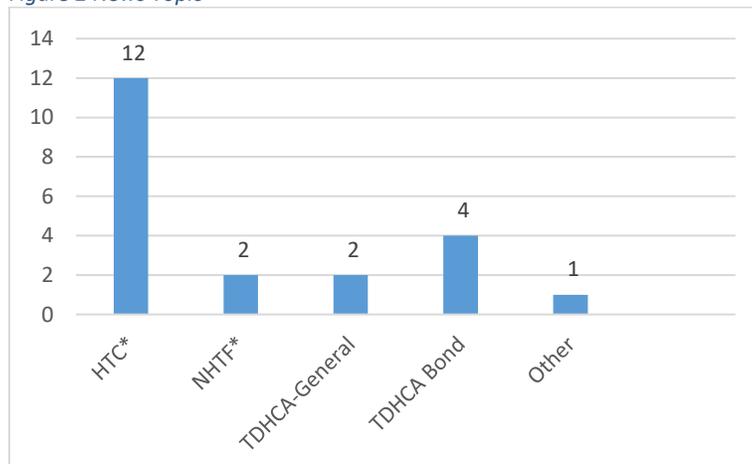
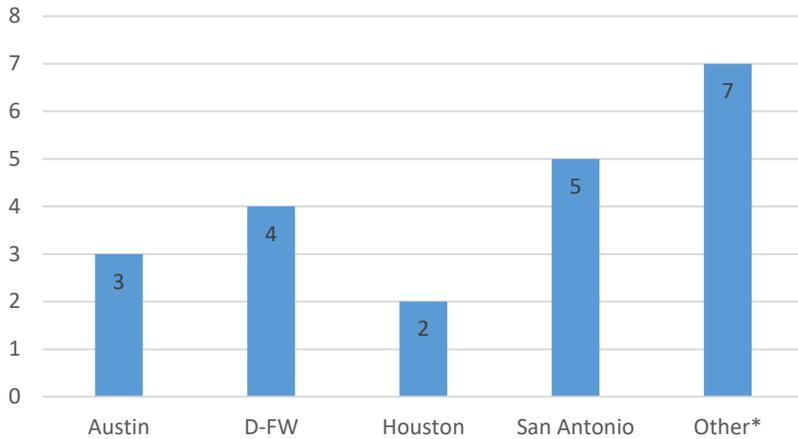


Figure 2 News Topic<sup>2</sup>



<sup>1</sup> Broadcast numbers may represent times in which TDHCA was referenced on a television or radio station's website, rather than in a broadcast segment. <sup>2</sup> News Topics: Programs include Housing Tax Credit, National Housing Trust Fund.

Figure 3 Media Market



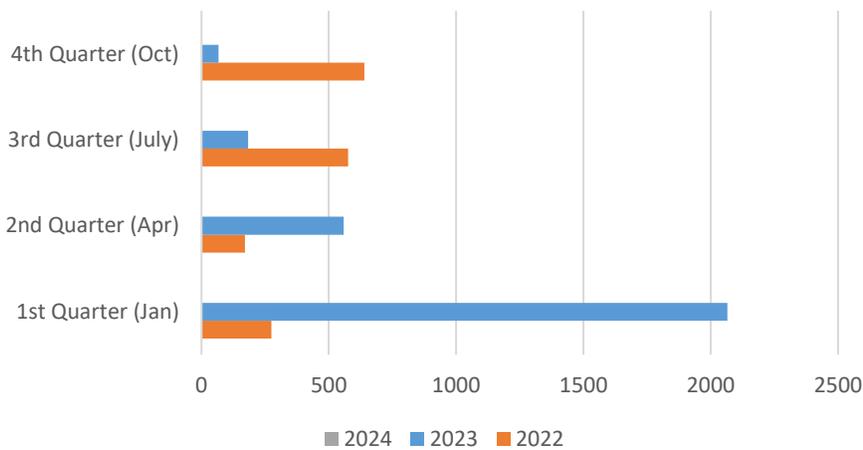
**Summary:**

Reporting on TDHCA activities by the news media totaled 21 references in September 2024. References related to development projects around the state that were financed using TDHCA’s Housing Tax Credit Programs dominated the news cycle.

News mentions during the month were slightly lower than September 2023 (31 total).

The following table illustrates the number of news mentions during each month or quarter of 2024 compared to 2023 and 2022. Through the third quarter of 2024 (July-September), total news mentions are tracking lower (132 total) compared to the number of mentions during the same timeframe of 2023 (2,715 total) and 2022 (921 total). Please note, some pandemic-related programs for which TDHCA had oversight were still operating and accepting applications the previous two years.

TDHCA News Trends



**Social media:**

Through September 2024, TDHCA has more than 3,700 followers to its X (formerly known as Twitter) account and 7,617 fans to its Facebook page. TDHCA’s YouTube channel had 5,639 views in September. The following is a summary analysis of TDHCA’s efforts to inform stakeholders and the public on federal and state resources, initiatives, and programs.

					
Month/Yr	Posts	Clicks	Engagements	Shared posts	Reactions
January 2024	13	19	27	3	20
February 2024	50	0	29	3	23
March 2024	51	7	14	3	11
April 2024	67	8	5	2	75
May 2024	48	14	Approx. 136	43	93
June 2024	66	0	Approx. 109	12	97
July 2024	112	0 (no longer supported)*	Approx. 347	137	191
August 2024	16	0 (no longer supported)*	Approx. 32	4	23
Sept. 2024	53	0 (no longer supported)*	Approx. 61	1	58

\* Clicks = number of times an individual clicked on a link provided in a post; however, FB only tracks clicks for posts that reach a minimum engagement level of 30. Engagements = any action a person takes on our post including shares, comments and reactions.

					
Month/Yr	Tweets	Clicks	Engagements	Retweets	Liked posts
January 2024	15	8	14	5	7
February 2024	52	12	15	2	10
March 2024	52	3	14	1	9
April 2024	67	1	14	2	11
May 2024	49	16	18	5	12
June 2024	63	0	58	57	1
July 2024	114	3	48	9	32
August 2024	17	0	7	0	3
Sept. 2024	53	16	5	2	2

\* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post



Month	Views	Watch time (hours)	Avg. view duration	Avg. % viewed	Unique viewers
January 2024	9,988	909.4	5:27	14.9%	8,076

February 2024	7,234	572.3	4:44	14.8%	5,849
March 2024	6,733	490.1	4:22	13.4%	5,598
April 2024	6,058	500.4	4:57	16.0%	5,047
May 2024	5,720	440.5	4:37	14.1%	4,700
June 2024	5,426	439.5	4:51	15.1%	4,415
July 2024	5,754	470.1	4:54	16.3%	4,798
August 2024	7,395	664.9	5:23	17.4%	6,095
Sept. 2024	5,639	473.9	5:02	15.7%	4,565

### Understanding the YouTube Analytics

- **Views:** number of times your videos were viewed
- **Watch Time:** total number of hours your videos were watched by viewers
- **Average View Duration:** total watch time of your video divided by the total number of video plays, including replays. This metric measures your video’s ability to engage viewers. The higher the view duration, the more engaging the videos.
- **Average Pct Viewed:** the percent of each video the average viewer watched. It measures your video’s ability to hold viewers’ attention for its entirety. YouTube generally rewards videos that can hold people’s attention with higher search and recommendation rankings.
- **Unique viewers:** the estimated number of individuals who watch your videos over a certain period of time. It helps determine the size of our audience.

### Top 25 videos for September 2024

Content	Views ↓	Watch time (hours)	Average view duration	Average percentage viewed	Unique viewers
<input type="checkbox"/> <b>Total</b>	<b>5,639</b>	<b>473.9</b>	<b>5:02</b>	<b>15.7%</b>	<b>4,565</b>
<input type="checkbox"/>  3:24 Help for Texans (English)	3,217 57.1%	87.6 18.5%	1:37	48.0%	2,967 65.0%
<input type="checkbox"/>  0:52 Texas Homebuyer Program introduction	675 12.0%	8.5 1.8%	0:45	87.4%	661 14.5%
<input type="checkbox"/>  5:43:58 Income Determination Training Webinar - Jan. 4, 2024	143 2.5%	96.9 20.4%	40:38	11.8%	56 1.2%
<input type="checkbox"/>  1:21 How to apply: Texas Homeowners Assistance Fund	115 2.0%	1.3 0.3%	0:40	50.2%	96 2.1%
<input type="checkbox"/>  3:06 Fair Housing in Texas	100 1.8%	1.5 0.3%	0:54	29.4%	94 2.1%
<input type="checkbox"/>  1:47:05 Assets and the Changes from HOTMA	85 1.5%	18.7 4.0%	13:12	12.3%	67 1.5%
<input type="checkbox"/>  1:42:56 Reasonable Accommodations and Accessibility – Fair ...	71 1.3%	8.3 1.8%	7:03	6.8%	67 1.5%
<input type="checkbox"/>  3:07 Fair Housing in Texas	69 1.2%	1.1 0.2%	0:57	30.9%	60 1.3%
<input type="checkbox"/>  1:45:18 Fair Housing 101: The Basics of Fair Housing in Texas	56 1.0%	18.0 3.8%	19:15	18.3%	43 0.9%
<input type="checkbox"/>  1:07:13 2024 Emergency Solutions Grants (ESG) Application S...	56 1.0%	6.0 1.3%	6:27	9.6%	45 1.0%

<input type="checkbox"/>	 Frequently Asked Questions about Utility Allowances	54	1.0%	3.5	0.7%	3:50	6.0%	47	1.0%
<input type="checkbox"/>	 Updated HOTMA Training - Oct. 13, 2023	53	0.9%	27.1	5.7%	30:42	19.3%	36	0.8%
<input type="checkbox"/>	 Students: Eligibility and Income	32	0.6%	2.5	0.5%	4:37	2.7%	26	0.6%
<input type="checkbox"/>	 Utility Allowance Webinar/Office Hours	32	0.6%	13.2	2.8%	24:43	23.5%	20	0.4%
<input type="checkbox"/>	 Average Income webinar/Office Hours	31	0.6%	2.6	0.6%	5:07	7.0%	27	0.6%
<input type="checkbox"/>	 Multifamily Income Determination Training	31	0.6%	13.0	2.7%	25:05	7.1%	11	0.2%
<input type="checkbox"/>	 Compliance Roundtable - May 17, 2024	31	0.6%	5.4	1.1%	10:24	17.0%	26	0.6%
<input type="checkbox"/>	 Adjusted Income Webinar - Jan. 12, 2024	28	0.5%	12.6	2.7%	27:02	31.7%	15	0.3%
<input type="checkbox"/>	 Assistance Animals in Texas	28	0.5%	1.1	0.2%	2:23	38.0%	25	0.6%
<input type="checkbox"/>	 Help for Texans in Spanish	26	0.5%	0.6	0.1%	1:17	34.0%	25	0.6%
<input type="checkbox"/>	 Accessing Texas Department of Aging and Disability S...	26	0.5%	1.2	0.3%	2:41	37.8%	20	0.4%
<input type="checkbox"/>	 Fair Housing Special Topics: How to Create an Affirmat...	25	0.4%	6.2	1.3%	14:49	20.6%	20	0.4%
<input type="checkbox"/>	 811 PRA: Maintaining Compliance with Unit Vacancy a...	24	0.4%	12.1	2.6%	30:11	35.3%	10	0.2%
<input type="checkbox"/>	 TXHAF Housing Counseling	24	0.4%	0.1	0.0%	0:17	34.3%	19	0.4%
<input type="checkbox"/>	 Fair Housing Overview – Fair Housing Month 2024	23	0.4%	8.5	1.8%	22:14	20.7%	18	0.4%

### TDHCA Outreach September 2024

A compilation of outreach activities such as meetings, trainings and webinars.

Department	Meeting Date	Meeting Title	Attendees (includes organizer)
Compliance	Sept. 5	In-Person Income Determination Training	19
Community Affairs/WAP	Sept. 10	Network Quarterly Call	90
Community Affairs/CEAP	Sept. 11	Network Quarterly Call	90
Housing Resource Center	Sept. 11	Texas Interagency Council for the Homeless	42
Compliance	Sept. 13	Virtual Office Hours and Average Income Training	70
Community Affairs/CSBG/WAP	Sept. 18	NASCSP Conference	90
Community Affairs/CSBG/WAP	Sept. 19	NASCSP Conference	90
Community Affairs/CSBG/WAP	Sept. 20	NASCSP Conference	90
Community Affairs/WAP	Sept. 24	Virtual Training/CA Corp	10
SF and Homeless Programs	Sept. 25	Draws Training	11

Compliance	Sept. 26	Virtual Housing Tax Credit Training	101
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Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 808

**Agenda Date:** 11/7/2024

**Agenda #:** 12.

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Executive Director's Report

**ORAL PRESENTATION**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 810**

**Agenda Date: 11/7/2024**

**Agenda #: 13.**

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Presentation, discussion, and possible action regarding the issuance of a Determination Notice for 4% Housing Tax Credits for Creek Bend Apartments in San Antonio (#24478)

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 812

**Agenda Date:** 11/7/2024

**Agenda #:** 14.

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Presentation, discussion and possible action regarding a waiver of 10 TAC §11.101(b)(1)(A)(vii) of the Qualified Allocation Plan (QAP) relating to the percentage of efficiency and/or one-bedroom units for Oak Hill Lofts (#24495).

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit application for Oak Hill Lofts was submitted to the Department on September 20, 2024;

**WHEREAS**, the unit mix includes more than 30% efficiency and/or one-bedroom units, which exceeds the threshold allowed in 10 TAC §11.101(b)(1)(A)(vii) of the 2024 QAP, thus rendering the development ineligible;

**WHEREAS**, a waiver was previously considered and tabled by the Board at the Board meeting on October 10, 2024, pending submission to staff of application exhibits that reflect a unit mix that does not exceed 34% efficiency and/or one-bedroom units;

**WHEREAS**, application exhibits have been provided that reflect a unit mix of 33.33% efficiency and/or one-bedroom units; and

**WHEREAS**, based on discussion at the Board meeting of October 10, 2024, that reflected a desire to re-consider the waiver request pending submission of revised exhibits with a unit mix that does not exceed 34% efficiency and/or one-bedroom units, which is in-line with proposed changes to the 2025 QAP that increases this threshold to 35%, staff recommends the waiver be granted;

**NOW, therefore, it is hereby**

**RESOLVED**, that a waiver of §11.101(b)(1)(A)(vii) of the 2024 QAP relating to the allowable percentage of efficiency and/or one-bedroom units for Oak Hill Lofts is hereby granted.

**BACKGROUND**

*General Information:* Oak Hill Lofts is to be located in Austin, Travis County, and proposes the new construction of 90 units that will serve the general population. The Certificate of Reservation from the Bond Review Board was issued on August 8, 2024, under the Priority 3 designation, which does not require any specific restrictions on rent or income. The applicant has indicated that the development will include a mix of units with rents restricted between

30% and 80% of Area Median Family Income (AMFI).

*Waiver Request:* Pursuant to §11.101(b)(1)(A)(vii) of the QAP, “any New Construction, Reconstruction, or Adaptive Reuse Development proposing more than 30% efficiency and/or one-Bedroom Units will be considered ineligible. This requirement will not apply to Elderly or Supportive Housing Developments.”

The unit mix for Oak Hill Lofts consists of 30 one-bedroom units, 50 two-bedroom units, and 10 three-bedroom units. The number of one-bedroom units comprises approximately 33% of the total unit count. The applicant has requested a waiver of the aforementioned rule, so that the development may be eligible without necessitating a change to the currently proposed unit mix.

According to the waiver request submitted, the development site was purchased in 2021, and the project was originally contemplated to utilize off-site modular construction. In 2023, the developer submitted a 4% Housing Tax Credit application for this development that adhered to the efficiency/1-bedroom unit limitation, but that application was ultimately withdrawn. Due to issues with suppliers, the developer decided to reconfigure the project, and now proposes traditional new construction instead of modular construction. As a result of that reconfiguration, the proposed development now includes 33.33% one-bedroom units and is considered ineligible under the 2024 QAP. The applicant notes that the redesign resulted in 38% more bedrooms than the previous configuration; however, it was reconfigured in a way that violates the QAP.

The applicant previously submitted a waiver request that proposed the percentage of one-bedroom units in the development be 56%, or 50 total one-bedroom units. This request was presented to, and discussed by, the TDHCA Board at the Board meeting on October 10, 2024. During the presentation and discussion of this request, the applicant made the Board aware that the development could be redesigned once again to lower the number of one-bedroom units to 30, or 33.33% of the total unit count. The Board voted to table the item and instructed the applicant to submit revised architectural plans and application exhibits that reflected this reduced one-bedroom unit count. Subsequent to the Board meeting, the applicant submitted revised plans and exhibits, and staff reviewed those updates to be sure they adhered to the limits represented by the applicant to the Board, i.e. a maximum of 30 one-bedroom units, or 33.33% of the total unit count.

Based on the discussion at the Board meeting on October 10, 2024, and subsequent revisions to the application to reduce the number of one-bedroom units in the development, which are in line with Board instruction, staff recommends that a waiver of §11.101(b)(1)(A)(vii) be granted.

# Oak Hill Lofts

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Ms. Teresa Morales  
Texas Department of Housing and Community Affairs  
221 E. 11th Street | Austin, TX 78701

Dear Ms. Morales:

## **Background**

The Broadway Homes team has been working on our first TX LIHTC development for years, and finally purchased our proposed development site in March of 2021. Our team's focus has been to try to help solve the imbalance of affordable housing in Austin, and we purchased an expensive site conforming to all rules with the expectation of accessing Austin's RHDA gap funding due to scoring advantages of West Austin.

## **Rule Changes in the 2023-2024 Qualified Allocation Plan**

Unfortunately, the 2023 Qualified Allocation Plan ("QAP") included a change that negatively affects this development opportunity. The first change is in §11.101(b)(1)(A)(vii) concerning Ineligible Developments. The change states as follows:

*(vii) any New Construction, Reconstruction, or Adaptive Reuse Development proposing more than 30% efficiency and/or one-Bedroom units. This requirement will not apply to Elderly or Supportive Housing Developments."*

## **Waiver Request**

This is a challenging site that began through attempts at utilizing off-site modular construction and a 2021 development model. Due to obstacles with modular suppliers, our team has abandoned this development type and now proposes traditional construction. To better serve the market demand of West Austin families, we've reconfigured the proposal to eliminate the studio units found in modular construction, and instead added three-bedroom units. In total the redesign has 38% more bedrooms than the previous application, however, the updated proposed unit mix still has thirty-three (33%) percent one-bedrooms and is considered an ineligible development under the 2024 QAP.

This development is in an area of southwest Austin that has limited affordable housing options for families. This is one of two new construction applications for families submitted in this part of the city in over twenty (20) years. Following the support of the Austin City Council, Broadway Homes was encouraged to expand this LIHTC proposal and has acquired a neighboring parcel. A Phase II application will be submitted for the 2025 bond lottery, which will be in compliance with the QAP rules and substantially reduce the overall one-bedroom percentage. The applicant respectfully requests a waiver of §11.101(b)(1)(A)(vii) concerning the limitations on the percentage of 1-Bd units.

# Oak Hill Lofts

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## Meeting the Policies and Purposes of Tex. Gov't Code 2306

The application does meet the purposes of §2306.001 and 2306.002 by providing essential services and housing units for individuals and families with incomes at thirty (30%) percent, fifty (50%) percent and sixty (60%) percent of area median income.

Although TDHCA is not the issuer of the bonds for this application, the application does meet the policies of §2306.359 by layering the development with multiple sources including private activity bonds, housing tax credits and local funding to provide the housing for lower income families in the greater Austin area.

The application also meets the purposes of §2306.6701 by providing rental housing for households that have difficulty finding suitable, affordable rental housing in the private marketplace. The development will provide two-hundred and ninety (290) units of affordable housing over two phases in an area of Austin with very limited affordable housing options.

## Conclusion

This application has been in process for over three years. Our team has been working diligently with financial partners to close on the development as quickly as possible, including an expansion to a second Phase due to requests by the City of Austin. Development plans for Phase I are complete and working through the final permitting process with the City of Austin. This waiver request is essential to the progression of the application.

We thank you for your consideration of this request. If you need further information, please contact me.

Thanks in advance,



Brent Stoll

Principal - Broadway Homes  
5900 Balcones Dr., Suite 100  
Austin, TX 78731-4298  
(M) 512.567.6784  
brent@BroadwayHomes.com



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 25-008

**Agenda Date:** 11/7/2024

**Agenda #:** 15.

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Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Walnut Springs) Series 2024A-1 and Series 2024A-2 Resolution No. 25-008, an award of Direct Loan funds, and a Determination Notice of Housing Tax Credits

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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File #: 807

Agenda Date: 11/7/2024

Agenda #: 16.

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Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application, changes to the ownership structure, and a waiver of 10 TAC §11.9(b)(2) (A) for Avanti Legacy del Sol (HTC #23015)

**RECOMMENDED ACTION**

**WHEREAS**, Avanti Legacy del Sol (Development) received a 9% Housing Tax Credit (HTC) award in 2023 for the new construction of 84 multifamily units for the elderly population in Brownsville, Cameron County;

**WHEREAS**, Avanti Legacy del Sol, LP (Applicant) requests approval for reductions of all units sizes, which would result in a 3.03% reduction to the Net Rentable Area, from 70,719 square feet to 68,573 square feet;

**WHEREAS**, the Applicant also requests approval for a significant modification of the architectural design, which includes but is not limited to a 34.70% (8,775 square feet) decrease in the common area from 25,290 square feet to 16,515 square feet, removal of all balconies, and removal of the pool to be replaced by more affordable outdoor amenities such as a picnic area and bocce ball court;

**WHEREAS**, Board approval is required for a reduction of 3% or more in the square footage of the units or common areas and for a significant modification of the architectural design of the Development, as directed in 10 TAC §10.405(a)(4)(D) and (E) and in Tex. Gov't Code §2306.6712 (d)(4) and (5), and the Applicant has complied with the amendment requirements therein;

**WHEREAS**, to improve the financial feasibility of the Development by obtaining a property tax exemption, the Applicant is seeking to replace H4 Development, Inc., a Historically Underutilized Business (HUB), with Brownsville Housing Opportunity Corporation as the new sole member of a new General Partner, Avanti Legacy del Sol BHOC GP, LLC, and to add a new Special Limited Partner that has as members H4 Development, Inc. and Tamez Landholdings, LLC;

**WHEREAS**, the HTC Application for the Development received two points for agreeing to include a certified Historically Underutilized Business (HUB) in the ownership structure of the General Partner and materially participating in the development and operation of the Development throughout the Compliance Period, and receiving a combination of ownership interest in the General Partner of the Applicant, cash flow from operations, and developer fee which taken together equal at least 50% and no less than 5% for any category;

**WHEREAS**, the Applicant requests a waiver of the specific requirement in 10 TAC §11.9(b)(2)(A) that states the HUB must have an ownership interest in the General Partner, allowing the Development to continue to qualify for the two points for Sponsor Characteristics with the HUB in the ownership structure of the Special Limited Partner and continuing to meet the intent of 10 TAC §11.9(b)(2)(A) to have a HUB materially participate in the Development; and

**WHEREAS**, the requested changes and waiver do not negatively affect the Development, impact the viability of the transaction, impact Tex. Gov't Code §§2306.001, 2306.002, 2306.359, and 2306.6701, or affect the amount of the tax credits awarded;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested amendment to the Housing Tax Credit Application, changes to the ownership structure, and a waiver of 10 TAC §11.9(b)(2)(A) for Avanti Legacy del Sol are each approved as presented at this meeting, and the Executive Director and his designees are each hereby authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

#### **BACKGROUND**

Avanti Legacy del Sol received a 9% HTC award in 2023 for the new construction of 84 multifamily units, of which all 84 units are low-income units, for the elderly in Brownsville, Cameron County. In a letter dated September 10, 2024, Enrique Flores, IV, representative and authorized signatory for the Applicant, requested approval for a material amendment, changes to the ownership structure, and an associated waiver related to the requirement to have a HUB in the ownership structure of the general partner. The Applicant also requested approval for a reallocation of tax credits under Force Majeure, but this request will be presented in a separate item.

The proposed changes to the Application include a reduction to the size of all units, which will result in a reduction of 2,146 square feet (3.03%) in the Net Rentable Area from 70,719 to 68,573 square feet; a 34.70% (8,775 square feet) decrease in the common area from 25,290 square feet to 16,515 square feet; a significant modification of the architectural design, which includes a reduction from 30% masonry exterior to approximately 10% masonry exterior; removal of all balconies; removal of the resident services room; reduction in the parking spaces from 110, including 16 carports, to 90 with zero carports; removal of one of the two elevators; and removal of the pool, to be replaced by more affordable outdoor amenities such as a picnic area and bocce ball court, for a total Development budget decrease of approximately \$716,500.

The Applicant states the reason for the requested changes is to reduce development costs to maintain feasibility, and indicates that without reduction to the overall size, the Development is no longer feasible. The Applicant cites increased construction costs and borrowing costs, and increased operating expenses, namely property insurance, and states that these factors were not foreseeable or preventable by Applicant.

Additionally, in a letter dated September 10, 2024, Enrique Flores, IV, representative and authorized signatory for the Applicant, requested approval for proposed changes to the ownership structure for the Development, which requires a waiver of the provision in 10 TAC §11.9(b)(2)(A) that specifies the HUB is required to have an ownership interest in the General Partner. The Applicant is seeking to add a Special Limited Partner, Avanti Legacy del Sol I, LLC, and move the HUB, H4 Development, Inc., from the ownership structure of Avanti Legacy del Sol GP, LLC, the withdrawing General Partner to be replaced by a new General Partner, Avanti Legacy del Sol BHOC GP, LLC, to the newly formed Special Limited Partner, which will be 90% owned and managed by H4 Development, Inc. and 10% owned by Tamez Landholdings, LLC. Brownsville Housing Opportunity Corporation will replace H4 Development, Inc. as sole member of the new General Partner, Avanti Legacy del Sol BHOC GP, LLC. The requested changes to the ownership structure will improve the financial feasibility of the Development by providing an ad valorem tax exemption.

The HTC Application for the Development received two points because the Development was structured to include a Historically Underutilized Business (HUB) in the ownership structure that would have some combination of ownership interest in the General Partner of the Owner, cash flow from operations, and Developer Fee, which taken together equal at least 50% and no less than 5% for any category. The HUB was also required to materially participate in the development and operation of the Development throughout the Compliance Period. However, the proposed change to the ownership structure would result in the HUB no longer meeting the requirements for the two Sponsor Characteristics points awarded at Application because it will no longer be in the ownership structure of the general partner. Therefore, the Applicant requests approval for a waiver of this specific requirement and to allow the Development to continue to qualify for the two Sponsor Characteristics points with the HUB in the ownership structure of the Special Limited Partner. The HUB would continue to be required to meet all other requirements in 10 TAC §11.9(b)(2)(A), including the requirement to materially participate in the development and operation of the Development throughout the Compliance Period. This revised ownership requirement would be codified in the LURA for the Development.

The Applicant submitted a letter of continued support from State Representative Erin Elizabeth Gamez and Resolution No. 2023-016 from the City of Brownsville (the City), passed August 20, 2024, which also states the City's continued support for the Development.

The need for this waiver was not foreseeable at Application and the granting of the waiver better serves the policies and purposes Tex. Gov't Code §§2306.001, 2306.002, 2306.359, and 2306.6701 by improving the feasibility of the Development, and the HUB will continue to materially participate in the Development. The Applicant indicates that the Special Limited Partner will be the functional equivalent of a general partner. Therefore, this proposed structure results in no change to the Development and is merely a change in title, not the HUB member's participation. Therefore, the Development will continue to comply with the intent, purpose and material provisions of the elected Sponsor Characteristics.

The Development was re-underwritten with the proposed amendment and revised financial information. The analysis supports no change to the HTC allocation and demonstrates the Development remains feasible with the proposed changes. Staff also confirmed that the revised design plans and parking will continue to meet accessibility requirements. Additionally, staff reviewed the original Application and scoring documentation against this amendment request and has concluded that, with the exception of the waiver, none of the changes would have affected the scoring or selection of the Application in the competitive round.

Staff recommends approval of the Application amendment, changes to the ownership structure, and the waiver of 10 TAC §11.9(b)(2)(A) as presented herein.



**Addendum to Underwriting Report**

TDHCA Application #: 23015 Program(s): 9% HTC

**Avanti Legacy del Sol**

Address/Location: NWC of Ruben M. Torres Blvd. & Laredo Rd.

City: Brownsville County: Cameron Zip: 78520

APPLICATION HISTORY	
Report Date	PURPOSE
10/21/24	9% HTC Amendment / Force Majeure Request
06/12/23	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
LIHTC (9% Credit)	\$2,000,000				\$2,000,000				

**CONDITIONS STATUS**

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	9
50% of AMI	50% of AMI	17
60% of AMI	60% of AMI	58

## ANALYSIS

23015 Avanti Legacy del Sol received a \$2,000,000 LIHTC award from TDHCA in June 2023. The applicant has submitted a Material Application Amendment request related to higher interest rates, increased insurance costs, lower equity pricing, design modifications, and change in ownership.

In addition, the necessary redesign has extended the project's pre-development and construction timelines. The Applicant did not anticipate the unforeseen circumstances and believe constitute a force majeure event as defined in §11.6(5) and are requesting an extension of the placed-in-service deadline to December 31, 2026.

As part of the ownership change, the applicant is requesting restructuring to include the admission of the Brownsville Housing Opportunity Corporation (BHOC) as a new member owning 100% of the new general partner entity, thereby providing property tax exemption to the development.

### Design Modification:

The total net rental area per sf decreased from 70,719 to 68,573 (approximately a 3% reduction). The unit sizes were reduced as follows:

- Type A Units: from 675 sf to 655 sf(difference of 20 sf)
- Type A-HC Units: from 681 sf to 655 sf(difference of 20 sf)
- Type B Units: from 933 sf to 906 sf(difference of 27 sf)
- Type B-HC Units: from 956 sf to 906 sf(difference of 50 sf)

Total clubhouse square footage is reduced from 3,504 sf to 2,827 sf along with the removal of the resident services room.

Total corridor square footage is reduced from 16,440 sf to 10,292 sf (difference of 6,148 sf).

Total common area including corridors will be 16,515 square ft.

Carports are being removed from the site plan.

Removal of 1 elevator from original plan of 2 elevators.

Replacing the originally proposed pool with other affordable outdoor amenities such as picnic area and bocce ball court.

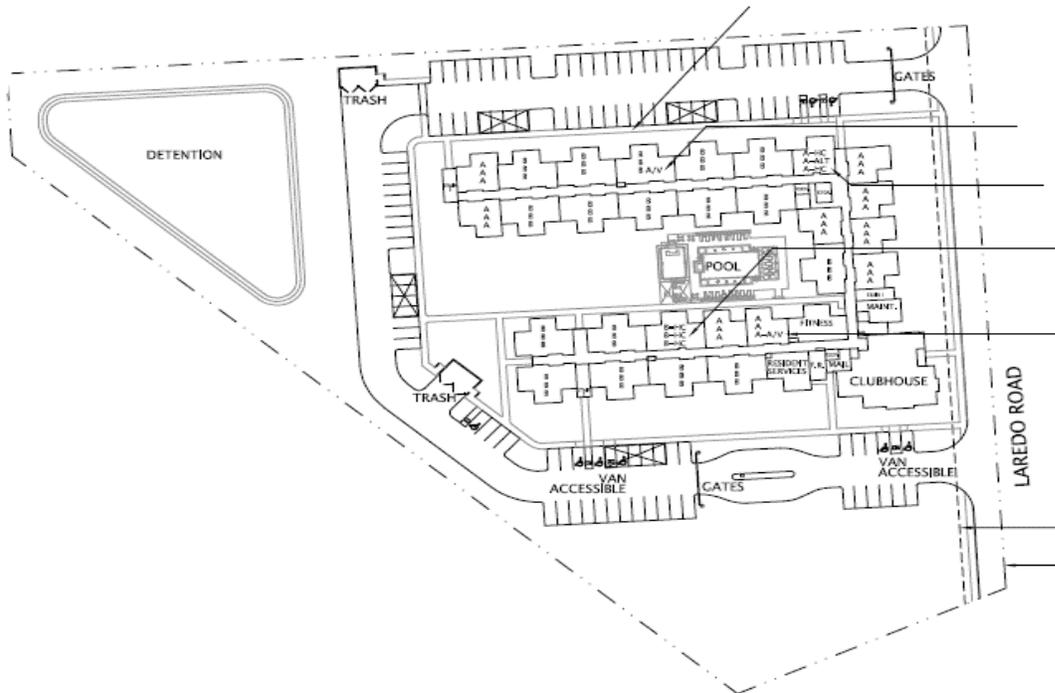
Total parking has decreased from 110 spaces to 90 spaces (20 space decrease). The new parking reduction still meets minimum code compliance of 1 space per unit (84 spaces).

Reducing the amount of masonry to approximately 10%.

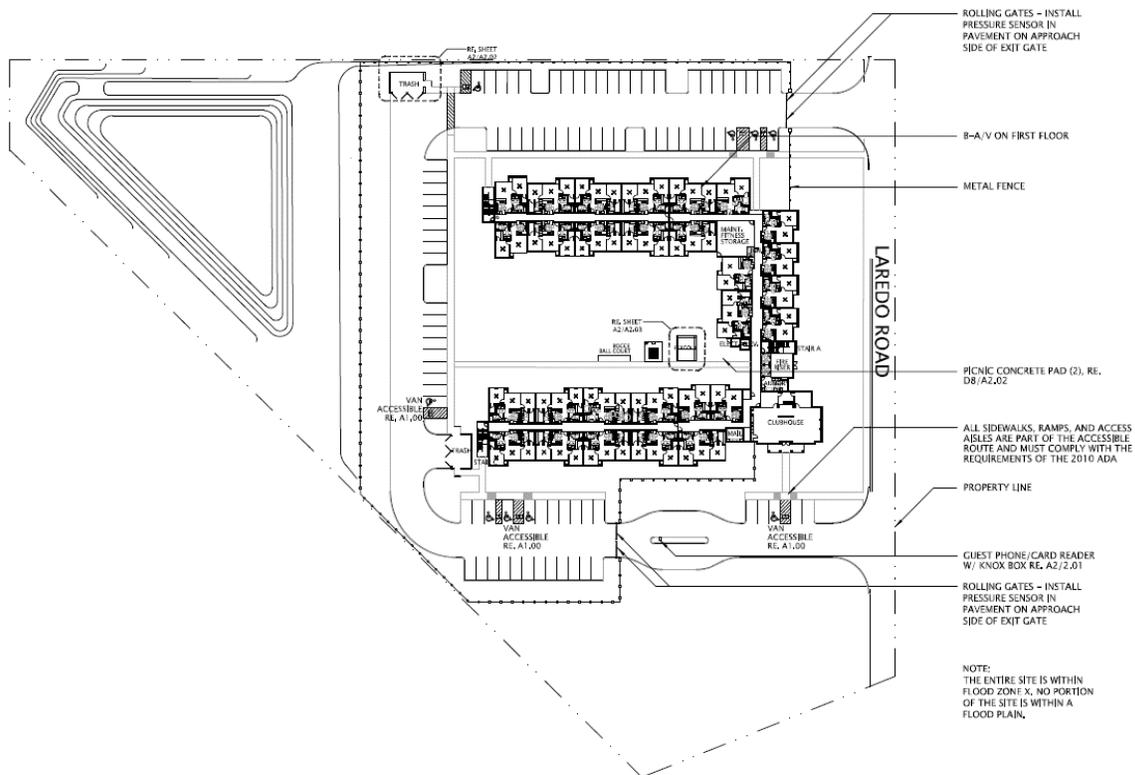
Removal of all balconies from the units.

By making the changes referenced above, the applicant anticipates a construction cost savings of approximately \$716,500.

### Old Site Plan



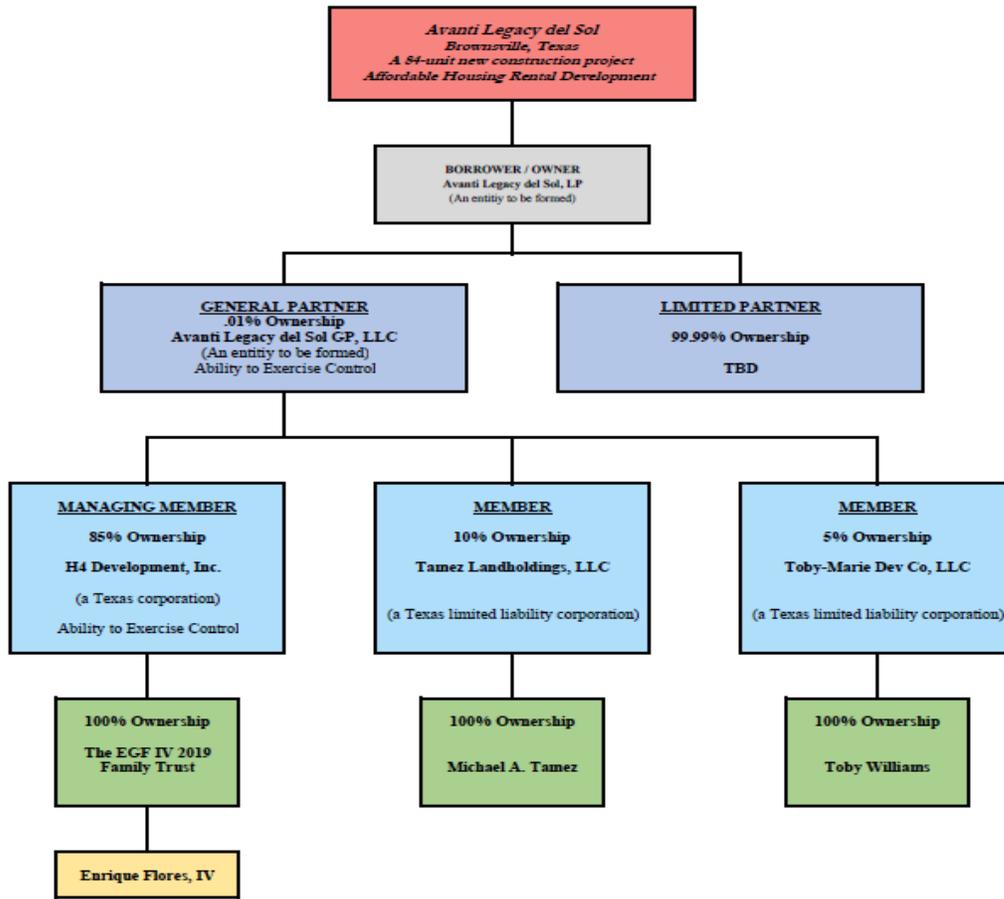
### New Site Plan



A2 SITE PLAN

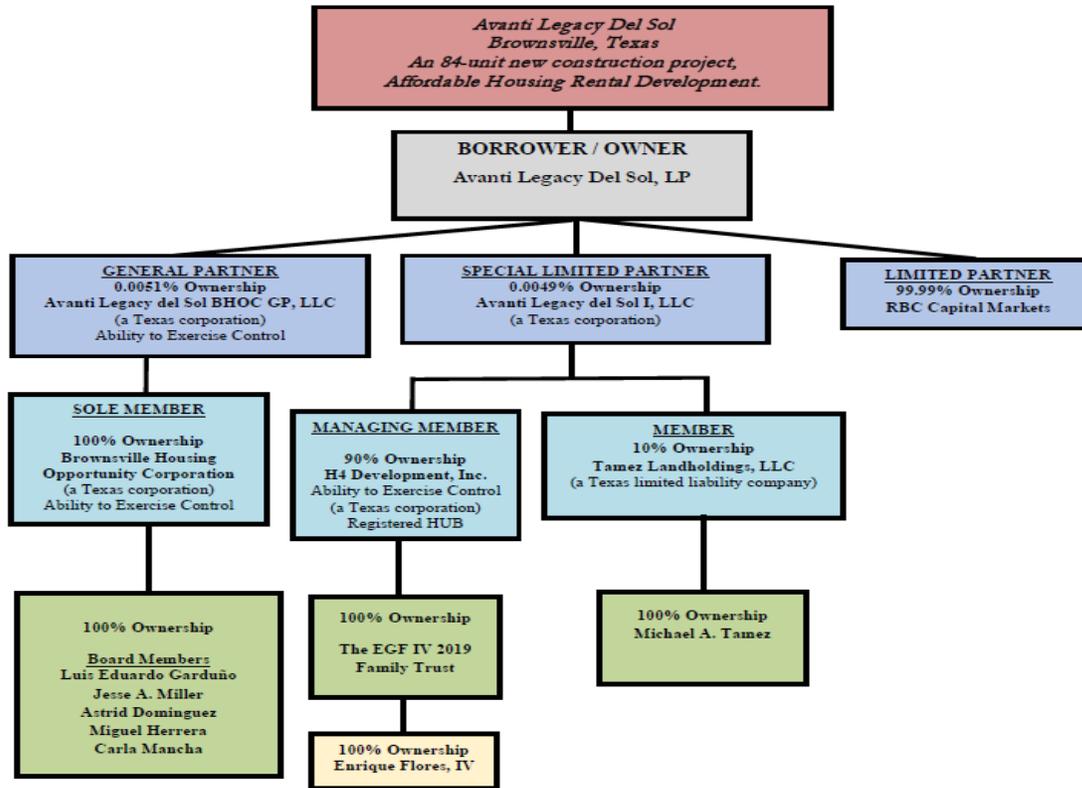
# Previous Ownership Structure

## Project Ownership Organizational Summary



## New Ownership Structure

### PROJECT OWNERSHIP ORGANIZATIONAL SUMMARY



#### Operating Pro Forma

Underwriter is utilizing 2024 program rents.

A 99-year ground lease with Brownsville Housing Opportunity Corporation will facilitate an ad valorem tax exemption for the project.

Property Insurance increased from \$46,200 (\$550 per unit) to \$88,457 (\$1,053 per unit).

Effective Gross Income increased by \$74,559, Total Expenses decreased by \$23,472 and as a result, Net Operating Income increased by \$97,774. Feasibility is dependent on the tax exemption.

#### Development Cost

The applicant's Building Costs have decreased by \$630,672 and Total Housing Development Costs have decreased by \$542,969.

Underwriter costed the building based on the construction bid from Nations Construction.

Developer fee decreased by \$118,000 from previous underwriting.

Site Acquisition remained the same however, total acquisition increased by \$69,750 due to closing costs and acquisition legal fees.

Site work costs increased by \$92,009. The applicant provided an updated recommendation from the CPA that the additional costs are includible in eligible basis.

Underwriter adjusted \$5,000 of Travel expense from Soft Costs to the General & Administrative section of Developer Fee.

Developer Fee total costs is overstated by \$6,357.

The Developer Fee eligible basis is overstated by \$12,410.

**Sources of Funds**

The construction and loan lender changed from Regions Bank FHA 221(d)(4) to Stellar Bank. The construction loan increased from \$14,820,000 to \$15,545,000 and the interest rate also increased from 7% to 8.5%.

The permanent loan lender changed from Regions Bank to Stellar Bank, the interest rate increased from 5% to 6.82%, amortization decreased from 40 years to 35 years, and term decreased from 40 yrs to 18 yrs.

The Equity capital contribution decreased from \$17,998,200 to \$16,998,300.

The credit price decreased from .90 to .85

The deferred developer fee increased by \$456,931

Underwriter recommends an annual tax credit allocation of \$2,000,000 as previously awarded.

Underwriter: Travis Mason

Manager of Real Estate Analysis: Robert Castillo

Director of Real Estate Analysis: Jeanna Adams

**UNIT MIX/RENT SCHEDULE**  
**Avanti Legacy del Sol, Brownsville, 9% HTC #23015**

LOCATION DATA	
CITY:	Brownsville
COUNTY:	Cameron
Area Median Income	\$60,400
PROGRAM REGION:	11
PROGRAM RENT YEAR:	2024

UNIT DISTRIBUTION					
# Beds	# Units	% Total	Assisted	MDL	ARP
Eff	-	0.0%	0	0	0
1	30	35.7%	0	0	0
2	54	64.3%	0	0	0
3	-	0.0%	0	0	0
4	-	0.0%	0	0	0
5	-	0.0%	0	0	0
<b>TOTAL</b>					
	<b>84</b>	<b>100.0%</b>	<b>-</b>	<b>-</b>	<b>-</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100.00%
APP % Acquisition	4.00%
APP % Construction	9.00%
Average Unit Size	816 sf

55%	Income	20%	30%	40%	50%	60%	70%	80%	EO / MR	TOTAL
Average	# Units	-	9	-	17	58	-	-	-	84
Income	% Total	0.0%	10.7%	0.0%	20.2%	69.0%	0.0%	0.0%	0.0%	100.0%

UNIT MIX / MONTHLY RENT SCHEDULE																			
HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mrkt Analyst	
TC 30%	\$421	3	1	1	655	\$421	\$78	\$343	\$0	\$0.52	\$343	\$1,029	\$1,029	\$343	\$1	\$0	\$1,000	\$1.53	\$1,000
TC 50%	\$703	5	1	1	655	\$703	\$78	\$625	\$0	\$0.95	\$625	\$3,125	\$3,125	\$625	\$1	\$0	\$1,000	\$1.53	\$1,000
TC 60%	\$843	21	1	1	655	\$843	\$78	\$765	\$0	\$1.17	\$765	\$16,065	\$16,065	\$765	\$1	\$0	\$1,000	\$1.53	\$1,000
TC 60%	\$843	1	1	1	654	\$843	\$78	\$765	\$0	\$1.17	\$765	\$765	\$765	\$765	\$1	\$0	\$1,000	\$1.53	\$1,000
TC 30%	\$506	6	2	2	906	\$506	\$103	\$403	\$0	\$0.44	\$403	\$2,418	\$2,418	\$403	\$0	\$0	\$1,205	\$1.33	\$1,205
TC 50%	\$843	12	2	2	906	\$843	\$103	\$740	\$0	\$0.82	\$740	\$8,880	\$8,880	\$740	\$1	\$0	\$1,205	\$1.33	\$1,205
TC 60%	\$1,012	33	2	2	906	\$1,012	\$103	\$909	\$0	\$1.00	\$909	\$29,997	\$29,997	\$909	\$1	\$0	\$1,205	\$1.33	\$1,205
TC 60%	\$1,012	3	2	2	906	\$1,012	\$103	\$909	\$0	\$1.00	\$909	\$2,727	\$2,727	\$909	\$1	\$0	\$1,205	\$1.33	\$1,205
<b>TOTALS/AVERAGES:</b>		<b>84</b>			<b>68,573</b>				<b>\$0</b>	<b>\$0.95</b>	<b>\$774</b>	<b>\$65,006</b>	<b>\$65,006</b>	<b>\$774</b>	<b>\$0.95</b>	<b>\$0</b>	<b>\$1,132</b>	<b>\$1.39</b>	<b>\$1,132</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$780,072</b>	<b>\$780,072</b>
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**STABILIZED PRO FORMA**

*Avanti Legacy del Sol, Brownsville, 9% HTC #23015*

STABILIZED FIRST YEAR PRO FORMA														
COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
Database	Cameron / Hidalgo County		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.95	\$774	\$780,072	\$699,468	\$699,468	\$780,072	\$774	\$0.95		0.0%	\$0
App Fees, Deposit Forfeitures, Carports,					\$30.00	\$30,240	30,240							
Total Secondary Income					\$30.00			30,240	\$30,240	\$30.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$810,312	\$729,708	\$729,708	\$810,312				0.0%	\$0
Vacancy & Collection Loss					7.5% PGI	(60,773)	(54,728)	(54,728)	(60,773)	7.5% PGI			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$749,539	\$674,980	\$674,980	\$749,539				0.0%	\$0

General & Administrative	\$31,386	\$374/Unit	\$30,953	\$368	3.92%	\$0.43	\$350	\$29,400	\$29,400	\$29,400	\$30,953	\$368	\$0.45	4.13%	-5.0%	(1,553)
Management	\$27,128	4.3% EGI	\$19,712	\$235	5.00%	\$0.55	\$446	\$37,477	\$33,749	\$33,749	\$37,477	\$446	\$0.55	5.00%	0.0%	0
Payroll & Payroll Tax	\$101,245	\$1,205/Unit	\$79,796	\$950	12.15%	\$1.33	\$1,084	\$91,095	\$91,095	\$91,095	\$91,095	\$1,084	\$1.33	12.15%	0.0%	-
Repairs & Maintenance	\$45,407	\$541/Unit	\$43,402	\$517	6.70%	\$0.73	\$598	\$50,200	\$52,200	\$54,600	\$54,600	\$650	\$0.80	7.28%	-8.1%	(4,400)
Electric/Gas	\$12,732	\$152/Unit	\$16,409	\$195	1.85%	\$0.20	\$165	\$13,900	\$13,900	\$12,914	\$12,732	\$152	\$0.19	1.70%	9.2%	1,168
Water, Sewer, & Trash	\$51,437	\$612/Unit	\$38,272	\$456	5.24%	\$0.57	\$468	\$39,300	\$39,300	\$51,437	\$51,437	\$612	\$0.75	6.86%	-23.6%	(12,137)
Property Insurance	\$53,417	\$0.78 /sf	\$70,577	\$840	11.80%	\$1.29	\$1,053	\$88,457	\$46,200	\$46,200	\$88,457	\$1,053	\$1.29	11.80%	0.0%	-
Property Tax (@ 100%) 2.5937	\$61,696	\$734/Unit	\$47,652	\$567	0.00%	\$0.00	\$0	\$0	\$67,200	\$65,801	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements					2.80%	\$0.31	\$250	\$21,000	\$21,000	\$21,000	\$21,000	\$250	\$0.31	2.80%	0.0%	-
Supportive Services					1.56%	\$0.17	\$140	\$11,723	\$11,723	\$11,723	\$11,723	\$140	\$0.17	1.56%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)					0.45%	\$0.05	\$40	\$3,360	\$3,360	\$3,360	\$3,360	\$40	\$0.05	0.45%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>51.49%</b>	<b>\$5.63</b>	<b>\$4,594</b>	<b>\$385,912</b>	<b>\$409,127</b>	<b>\$421,280</b>	<b>\$402,834</b>	<b>\$4,796</b>	<b>\$5.87</b>	<b>53.74%</b>	<b>-4.2%</b>	<b>\$ (16,922)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>48.51%</b>	<b>\$5.30</b>	<b>\$4,329</b>	<b>\$363,627</b>	<b>\$265,853</b>	<b>\$253,700</b>	<b>\$346,705</b>	<b>\$4,127</b>	<b>\$5.06</b>	<b>46.26%</b>	<b>4.9%</b>	<b>\$ 16,922</b>

CONTROLLABLE EXPENSES							\$2,665/Unit						\$2,867/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Avanti Legacy del Sol, Brownsville, 9% HTC #23015*

DEBT / GRANT SOURCES																			
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE									
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Prior Underwriting		Principal	Term	Amort	Rate	Pmt	Cumulative		
		UW	App							Applicant	TDHCA						DCR	LTC	
Stellar Bank	0.00%	1.26	1.33	274,251	6.82%	35	18.0	\$3,650,000	\$3,650,000	\$3,650,000	\$3,650,000	\$3,650,000	18.0	35	6.82%	\$274,312	1.33	16.8%	
<b>CASH FLOW DEBT / GRANTS</b>																			
City of Brownsville		1.26	1.33		0.00%	0	0.0	\$500	\$500	\$500	\$500		0.0	0	0.00%		1.33	0.0%	
				<b>\$274,251</b>	<b>TOTAL DEBT / GRANT SOURCES</b>				<b>\$3,650,500</b>	<b>\$3,650,500</b>	<b>\$3,650,500</b>	<b>\$3,650,500</b>	<b>TOTAL DEBT SERVICE</b>				<b>\$274,312</b>	<b>1.33</b>	<b>16.8%</b>
<b>NET CASH FLOW</b>		\$72,454	\$89,376											<b>APPLICANT NET OPERATING INCOME</b>	\$363,627	\$89,315	<b>NET CASH FLOW</b>		

EQUITY SOURCES															
APPLICANT'S PROPOSED EQUITY STRUCTURE						Prior Underwriting		AS UNDERWRITTEN EQUITY STRUCTURE							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method		
						Applicant	TDHCA								
Regions Affordable Housing, LLC	LIHTC Equity	78.3%	\$2,000,000	\$0.85	\$16,998,300	\$17,998,200	\$17,998,200	\$16,998,300	\$0.8499	\$2,000,000	78.3%	\$23,810	Previous Allocation		
Avanti Legacy del Sol Development, LLC	Deferred Developer Fees	4.9%	(45% Deferred)		\$1,055,168	\$598,237	\$598,237	\$1,048,811		(45% Deferred)	4.8%		<b>Total Developer Fee:</b>		
Additional (Excess) Funds Req'd		0.0%			\$0	\$0	\$0	\$0			0.0%		<b>\$2,345,643</b>		
<b>TOTAL EQUITY SOURCES</b>		<b>83.2%</b>			<b>\$18,053,468</b>	<b>\$18,596,437</b>	<b>\$18,596,437</b>	<b>\$18,047,111</b>			<b>83.2%</b>				
<b>TOTAL CAPITALIZATION</b>					<b>\$21,703,968</b>	<b>\$22,246,937</b>	<b>\$22,246,937</b>	<b>\$21,697,611</b>						15-Yr Cash Flow after Deferred Fee:	<b>\$669,981</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS					Prior Underwriting		TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis		Total Costs		Prior Underwriting		Total Costs	Eligible Basis					
	Acquisition	New Const. Rehab			Applicant	TDHCA		New Const. Rehab	Acquisition				
Land Acquisition			\$27,679 / Unit	\$2,325,000	\$2,325,000	\$2,325,000	\$2,325,000	\$27,679 / Unit				0.0%	\$0
Closing costs & acq. legal fees				\$69,750	\$0	\$0	\$69,750					0.0%	\$0
Off-Sites		\$0	\$ / Unit	\$0	\$0	\$0	\$0	\$ / Unit	\$0			0.0%	\$0
Site Work		\$1,781,310	\$21,206 / Unit	\$1,781,310	\$1,689,301	\$1,689,301	\$1,781,310	\$21,206 / Unit	\$1,781,310			0.0%	\$0
Site Amenities		\$944,490	\$11,244 / Unit	\$944,490	\$993,407	\$993,407	\$944,490	\$11,244 / Unit	\$944,490			0.0%	\$0
Building Cost		\$7,505,315	\$110.00 /sf	\$89,798/Unit	\$7,543,030	\$8,173,702	\$8,768,852	\$7,543,030	\$89,798/Unit	\$110.00 /sf	\$7,505,315	0.0%	\$0
Contingency		\$716,178	7.00%	7.00%	\$718,818	\$759,949	\$759,949	\$718,818	7.00%	7.00%	\$716,178	0.0%	\$0
Contractor Fees		\$1,532,622	14.00%	14.00%	\$1,538,271	\$1,626,290	\$1,626,290	\$1,538,271	14.00%	14.00%	\$1,532,621	0.0%	\$0
Soft Costs	\$0	\$1,803,966		\$23,194 / Unit	\$1,948,332	\$1,811,516	\$1,811,516	\$1,948,332	\$23,194 / Unit		\$1,803,966	0.0%	\$0
Financing	\$0	\$1,313,386		\$25,631 / Unit	\$2,153,014	\$1,936,481	\$1,936,481	\$2,153,014	\$25,631 / Unit		\$1,313,386	0.0%	\$0
Developer Fee	\$0	\$2,352,000	15.08%	15.04%	\$2,352,000	\$2,470,000	\$2,470,000	\$2,345,643	15.00%	15.00%	\$2,339,590	0.3%	\$6,357
Reserves			6 Months	\$329,953	\$461,291	\$461,291	\$329,953	6 Months				0.0%	\$0
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$0</b>	<b>\$17,949,267</b>	\$258,381 / Unit	<b>\$21,703,968</b>	<b>\$22,246,937</b>	<b>\$22,842,087</b>	<b>\$21,697,611</b>	\$258,305 / Unit	<b>\$17,936,856</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$6,357</b>
Acquisition Cost	\$0				\$0	\$0							
Contingency		\$0			\$0	\$0							
Contractor's Fee		(\$1)			(\$0)	\$0							
Financing Cost		\$0											
Developer Fee	\$0	(\$12,410)	15.00%	15.00%	(\$6,357)	\$0							
Reserves					\$0	\$0							
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$17,936,856</b>	\$258,305/unit	<b>\$21,697,611</b>	<b>\$22,246,937</b>	<b>\$22,842,087</b>	<b>\$21,697,611</b>	\$258,305/unit	<b>\$17,936,856</b>	<b>\$0</b>	<b>0.0%</b>	<b>\$0</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>						<b>\$21,697,611</b>							

**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Avanti Legacy del Sol, Brownsville, 9% HTC #23015*

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction
<b>ADJUSTED BASIS</b>	\$0	\$17,936,856	\$0	\$17,936,856
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$17,936,856	\$0	\$17,936,856
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$23,317,913	\$0	\$23,317,913
Applicable Fraction	100.00%	100.00%	100%	100%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$23,317,913	\$0	\$23,317,913
Applicable Percentage	4.00%	9.00%	4.00%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$2,098,612	\$0	\$2,098,612
<b>CREDITS ON QUALIFIED BASIS</b>	\$2,098,612		\$2,098,612	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8499	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$2,098,612	\$17,836,420	----	----	----
<b>Needed to Fill Gap</b>	\$2,123,402	\$18,047,111	----	----	----
<b>Previous Allocation</b>	\$2,000,000	\$16,998,300	<b>\$2,000,000</b>	<b>\$0</b>	<b>\$0</b>

## Long-Term Pro Forma

*Avanti Legacy del Sol, Brownsville, 9% HTC #23015*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35
EFFECTIVE GROSS INCOME	2.00%	\$749,539	\$764,529	\$779,820	\$795,416	\$811,325	\$895,768	\$989,000	\$1,091,936	\$1,205,586	\$1,331,064	\$1,469,602
TOTAL EXPENSES	3.00%	\$385,912	\$397,115	\$408,646	\$420,515	\$432,733	\$499,417	\$576,489	\$665,580	\$768,576	\$887,663	\$1,025,372
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$363,627</b>	<b>\$367,415</b>	<b>\$371,174</b>	<b>\$374,901</b>	<b>\$378,592</b>	<b>\$396,351</b>	<b>\$412,511</b>	<b>\$426,356</b>	<b>\$437,010</b>	<b>\$443,401</b>	<b>\$444,231</b>
EXPENSE/INCOME RATIO		51.5%	51.9%	52.4%	52.9%	53.3%	55.8%	58.3%	61.0%	63.8%	66.7%	69.8%
<b>MUST -PAY DEBT SERVICE</b>												
Stellar Bank		\$274,312	\$274,312	\$274,312	\$274,312	\$274,312	\$274,312	\$274,312	\$274,312	\$274,312	\$274,312	\$274,312
Adjustment to Debt Per §11.302(c)(2)												
<b>TOTAL DEBT SERVICE</b>		<b>\$274,312</b>	<b>\$274,312</b>	<b>\$274,312</b>	<b>\$274,312</b>							
DEBT COVERAGE RATIO		1.33	1.34	1.35	1.37	1.38	1.44	1.50	1.55	1.59	1.62	1.62
<b>ANNUAL CASH FLOW</b>												
		<b>\$89,315</b>	<b>\$93,103</b>	<b>\$96,863</b>	<b>\$100,590</b>	<b>\$104,280</b>	<b>\$122,039</b>	<b>\$138,199</b>	<b>\$152,045</b>	<b>\$162,698</b>	<b>\$169,089</b>	<b>\$169,919</b>
Deferred Developer Fee Balance		\$959,496	\$866,393	\$769,530	\$668,941	\$564,661	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$10,532</b>	<b>\$669,981</b>	<b>\$1,403,603</b>	<b>\$2,197,263</b>	<b>\$3,031,874</b>	<b>\$3,882,327</b>



# AVANTI LEGACY DEL SOL

September 10, 2024

Rosalio Banuelos  
Multifamily Asset Division  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

**RE: Avanti Legacy Del Sol (TDHCA #23015) – Request for Material Amendment & Return of 2023 Credits and Request for 2024 Allocation of Credits Pursuant to Section 11.6(5) Force Majeure**

Dear Mr. Banuelos,

Pursuant to §11.6(5) of the 2023 Qualified Action Plan, H4 Development Inc. ("Sponsor") respectfully requests an allocation of 2024 credits in exchange for the return of 2023 credits for the Avanti Legacy del Sol Development. This letter is not a request for additional tax credits but rather a request to ensure compliance with the 10% test and placed-in-service deadlines, which we anticipate extending to July 1, 2025, and August 31, 2026, respectively, with a 2024 housing tax credit commitment.

Additionally, in accordance with Section 10.405 of the Post Award and Asset Management Requirements, we respectfully submit this letter as a formal request for a material amendment to reduce the square footage of the clubhouse, adjust unit sizes, and remove unit balconies for the Avanti Legacy del Sol development ("Development"), in response to significant financial challenges arising from recent market shifts.

## The Economic Issues

The Development Team has been diligently working to advance Avanti Legacy Del Sol as originally proposed and awarded. At the time of application, underwriting projected a permanent loan of \$3,650,000 at an interest rate of 5.00%, insurance costs at \$550 per unit, and equity pricing at \$0.90. Unfortunately, recent market shifts have significantly impacted these estimates.

Market volatility has caused the permanent loan rate to increase to 6.82%, resulting in an additional \$200,000 in total interest costs. Additionally, equity pricing has dropped to \$0.85, leading to an approximately \$1,000,000 reduction in equity. Because the Development is in a Tier 1 county, it has also faced an abnormal increase in insurance premiums to \$1,050 per unit, drastically decreasing the available loan proceeds. Collectively, these changes have contributed to a project budget shortfall of approximately \$1.5 million.

The combined effects of higher interest rates, increased insurance costs, and lower equity pricing have reduced the Development's debt capacity, jeopardizing the project's financial feasibility. Without

Avanti Legacy del Sol, LP  
3933 Steck Avenue, Suite B120, Austin, TX 78759  
Phone (512) 982-1342 | Fax (512) 900-2860  
[contact@madhousedevelopment.net](mailto:contact@madhousedevelopment.net)



# AVANTI LEGACY DEL SOL

critical modifications to the deal structure and design, the project cannot proceed as originally envisioned.

## Proposed Design Modifications

In response to these economic challenges, the Development Team has proactively explored all possible solutions. After extensive value engineering, we have identified targeted design adjustments to help mitigate the financial impact. However, given the magnitude of the market shifts, design changes alone cannot fully offset the financial shortfall.

To address these challenges effectively, we propose a two-pronged strategy. First, we are requesting a change to the ownership structure to include an affiliate of the Housing Authority of the City of Brownsville as a member of the Applicant's general partner (submitted under separate cover). This allows the Development to benefit from tax abatement.

Second, we are requesting a material amendment to the Application to implement several key design changes, including reducing the square footage of the clubhouse, adjusting unit sizes, and removing unit balconies. Specifically, these changes include:

- 1) Reducing the clubhouse square footage from 3,504 to 2,827 square feet;
- 2) Removing the resident services room;
- 3) Reducing the corridor square footage from 16,440 to 10,292 square feet (difference is 6,148 square feet);
- 4) Removing carports from the site plan;
- 5) Removing an elevator;
- 6) Replacing the pool with other affordable outdoor amenities like a picnic area and bocce ball court;
- 7) Reducing parking provided from 110 spaces to 90 spaces, which is still code compliant;
- 8) Reducing the amount of masonry to approximately 10%;
- 9) Removing balconies from the units; and
- 10) Reducing the total net rentable from 70,719 to 68,573 square feet (approximately a 3% reduction). The unit sizes were reduced as follows:
  - a. Type A Units: from 675 square feet to 655 square feet (difference is 20 square feet);
  - b. Type A-HC Units: from 681 square feet to 655 square feet (difference is 20 square feet);
  - c. Type B Units: from 933 square feet to 906 square feet (difference is 27 square feet); and
  - d. Type B-HC Units: from 956 square feet to 906 square feet (difference is 50 square feet).

By making the changes referenced above, we anticipate a construction cost savings of approximately \$716,500—a significant step toward balancing the project's sources and uses, as detailed in Exhibit B.

## Force Majeure Request

The restructuring of ownership mentioned above along with the necessary redesign has extended the project's pre-development and construction timelines. These unforeseen circumstances were not anticipated when we submitted our application in 2023, and we believe they constitute a force majeure event as defined in §11.6(5) and request an extension of the placed-in-service deadline to December



# AVANTI LEGACY DEL SOL

31, 2026. Currently, Developer expects financial closing to occur on or before December 2, 2024. With a 16- to 18-month construction schedule and a 6-month buffer requested by our investor, the development is only feasible with a December 31, 2026, placed-in-service deadline. Please see Exhibit E for a more detailed timeline to completion.

The combination of unexpected insurance cost increases and declining equity pricing has created challenges well beyond our control. Additionally, the restructuring required to address these financial issues has naturally contributed to the need for additional time. These factors together justify the request for an extension to ensure the project's successful completion. Given these challenges, the project requires a credit refresh to remain viable and continue providing much-needed housing for our seniors in Texas. Madhouse Development has a proven track record of delivering high-quality, affordable housing, and Avanti Legacy del Sol is a crucial part of this ongoing mission.

## Conclusion

The requested changes and, consequently, the request for additional time, are essential to making the Development feasible. The Developer anticipates that these changes will result in a deferred developer fee higher than originally proposed, reflecting our commitment to ensuring the project's success despite challenging financial conditions. Our primary objective is not to secure additional fees but to reduce total development costs, address lender and investor concerns, and deliver much-needed affordable housing to the community.

We firmly believe that the proposed changes (1) do not negatively impact the site's design, (2) improve the Development's financial outlook, and (3) would not have adversely affected the selection of the Development in the 2023 award cycle. We appreciate your consideration of this amendment request and are available to provide any further information or clarification as needed.

Enclosed please find the revised application documents for staff's consideration:

- Exhibit A – Architectural Plans
- Exhibit B – Financial Exhibits
  - Rent Schedule
  - Annual Operating Expenses
  - 15 Year Rental Housing Operating Pro Forma
  - Development Cost Schedule
  - Schedule of Sources of Funds
- Exhibit C – Support Letter from State Representative and City of Brownsville
- Exhibit D – Project Timeline

Sincerely,

Enrique Flores, IV

Authorized Signatory of Avanti Legacy Del Sol, LP



# AVANTI LEGACY DEL SOL

September 10, 2024

Rosalio Banuelos  
Multifamily Asset Division  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

**RE: Avanti Legacy del Sol (TDHCA #23015) – Request for Ownership Transfer**

Dear Mr. Banuelos,

In accordance with Section 10.406(a) of the Post Award and Asset Management Requirements, please accept this letter as our formal request for an ownership transfer to change the ownership structure to reflect the admission to Applicant of The Brownsville Housing Opportunity Corporation (“BHOC”) as a new general partner.

The Economic Issues

The Development Team has been diligently working on designing and finalizing Avanti Legacy del Sol, a project that was proposed and awarded with high hopes and meticulous planning. During the initial application, our underwriting assumed an insurance cost of \$550 per unit and an equity pricing of \$0.90.

However, we now find ourselves facing an unexpected and dramatic challenge. Like many developers today, we have experienced a significant and unforeseen rise in insurance costs. Despite extensive searching and negotiations, the best insurance rate we could secure is \$1,050 per unit—an astonishing 150% increase from our initial estimate. This substantial hike has dramatically impacted our financial projections. Moreover, we are grappling with a decline in equity pricing to \$0.85, resulting in a loss of approximately \$1 million in projected equity for the project.

This dual blow of skyrocketing insurance costs and reduced equity pricing has put us in a precarious position. Due to these adverse developments, the project, without a significant modification to the deal structure, is no longer financially feasible.

Ownership Transfer

To combat the unexpected and significant economic changes, the Development Team put in effort to come up with creative solutions. As a result, we are respectfully requesting a change to the ownership structure to reflect the admission of the BHOC as a new member owning 100% of the new general partner entity, thereby providing property tax exemption to the Development. Property tax exemption will allow the Development to be financially feasible. With the additional income earned by the

Avanti Legacy del Sol, LP  
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# AVANTI LEGACY DEL SOL

Development, the Applicant is able to increase permanent loan debt that helps cover the financing gap.

The City of Brownsville continues to strive to provide affordable housing to its community. With the community's lack of affordable housing development prospects, it's imperative we provide senior affordable housing units to this underserved community. To meet its housing demands, the Housing Authority of the City of Brownsville agreed to partner with the Applicant to ensure the viability of this Development.

In an effort to ensure transparency, the City of Brownsville has approved an amendment providing the city's continued support for the Development, including its request for property tax exemption. The resolution was approved in a public city council meeting on August 20, 2024, and is included under Exhibit A.

## Satisfaction of HUB Requirements through Special Limited Partner

Under the legal analysis for the 100% property tax exemption, BHOC must own 100% of the general partner. A new general partner entity will be formed that will be 100% controlled by BHOC. The current members of the general partner will transfer into a new entity, Avanti Legacy del Sol I, LLC, which will become a special limited partner owning 0.0049% of the Limited Partnership. See organization charts for more detail. H4 Development, Inc. (the "HUB") is the managing member of Avanti Legacy Del Sol I, LLC, and a historically underutilized business. Although the HUB will no longer be a part of the general partner, the HUB will continue to be an active and participatory partner in the deal.

Section 11.9(b)(2) of the QAP requires that the HUB participate in the general partner entity, receive certain cash flow and developer fee, and materially participate in the development. The HUB's participation through the general partner will no longer be possible in light of the property tax exemption requirements described above. However, the HUB will nevertheless continue to materially participate in the development as initially proposed, except that this participation would now occur through Avanti Legacy del Sol I, LLC, as the special limited partner. In such capacity, the HUB will still be: (1) regularly, continuously, and substantially involved in providing services integral to the Development Team; and (2) involved with the Development Services or in the provision of on-site tenant services during the Development's Affordability Period.

Furthermore, "General Partner" is defined in the QAP to include "the functional equivalent of a general partner." In this instance, it is anticipated that the Applicant's operating agreement will provide that Avanti Legacy del Sol I, LLC, as special limited partner, will have the substantial management and control authority typically associated with a general partner. In this way, the HUB will continue to materially participate, and Avanti Legacy del Sol I, LLC will be the functional equivalent of a general partner.

We believe these changes in the ownership structure comply with the intent and purpose of the elected Sponsorship Characteristics for the reasons described above. Consequently, we request a waiver of



# AVANTI LEGACY DEL SOL

the requirement for the HUB to participate through the general partner, allowing the Sponsor Characteristic requirements to be met through the special limited partner instead.

## Conclusion

The addition of an affiliate of the City of Brownsville as a general partner is the solution needed to make this Development financially feasible. Additionally, although the HUB is no longer a member of the general partner, the HUB will continue to act essentially as a general partner and materially participate in the development. The lower total development cost allows the Development Team to address lender and investor concerns and ensures that quality, affordable housing is provided to a community in need.

After your review of this amendment request, should you have any questions or require additional information, please do not hesitate to contact us at your convenience.

Sincerely,

Enrique Flores, IV

Authorized Signatory of Avanti Legacy Del Sol, LP



# ERIN ELIZABETH GÁMEZ



TEXAS STATE REPRESENTATIVE  
DISTRICT 38

August 1, 2024

Cody Campbell, Director of Multifamily Programs  
Texas Department of Housing and Community Affairs  
221 E. 11th Street  
Austin, TX 78701

Re: TDHCA #23015 Avanti Legacy del Sol, Brownsville, Texas

Dear Mr. Campbell,

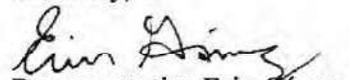
As State Representative for the area, I would like to express my continued support for Avanti Legacy del Sol in Brownsville, Texas. This apartment community for seniors is in my district and provides much-needed affordable housing to elderly families living on low to moderate incomes.

I firmly believe that we need more affordable housing options in District 38. Unfortunately, building affordable housing is extremely difficult. With high interest rates, rising construction costs, and decreasing equity pricing, developments with 9% housing tax credits have suffered. However the people behind the Avanti Legacy del Sol have not given up. They have partnered with the Housing Authority of the City of Brownsville to make the deal financially feasible through the use of property tax abatement. This partnership, which I support, will allow the Applicant to build Avanti Legacy del Sol with the available capital sources and without the need for supplemental credits thanks to the partnership's unique tax-exempt position. The Developers of the transaction should be commended for their efforts to identify non-traditional resources to subsidize the development costs of the apartment community.

Citizens of Brownsville deserve the opportunity to live in a safe and comfortable environment, and Avanti Legacy del Sol will provide this opportunity for elderly households in my district. Additionally, the demand for affordable senior housing in Brownsville is significant and growing. As our senior population continues to increase, it is imperative that we address this need promptly. By approving the material amendment requested for Avanti Legacy del Sol, the TDHCA Board will be supporting a project that not only meets current housing demands but also anticipates future needs, ensuring long-term stability and support for our elderly residents.

Please feel free to call me my office at 512-463-0606 or reach me by email at [Erin.Gamez@house.texas.gov](mailto:Erin.Gamez@house.texas.gov), if you have any questions.

Sincerely,

  
Representative Erin Gámez  
House District 38

**RESOLUTION NO. 2023-016**

**A RESOLUTION OF THE CITY OF BROWNSVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO AMEND THE RESOLUTION OF SUPPORT FOR THE PROPOSED DEVELOPMENT OF AN AFFORDABLE RENTAL HOUSING PROJECT LOCATED NEAR THE NORTHWEST CORNER OF RUBEN M. TORRES BOULEVARD AND LAREDO ROAD, NAMED AVANTI LEGACY DEL SOL.**

**WHEREAS**, the City Manager is authorized to amend the Resolution of Support for the proposed development of an affordable rental housing community for seniors located near the northwest corner of Ruben M. Torres Boulevard and Laredo Road, named Avanti Legacy del Sol; and

**WHEREAS**, on January 7, 2023, the City of Brownsville approved a Resolution of Support for Avanti Legacy del Sol in relation to its application to the Texas Department of Housing and Community Affairs for the 2023 Competitive 9% Housing Tax Credits; and

**WHEREAS**, Competitive 9% Housing Tax Credits were awarded to Avanti Legacy del Sol, but since then, significant economic changes have adversely affected its development, including increases in construction costs, interest rates, and property insurance; and

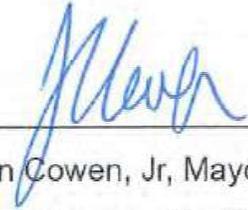
**WHEREAS**, Avanti Legacy del Sol is proposing to enter into partnership with the Brownsville Housing Opportunity Corporation, a nonprofit subsidiary of the Housing Authority of the City of Brownsville to collaborate on the development and implement a property tax exemption by including the Brownsville Housing Opportunity Corporation as the new General Partner for the transaction.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Brownsville, represented by its governing body, reaffirms its support for the proposed Avanti Legacy del Sol apartments, located near the northwest corner of Ruben M. Torres Boulevard and Laredo Road, Brownsville, Texas. Further, the City strongly endorses the partnership with the Brownsville Housing Opportunity Corporation of the Housing Authority of the City of Brownsville, to obtain a property tax exemption to ensure the development of this critically needed affordable housing.

**BE IT FURTHER RESOLVED**, that the Avanti Legacy del Sol provides for the creation of needed affordable housing and will additionally support the City's efforts to promote a more vital economy and that the City, acting through its governing body hereby

authorizes, empowers, and directs City Manager of the City of Brownsville, Texas to certify this Amended Resolution to the Texas Department of Housing and Community Affairs.

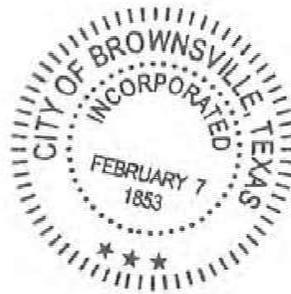
**DULY PASSED, ADOPTED AND APPROVED** by the City Commission of the City of Brownsville, Texas on the 20<sup>th</sup> day of August 2024.



\_\_\_\_\_  
John Cowen, Jr, Mayor  
City of Brownsville, Texas



\_\_\_\_\_  
Marina Zolezzi, Acting City Secretary



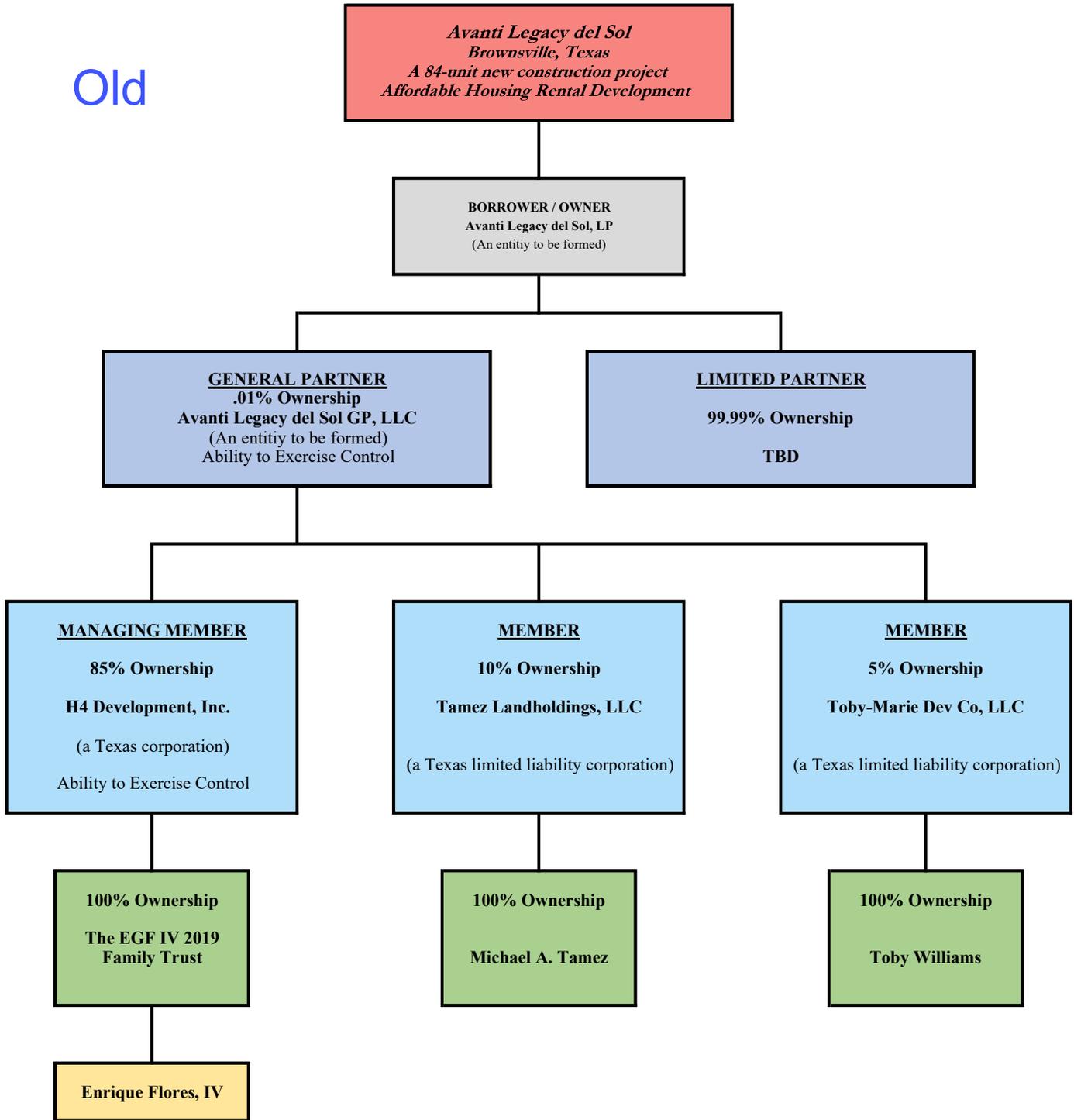
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# AVANTI LEGACY DEL SOL, LP

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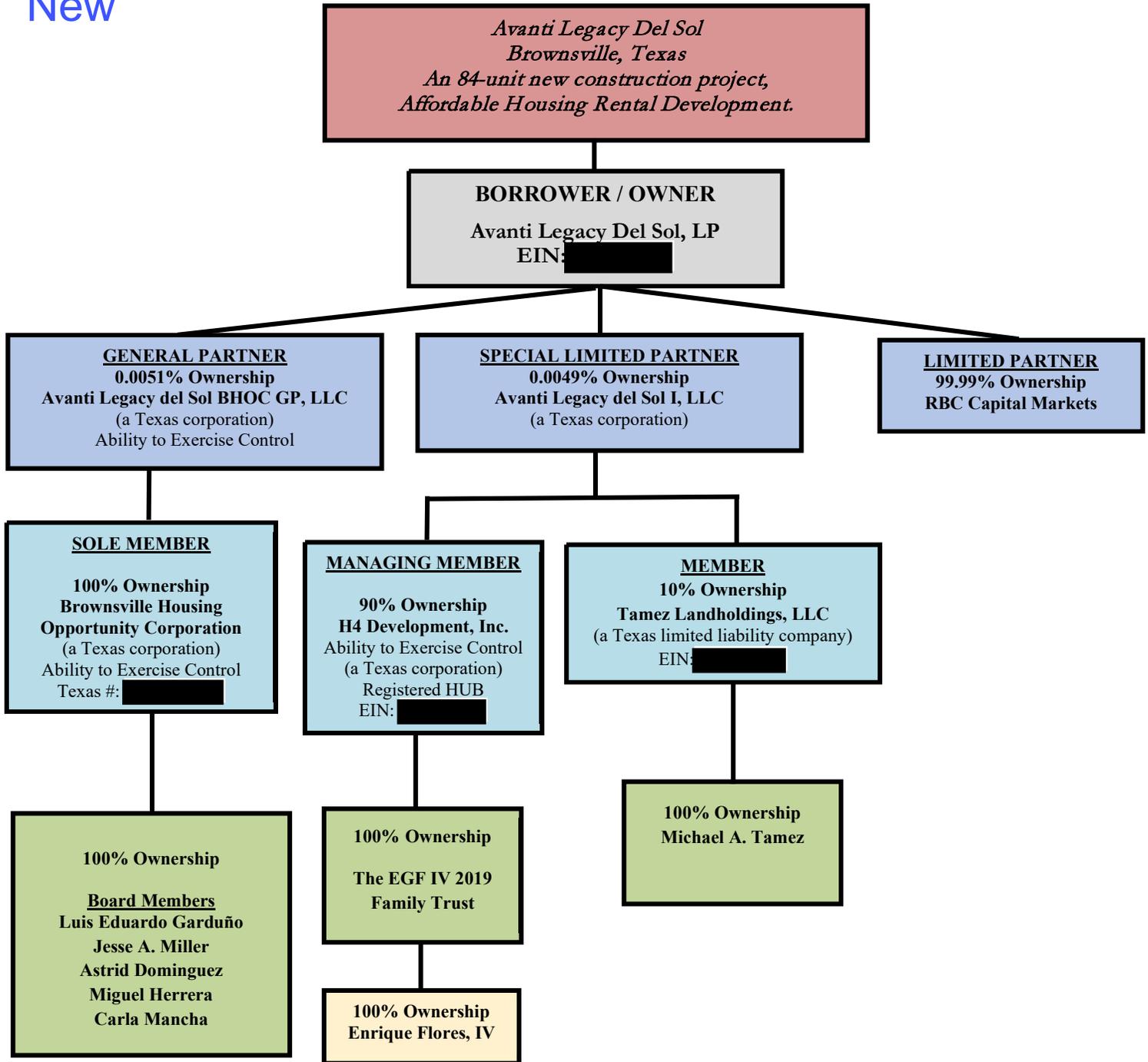
## Project Ownership Organizational Summary

Old



# PROJECT OWNERSHIP ORGANIZATIONAL SUMMARY

New





Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 815

**Agenda Date:** 11/7/2024

**Agenda #:** 17.

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Presentation, discussion, and possible action on recommendation to adopt an Agreed Final Order assessing an administrative penalty relating to Rosemont at Meadow Lane (HTC 03433 / CMTS 3421), and a Final Order of debarment for Evan J. Hunden, David B. Ratliff, and Michael Volz

**RECOMMENDED ACTION**

**WHEREAS**, Rosemont at Meadow Lane (HTC 03433 / CMTS 3421) (Property), owned by Rosemont Meadow Lane Apartments, LLC, had uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

**WHEREAS**, Evan J. Hunden, David B. Ratliff, and Michael Volz (the Responsible Parties) control Rosemont Meadow Lane Manager, LLC, the 100% member of Rosemont Meadow Lane Apartments, LLC;

**WHEREAS**, Evan J. Hunden has five Actively Monitored Developments, three of which have been referred for an administrative penalty during the last three years;

**WHEREAS**, David B. Ratliff has seven Actively Monitored Developments, four of which have been referred for an administrative penalty during the last three years;

**WHEREAS**, Michael Volz has seven Actively Monitored Developments, four of which have been referred for an administrative penalty during the last three years;

**WHEREAS**, Tex. Gov't Code §2306.0504(b) states that the Department may debar a person from participation in a Department program on the basis of the person's past failure to comply with any condition imposed by the Department in the administration of its programs;

**WHEREAS**, 10 TAC §2.401 defines the violations that are eligible for debarment;

**WHEREAS**, the Responsible Parties have exceeded the 50% debarment threshold identified at 10 TAC §2.401(e)(2)(a) to trigger mandatory debarment for repeated violations in a portfolio, with 50% or more of the Actively Monitored Developments under their Control being referred for a penalty in the last three years;

**WHEREAS**, the Enforcement Committee previously considered debarment in 2022 for the same 50% threshold violation and voted to dismiss the debarment, but the Department reserved the right to consider future debarment under 10 TAC §2.401(e)(2)(A) in the event that there were additional administrative penalty referrals for this ownership portfolio;

**WHEREAS**, there have been 10 monitoring reviews in the intervening period since 2022, with seven reviews corrected timely, one review referred for an administrative penalty, and two reviews with pending corrective action deadlines;

**WHEREAS**, the Responsible Parties failed to timely submit corrective documentation for the noncompliance identified during the 2023 Uniform Physical Standards (UPCS) inspection at the Property, which scored 47 out of 100, resulting in an administrative penalty referral that violated the 50% referral threshold at 10 TAC §2.401(e)(2)(a) for a second time;

**WHEREAS**, the Responsible Parties participated in an informal conference with the Enforcement Committee on July 30, 2024, regarding the administrative penalty referral for the Property and the referral for debarment;

**WHEREAS**, the Responsible Parties agreed, subject to Board approval, to enter into an Agreed Final Order, assessing an administrative penalty of \$20,000.00 for the 2023 UPCS noncompliance, with \$15,000.00 payable at signing and the remainder to be forgiven if acceptable corrections were submitted per the terms of the order;

**WHEREAS**, the Enforcement Committee agreed to table their debarment recommendation per the Responsible Parties' request to await the results of a physical inspection at the Property that was due to take place on or after September 26, 2024;

**WHEREAS**, TDHCA performed a National Standards for the Physical Inspection of Real Estate (NSPIRE) inspection on September 26, 2024, recording a score of 75.28 out of 100;

**WHEREAS**, TDHCA's NSPIRE inspection confirmed resolution of the remaining noncompliance from the 2023 UPCS inspection, rendering a forgivable portion of the administrative penalty in the Agreed Final Order to no longer be necessary;

**WHEREAS**, on October 03, 2024, the Enforcement Committee reconvened and voted to recommend a two-year debarment term;

**WHEREAS**, on October 15, 2024, the TDHCA Executive Director issued a debarment determination notice recommending a two-year debarment term for the Responsible Parties;

**WHEREAS**, on October 22, 2024, Responsible Parties appealed their debarment determination to the Board;

**WHEREAS**, staff has based the above debarment term recommendations on the Department's rules for debarment and an assessment of each and all of the material factors identified at 10 TAC §2.401(j) that are to be considered in determining a recommended period of debarment, applied specifically to the facts and circumstances present in this case; and

**WHEREAS**, staff has based the above recommendation for an Agreed Final Order for an administrative penalty on the Department's rules for administrative penalties and an

assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case.

**NOW, therefore, it is hereby**

**RESOLVED**, that two Orders, including: (1) a Final Order of Debarment for a term of two years for the Responsible Parties; and (2) an Agreed Final Order assessing an administrative penalty of \$15,000.00 against Rosemont Meadow Lane Apartments, LLC, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, are hereby adopted as the order of this Board.

**BACKGROUND**

**PROPERTY AND FINANCING INFORMATION:** The Property is subject to a Land Use Restriction Agreement (LURA) signed by a prior owner in 2004 in consideration for a housing tax credit allocation to build and operate the Property, an apartment complex composed of 264 units, located in Dallas. The Responsible Parties acquired the Property on January 29, 2021. TDHCA's UPCS inspection score on July 9, 2021, was 65 out of 100. The previous UPCS inspection conducted on September 1, 2017, scored 83 out of 100. The property management company at the time of the current violations at issue was Avenue5, but they were replaced by Asset Living in October 2024.

**VIOLATIONS SUBJECT TO ADMINISTRATIVE PENALTIES:** The TDHCA Compliance Division (Compliance) performed a UPCS inspection at the Property on September 26, 2023. This inspection scored 47 out of 100, and the list of deficiencies was extensive, including 86 Level 1 deficiencies, 39 Level 2 deficiencies, and 131 Level 3 deficiencies, with Level 3 being the most severe. Scoring is at Exhibit 1. Owner was required to: (1) certify to the correction of cited exigent and fire safety hazards within three working days; and (2) submit work orders and/or invoices to document correction of all cited deficiencies on or before December 27, 2023. TDHCA granted deadline extensions for the requirement to submit work orders and/or invoices to document correction of all cited deficiencies through March 26, 2024, the maximum allowed. Owner uploaded the certification for correction of exigent fire and safety hazards (EH&S) on October 1, 2023, but did not submit any documentation of work orders and/or invoices to document correction of any of the 256 cited deficiencies.

On April 1, 2024, Compliance referred the property owner, Rosemont Meadow Lane Apartments, LLC, for an administrative penalty. The Property was also placed on an annual inspection schedule due to its low inspection score of 47 out of 100. Owner submitted partial corrections on April 11, 2024, in response to the administrative penalty referral. Additional corrective documentation was submitted on April 12, 2024, May 15, 2024, and July 26, 2024, and items that remained unresolved as of the July 30, 2024 informal conference are highlighted in yellow at Exhibit 1. The Compliance Division confirmed resolution of those final deficiencies during their September 26, 2024 National Standards for the Physical Inspection of Real Estate (NSPIRE) inspection. Additional new noncompliance was identified during the 2024 NSPIRE

inspection, but it is within its 90-day corrective action period, and is not eligible for an administrative penalty at this time.

**VIOLATIONS SUBJECT TO DEBARMENT:** Tex. Gov't. Code 2306.0504(c) states, "(c) The department shall debar a person from participation in a department program if the person: (1) materially or repeatedly violates any condition imposed by the department in connection with the administration of a department program, including a material or repeated violation of a land use restriction agreement regarding a development supported with a housing tax credit allocation;"

10 TAC §2.401(e)(2)(A) states, "(e) Repeated Violations of a LURA that shall be referred to the Committee for Debarment. [...] (2) Repeated violations in a portfolio. Persons who control five or more Actively Monitored Developments will be considered for Debarment based on repeated violations in a portfolio. A Person shall be referred to be committee if an inspection or referral, after April 1, 2021, indicates the following: (A) 50% or more of the Actively Monitored Developments in the portfolio have been referred to the Enforcement Committee within the last three years. The Enforcement Committee may increase this threshold at its discretion. For example, if three properties in a five-property portfolio are monitored in the same month, and then referred to the Enforcement Committee at the same time, it may be appropriate to increase the 50% threshold;"

TDHCA analysis of the ownership portfolio after the administrative penalty referral for the Property indicated that Evan J. Hunden, David B. Ratliff, and Michael Volz, the Responsible Parties in Control, had exceeded the 50% administrative penalty referral threshold under 10 TAC §2.401(e)(2)(A). A copy of that analysis is at Exhibit 2. This is the second debarment referral for Mr. Ratliff and Mr. Volz, who were previously considered for debarment in 2022 under the same rule. That 2022 debarment referral was dismissed after the Enforcement Committee decided to increase the 50% referral threshold; however, the Department reserved the right to consider future debarment under 10 TAC §2.401(e)(2)(A) in the event that there were additional administrative penalty referrals for this ownership portfolio.

**DEBARMENT IS MANDATORY UNLESS 50% THRESHOLD IS INCREASED:** The above constitutes a mandatory debarment violation unless the 50% referral threshold is increased again in accordance with 10 TAC §2.401(a). Unlike the 2022 debarment referral, there are no extenuating circumstances to consider, and the Enforcement Committee thought that increasing the threshold a second time would effectively render the 50% threshold meaningless. The 2022 debarment referral should have been a "wake-up call," but the promised changes from 2022 were not fully implemented.

**RESPONSIBLE PARTIES IN CONTROL AND ACTIVELY MONITORED DEVELOPMENT ANALYSIS:** Definitions are at Exhibit 3. Evan J. Hunden, David B. Ratliff, and Michael Volz are Responsible Parties in Control for purposes of this analysis. They are the managing members of Rosemont Meadow Lane Manager, LLC, the 100% member of Rosemont Meadow Lane Apartments, LLC, the property owner. The analysis at Exhibit 2 concludes that Mr. Ratliff controls seven Actively Monitored Developments, Mr. Volz controls seven, and Mr. Hunden controls five. Of those, four

Actively Monitored Developments have been referred for an administrative penalty in the past three years, exceeding the 50% administrative referral threshold.

All three Responsible Parties are executive officers of DevCo, LLC, headquartered in Washington State. It is Washington's largest provider of affordable housing, and they develop, own, and manage approximately 12,000 units throughout the US. They expanded into Texas on December 29, 2020.

**RECOMMENDATION INITIALLY TABLED AND PROPERTY INSPECTED AGAIN:** The Enforcement Committee considered administrative penalties and debarment during its informal conference on July 30, 2024. The Committee recommended an Agreed Final Order for an administrative penalty of \$20,000.00, with \$15,000.00 payable at signing and the remainder to be forgiven if acceptable corrections were submitted per the Order, but it tabled the debarment recommendation per owner's counsel's request because the Property was due for a TDHCA physical inspection in September. Responsible Parties were confident of an improved score and hoped that would be taken into consideration. TDHCA performed a National Standards for the Physical Inspection of Real Estate (NSPIRE) inspection on September 26, 2024, scoring 75.28 out of 100 (see Exhibit 4).

**FACTORS CONSIDERED TO DETERMINE RECOMMENDED DEBARMENT TERM:** On October 15, 2024, the TDHCA Executive Director issued a debarment determination notice for a two-year debarment term for the Responsible Parties. Although this is a mandatory debarment under the rule, there is no required minimum or maximum debarment term, and the Board may increase or decrease this term. Pursuant to 10 TAC §2.401(j), the recommended period of debarment was based upon the following material factors:

- 1. REPEATED OCCURRENCES:** The debarment violation was caused by repeated referrals for an administrative penalty, exceeding the 50% threshold defined at 10 TAC §2.401(e)(2) (A). The same violation occurred in 2022. The 2022 debarment referral was dismissed with no action taken due to a variety of factors that supported increasing the debarment threshold, however, the Department reserved the right to consider future debarment under 10 TAC §2.401(e)(2)(A) in the event that there were additional administrative penalty referrals in this ownership portfolio. Rosemont at Meadow Lane was referred for an administrative penalty on April 1, 2024, repeating the debarment violation.
- 2. SERIOUSNESS OF UNDERLYING ISSUES:** The Responsible Parties continue to rely too heavily upon the property management team at Avenue 5 Residential, which was understaffed in 2022, and still understaffed in 2024. The Responsible Parties acknowledged that they were not adequately supervising Avenue 5 despite repeated failures to perform to an adequate standard, and despite assurances made to the Enforcement Committee in 2022. All penalty referrals that contributed to violating the 50% referral threshold are reviews where the Responsible Parties failed to submit any corrective documentation. Additionally, the 2023 UPCS inspection showed that the property was in poor condition, scoring 47 out of 100. The 50% referral threshold was established in 10 TAC §2.401(e)(2)(A) in 2021 to signal to the Department that there is a serious problem in the ownership

portfolio that must be addressed before the ownership group should further expand its portfolio, or receive additional funds in Texas. In 2024, the rule was amended to establish a three-year look-back period, comparable to previous participation reviews. Exceeding the 50% referral threshold indicates that the Responsible Parties are repeatedly failing to adhere to TDHCA compliance requirements, so continuing to grow the TDHCA portfolio is not advisable. Debarment is not exclusively a punishment; its purpose is primarily to give the Responsible Parties time to regroup and fix their internal policies and mechanisms to show that they can responsibly administer TDHCA properties and funding.

- 3. PRESENCE OR ABSENCE OF CORRECTIVE ACTION:** As noted above, the Responsible Parties submitted timely certification of correction for exigent and fire safety hazards cited during the 2023 UPCS inspection, but failed to submit any corrective documentation for cited deficiencies on or before December 27, 2023. On April 1, 2024, Compliance referred the property owner for an administrative penalty. The Responsible Parties submitted partial corrections between April 11, 2024, and July 26, 2024, addressing all noncompliance except the items marked in yellow at Exhibit 1. TDHCA staff verified resolution of those final items during the inspection on September 26, 2024.

During the 2024 informal conference, the Responsible Parties offered vague assurances that changes would be made to their processes, but did not provide any substantive information to lead the Enforcement Committee to believe that any demonstrable changes will be taking place in the near future. The Responsible Parties were in the process of replacing the property management company, however, they did not appear to be making sufficient changes to how they supervise the property management company, and it appeared they would be relying on the same system that repeatedly failed with Avenue 5 Residential. The Responsible Parties are based in Washington State, and they have recently started to implement systems with regional managers, but those managers were not previously in Texas, which the Responsible Parties recognized was an issue. They now have a regional manager in Dallas. Alan Manie is their asset manager who has access to CMTS and is responsible for monitoring for compliance. However, Mr. Manie already had this level of access prior to referral. During the 2022 informal conference, the Responsible Parties stated that they had implemented trackers and meeting schedules pertaining to TDHCA compliance, and that TDHCA compliance items would be a standing agenda item on all executive leadership meetings at DevCo. This was a significant component in the decision not to debar in 2022. During the 2024 informal conference, Mr. Hunden admitted that process was not implemented at the executive level. It appears that the Responsible Parties did not prioritize compliance despite assurances made during the 2022 debarment informal conference.

- 4. OTHER MATERIAL FACTORS:** There have been ten monitoring reviews in the intervening period since the 2022 debarment informal conference, including seven successful monitoring reviews where the Responsible Parties submitted timely and complete corrective documentation, one review that was referred for an administrative penalty after failing to submit corrections, and two reviews that are pending corrective action deadlines. The administrative penalty referral percentage will decrease in 2025 when some of the

referrals pass the three-year lookback period.

The inspection score history was also considered. The property scored 83 out of 100 during its UPCS inspection on September 1, 2017; 65 out of 100 during its UPCS inspection on July 9, 2021; 82 out of 100 on its UPCS inspection on October 28, 2022; 47 out of 100 on its 2023 UPCS inspection; and 75.28 out of 100 on its NSPIRE inspection on September 26, 2024. The current owner purchased the property on January 29, 2021. This history demonstrates a decline in condition in 2021, improvement in 2022, a steep decline in 2023, and then improvement in 2024. Committee members compared the 2023 and 2024 inspection reports and noted that there is some overlap regarding deficiency types observed, such as exposed electrical wiring, broken or missing stairway handrails, and damaged locks.

The Responsible Parties indicated that this is a complicated property from physical and security perspectives. Crime is significant in this area of the city, and safety and security issues contribute to problems with the physical condition. Significant effort is required in order to prevent quickly declining conditions due to vandalism.

On May 22, 2024, the City of Dallas filed a lawsuit against Rosemont Meadow Lane Apartments, LLC, Avenue 5 Residential, LLC, and 4722 Meadow Street, Dallas, Texas 75215, in rem, seeking a temporary injunction to require compliance with city code, citing violations of various public health and safety-related ordinances, and seeking to enjoin the owner from operating the Property in a manner that constitutes a common nuisance by permitting habitual serious criminal activity at the Property between 2022 - 2024. The City cited failure to abate public health and safety ordinances, and failure to implement basic maintenance and crime abatement strategies. The City first documented health and safety violations in September 2021. It stated that the owner required frequent City assistance and inspection pressure to come into compliance and close the matter. Despite that assistance, the City stated that the property returned to its previous substandard condition, failing its annual inspection on April 19, 2023, with a score of 60/100. This timeline is consistent with TDHCA's 2021 UPCS timeline and the temporary UPCS score improvement that was also observed by TDHCA in 2022. Owner's counsel indicated that during the TDHCA informal conference on July 30, 2024, the Owner was working with the City on an Agreed Temporary Injunction (TI). That TI was signed on August 15, 2024, and includes a series of City deadlines spanning from September 13, 2024, through January 10, 2025.

The Enforcement Committee is also recommending a separate Agreed Final Order for an administrative penalty relating to the 2023 UPCS noncompliance noted above for the Property. During the informal conference on July 30, 2024, the Committee voted to assess a \$20,000.00 administrative penalty, with \$15,000.00 due at signing and \$5,000.00 forgivable if all noncompliance is resolved within 30 days of Board approval. Compliance confirmed resolution of the final deficiencies during their September 2024 NSPIRE inspection, so the Agreed Final Order has been adjusted accordingly. The Responsible Parties spent \$2,021,139.00 on repairs at the Property between December 31, 2023, and July 1, 2024. This is a significant amount, and additional expenditures are needed to repair deficiencies

from the TDHCA NSPIRE inspection conducted on September 26, 2024, and the City's TI. \$15,000.00 is an appropriate administrative penalty, recognizing that the property has negative net cash flow, and that the Department would prefer for funds to be invested in the property to improve tenant conditions rather than a penalty.

Finally, Committee members considered the Responsible Parties' history in Texas. DevCo purchased their first property in Texas on December 29, 2020, and it can take time to establish compliance procedures. It also considered that this 50% administrative referral threshold for debarment is relatively new, established April 1, 2021, so the Committee has only seen a few of them. The fact that two of those referrals are for the Responsible Parties is significant. The Responsible Parties are actively expanding in Texas, and they resyndicated six of their TDHCA HTC properties in 2023. Those six properties are currently undergoing rehabilitation, including: Park at Humble HTC 23434 (substantially completed), Tigoni Villas HTC 23424 (substantially completed), Positano HTC 23421 (anticipated completion December 2024), Costa Almadena HTC 23437 (anticipated completion December 2024), Rosemont Ash Creek HTC 23420 (anticipated completion February 2025), and Brookside Gardens HTC 23454 (anticipated completion February 2025). Each will have final construction inspections, file monitoring reviews, and NSPIRE inspections at some point after completion. The Responsible Parties need to complete those projects, and adjust compliance procedures to ensure complete and timely responses to monitoring reviews before receiving further TDHCA funding or purchasing additional TDHCA properties.

**DEBARMENT APPEAL:** Owner's counsel submitted written responses on May 15, 2024, and July 29, 2024, and then submitted an appeal to the board on October 22, 2024. Their arguments from the three submissions include:

1. Noting that property management timely submitted the Exigent Health and Safety Certificate for the 2023 UPCS inspection, and outlining correspondence timelines regarding requested extensions for the corrective action deadline. Stated that delays were due to insufficient onsite staff to resolve the noncompliance once the EH&S deficiencies were corrected.
2. Noting that there were no other penalty referrals after July 2022, and suggesting that this shows corrective measures implemented after their 2022 informal conference have been working.
3. Stating that if the referral had come later, the 50% threshold would not have been breached:
  - a. Two of the developments are not Actively Monitored yet (see Exhibit 2). If Actively Monitored, the Responsible Parties would not trigger the 50% threshold, assuming that neither is referred.
  - b. Cites 3-year lookback period. Multiple referrals will fall off the analysis chart soon.

4. Stating that primary problem is Avenue5's turnover and lack of staffing onsite. This was the reason for requesting an extension for the 2023 UPCS inspection that caused this referral.
5. Analyzing miscommunication by Avenue5's onsite staff, thinking they had requested another extension, past the deadline of March 26, 2024. TDHCA staff notes that the maximum extension was through March 26, 2024, which TDHCA communicated when it approved the final extension in January. This demonstrates poor supervision and internal controls by both the Responsible Parties and Avenue5.
6. Focusing on their other performance and overall improvement since 2022.
7. Was notably silent regarding the poor physical condition of the property cited in the 2023 UPCS inspection.

The day before their July informal conference, Owner's Counsel presented a new argument that Costa Almadena and Brookside Gardens (see analysis at Exhibit 2) should be considered Actively Monitored Developments, therefore bringing the Responsible Parties below the 50% referral threshold. For this analysis, TDHCA reviews each property in the ownership portfolio for: (1) the Control start date (purchase date), (2) whether a monitoring report or other deadline has been issued to the Responsible Parties for a physical inspection, file review, or affirmative marking / policies review in the past three years, and (3) whether there was an administrative penalty referral during the past three years under the Responsible Party. Although two of the TDHCA letters noted below did fall within the three-year period in question, the purpose of analyzing Actively Monitored Developments under 10 TAC §2.401(e) (2)(a) is to review a Responsible Party's conduct for the past three years for properties under their Control in their ownership portfolio. The current owner was not in Control at the time of any of the monitoring events below, nor did they submit any corrections for those reviews. Conducting the analysis in the way proposed would essentially allow owners to purchase a prior owner's good compliance history and take credit for it. This interpretation would encourage owners who are nearing the 50% debarment threshold to add more properties to their portfolio, which is inconsistent with the rule's and the statute's intent. Accordingly, it is inconsistent with the intention of the rule to consider these Actively Monitored Developments for the period in question, and they are therefore excluded from that calculation:

1. Costa Almadena: UPCS inspection conducted July 7, 2021. Inspection Report issued August 6, 2021. Corrections submitted by prior owner October 18, 2021, reflecting a final correction date of September 27, 2021. Responsible Parties purchased the property December 1, 2021. TDHCA issued a close-out letter March 14, 2022. The only overlap with Responsible Parties was the TDHCA close-out letter date.
2. Brookside Gardens: UPCS inspection conducted April 19, 2022. Inspection Report issued May 20, 2022. Corrections submitted by prior owner June 6, 2022, reflecting a final

correction date of May 26, 2022. Responsible Parties purchased the property June 22, 2022. TDHCA issued a close-out letter October 3, 2022. The only overlap with Responsible Parties was the TDHCA close-out letter date.

Owner's Counsel submitted an appeal on October 22, 2024, including a new argument that the analysis for Evan Hunden at Exhibit 2 omits three developments that should be counted because the developments were resyndicated in 2023, and he now has control authority in the new organizational structures for The Mondello, The Positano, and Costa Almadena. TDHCA staff analyzed those arguments at Exhibit 2, but Mr. Hunden's administrative penalty referral percentage remains unchanged for the same reasons outlined above, since TDHCA has not monitored any of those three developments since Mr. Hunden's control authority began.

A partially probationary debarment term was not considered. The recommended two-year term will provide adequate time for the Responsible Parties to implement changes to internal monitoring procedures, and for TDHCA to confirm that problems have been addressed. Additionally, the debarment term would need to be more than one year to make an impact on the Responsible Parties' ability to apply for more tax credits.

It is not part of the Enforcement Committee recommendation, but the Property will remain on an annual TDHCA physical inspection schedule through September 2025, at which time the inspection schedule will be re-evaluated by the Compliance Division based upon the property condition and other relevant information.

Accordingly, after consideration of all appropriate factors, including those set out in TEX. GOV'T CODE §2306.0504 and 10 TEX. ADMIN. CODE §2.401, the Enforcement Committee and Executive Director recommend two orders:

1. A Final Order of Debarment for a term of two years for Evan J. Hunden, David B. Ratliff, and Michael Volz.
2. An Agreed Final Order assessing an administrative penalty of \$15,000.00 against Rosemont Meadow Lane Apartments, LLC.

*Exhibits:*

1. *2023 UPCS Scoring*
2. *Actively Monitored Development Analysis*
3. *Statute and rule excerpts*
4. *2024 NSPIRE Scoring*
5. *October 22, 2024 Appeal*

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<b>Scoring Summary</b>		
Areas	Possible Points	Points Scored
Site	16.6	.0
Building Exteriors	17.7	10.8
Building Systems	22.7	17.3
Building Common Areas	.3	.0
Units	42.7	18.5
Inspection Total	100	47

**Site**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
4.930		Health & Safety	Electrical Hazards - Exposed Wires/Open Panels	12.5%	5	1
2.958		Grounds	Ponding/Site Drainage	12.5%	3	1
2.366		Fencing and Gates	Holes/Missing Section/Damaged/Falling/Leaning (Security, Safety)	10%	3	1
2.219		Health & Safety	Hazards - Sharp Edges	12.5%	2.25	1
1.479		Grounds	Erosion/Rutting Areas	12.5%	3	0.5
1.109		Grounds	Overgrown/Penetrating Vegetation	12.5%	2.25	0.5
0.947		Market Appeal	Litter	8%	3	0.5
0.592		Retaining Walls	Damaged/Falling/Leaning	10%	3	0.25

**Bldg Exterior**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.022	Bldg 11	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.114	Bldg 12	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.5
0.152	Bldg 14	Lighting	Broken Fixtures/Bulbs	18.4%	3	0.5
0.057	Bldg 14	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 14	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.228	Bldg 16	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	1
0.022	Bldg 16	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.057	Bldg 17	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 17	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.247	Bldg 18	Walls	Missing Pieces/Holes/Spalling	14.9%	3	1
0.057	Bldg 18	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 18	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.305	Bldg 19	Roofs	Ponding	18.4%	3	1
0.114	Bldg 19	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.5
0.254	Bldg 20	Roofs	Damaged Soffits/Fascia/Soffit Vents	18.4%	5	0.5

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**Bldg Exterior**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
<b>0.228</b>	<b>Bldg 20</b>	<b>Health &amp; Safety</b>	<b>Hazards - Sharp Edges</b>	<b>18.4%</b>	<b>2.25</b>	<b>1</b>
0.057	Bldg 20	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 20	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.057	Bldg 21	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 21	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.114	Bldg 23	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.5
0.022	Bldg 23	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.114	Bldg 24	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.5
0.022	Bldg 24	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
<b>0.228</b>	<b>Bldg 25</b>	<b>Health &amp; Safety</b>	<b>Hazards - Sharp Edges</b>	<b>18.4%</b>	<b>2.25</b>	<b>1</b>
0.022	Bldg 25	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.228	Bldg 26	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	1
0.022	Bldg 26	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.057	Bldg 3	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 3	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.114	Bldg 30	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.5
0.022	Bldg 30	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
<b>0.508</b>	<b>Bldg 31</b>	<b>Health &amp; Safety</b>	<b>Electrical Hazards - Exposed Wires/Open Panels</b>	<b>18.4%</b>	<b>5</b>	<b>1</b>
0.057	Bldg 31	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 31	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.305	Bldg 32	Doors	Damaged Surface (Holes/Paint/Rusting)	18.4%	3	1
0.057	Bldg 32	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.179	Bldg 33	Windows	Damaged Sills/Frames/Lintels/Trim	13%	5	0.5
0.057	Bldg 33	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 33	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.127	Bldg 34	Doors	Damaged Frames/Threshold/Lintels/Trim	18.4%	1.25	1
0.114	Bldg 34	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.5
0.022	Bldg 34	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.123	Bldg 35	Walls	Missing Pieces/Holes/Spalling	14.9%	3	0.5
0.057	Bldg 35	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 35	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
<b>0.228</b>	<b>Bldg 36</b>	<b>Health &amp; Safety</b>	<b>Garbage and Debris - Outdoors</b>	<b>18.4%</b>	<b>2.25</b>	<b>1</b>
0.057	Bldg 36	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.179	Bldg 37	Windows	Damaged Sills/Frames/Lintels/Trim	13%	5	0.5
0.057	Bldg 37	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 37	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.057	Bldg 38	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.040	Bldg 38	Windows	Cracked/Broken/Missing/Cracked Panes	13%	2.25	0.25
0.022	Bldg 38	Windows	<b>Damaged/Missing Screens</b>	13%	1.25	0.25
0.114	Bldg 39	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.5

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**Bldg Exterior**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.022	Bldg 39	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.057	Bldg 4	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 4	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.179	Bldg 40	Windows	Damaged Sills/Frames/Lintels/Trim	13%	5	0.5
0.127	Bldg 40	Doors	Damaged Frames/Threshold/Lintels/Trim	18.4%	1.25	1
0.114	Bldg 40	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.5
0.022	Bldg 40	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.022	Bldg 5	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.411	Bldg 6	Walls	Cracks/Gaps	14.9%	5	1
0.179	Bldg 6	Windows	Damaged Sills/Frames/Lintels/Trim	13%	5	0.5
0.022	Bldg 6	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.022	Bldg 7	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.057	Bldg 8	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 8	Windows	Damaged/Missing Screens	13%	1.25	0.25
0.057	Bldg 9	Roofs	Missing/Damaged Components from Downspout/Gutter	18.4%	2.25	0.25
0.022	Bldg 9	Windows	Damaged/Missing Screens	13%	1.25	0.25

**Bldg Systems**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.181	Bldg 11	Sanitary System	Missing Drain/Cleanout/Manhole Covers	15.5%	2.25	1
0.181	Bldg 17	Sanitary System	Missing Drain/Cleanout/Manhole Covers	15.5%	2.25	1
<b>0.402</b>	<b>Bldg 20</b>	<b>Health &amp; Safety</b>	<b>Electrical Hazards - Exposed Wires/Open Panels</b>	<b>15.5%</b>	<b>5</b>	<b>1</b>
0.402	Bldg 20	Electrical System	Missing Covers	15.5%	5	1
0.402	Bldg 25	Fire Protection	Missing/Damaged/Expired Extinguishers	15.5%	5	1
0.181	Bldg 35	Sanitary System	Missing Drain/Cleanout/Manhole Covers	15.5%	2.25	1
0.402	Bldg 36	Electrical System	Missing Covers	15.5%	5	1
<b>0.402</b>	<b>Bldg 36</b>	<b>Health &amp; Safety</b>	<b>Electrical Hazards - Exposed Wires/Open Panels</b>	<b>15.5%</b>	<b>5</b>	<b>1</b>
0.402	Bldg 39	Electrical System	Missing Covers	15.5%	5	1
<b>0.402</b>	<b>Bldg 39</b>	<b>Health &amp; Safety</b>	<b>Electrical Hazards - Exposed Wires/Open Panels</b>	<b>15.5%</b>	<b>5</b>	<b>1</b>
0.402	Bldg 6	Electrical System	Missing Covers	15.5%	5	1
<b>0.402</b>	<b>Bldg 6</b>	<b>Health &amp; Safety</b>	<b>Electrical Hazards - Exposed Wires/Open Panels</b>	<b>15.5%</b>	<b>5</b>	<b>1</b>
<b>0.402</b>	<b>Leasing Office</b>	<b>Health &amp; Safety</b>	<b>Electrical Hazards - Exposed Wires/Open Panels</b>	<b>15.5%</b>	<b>5</b>	<b>1</b>
0.402	Leasing Office	Electrical System	Missing Covers	15.5%	5	1
0.402	Leasing Office	Domestic Water	Missing Pressure Relief Valve	15.5%	5	1
0.052	Leasing Office	Emergency Power	Auxiliary Lighting Inoperable	2%	5	1

**Other Community Spaces**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.046	Bldg 14	Lighting	Missing/Damaged/Inoperable Fixture	5%	3	1
0.046	Bldg 40	Lighting	Missing/Damaged/Inoperable Fixture	5%	3	1
0.023	Leasing Office	Lighting	Missing/Damaged/Inoperable Fixture	5%	3	0.5

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**Patio/Porch/Balcony**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.009	Leasing Office	Outlets/Switches/Cover Plates	Missing or Broken	5%	2.25	0.25

**Patio/Porch/Balcony**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.035	Bldg 40	Porch/Balcony	Baluster/Side Railing Damaged	5%	2.25	1
0.035	Leasing Office	Doors	Damaged Hardware/Locks	5%	2.25	1

**Pools and Related Structures**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.019	Leasing Office	<b>Pools</b>	<b>Not Operational</b>	5%	1.25	1

**Restrooms/Pool Structures**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.005	Leasing Office	Bathroom	Restroom Cabinet - Damaged/Missing	5%	1.25	0.25

**Units**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
<b>0.602</b>	<b>Bldg 11 / 1101</b>	<b>Health &amp; Safety</b>	<b>Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable</b>	<b>15%</b>	<b>5</b>	<b>1</b>
0.602	Bldg 11 / 1101	HVAC System	Not Operable	15%	5	1
<b>0.271</b>	<b>Bldg 11 / 1101</b>	<b>Health &amp; Safety</b>	<b>Air Quality - Mold and/or Mildew Observed</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.136	Bldg 11 / 1101	Kitchen	Range/Stove - Missing/Damaged/Inoperable	15%	2.25	0.5
0.040	Bldg 11 / 1101	Walls	Mold/Mildew/Water Stains/Water Damage	4%	1.25	1
0.036	Bldg 11 / 1101	Stairs	Broken/Missing Hand Railing	2%	2.25	1
0.081	Bldg 11 / 1103	Doors	Damaged Hardware/Locks	4.5%	2.25	1
0.271	Bldg 16 / 1606	Kitchen	Plumbing - Leaking Faucet/Pipes	15%	2.25	1
0.108	Bldg 16 / 1606	Doors	Deteriorated/Missing Seals (Entry Only)	4.5%	3	1
0.045	Bldg 16 / 1606	Doors	Missing Door	4.5%	5	0.25
0.038	Bldg 16 / 1606	Bathroom	Cabinets - Damaged/Missing	15%	1.25	0.25
0.036	Bldg 16 / 1606	Stairs	Broken/Missing Hand Railing	2%	2.25	1
0.402	Bldg 17 / 1711	Electrical	GFI Inoperable	10%	5	1
0.020	Bldg 17 / 1711	Doors	Damaged Surface (Holes/Paint/Rusting)	4.5%	2.25	0.25
0.020	Bldg 17 / 1711	Windows	Cracked/Broken/Missing Panes	4.5%	2.25	0.25
0.602	Bldg 18 / 1805	HVAC System	Not Operable	15%	5	1
0.090	Bldg 18 / 1805	Bathroom	Plumbing - Leaking Faucet/Pipes	15%	3	0.25
0.038	Bldg 18 / 1805	Bathroom	Cabinets - Damaged/Missing	15%	1.25	0.25
0.036	Bldg 18 / 1805	Stairs	Broken/Missing Hand Railing	2%	2.25	1
0.602	Bldg 2 / 204	HVAC System	Not Operable	15%	5	1
<b>0.271</b>	<b>Bldg 2 / 204</b>	<b>Health &amp; Safety</b>	<b>Air Quality - Mold and/or Mildew Observed</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
<b>0.271</b>	<b>Bldg 2 / 204</b>	<b>Health &amp; Safety</b>	<b>Hazards - Sharp Edges</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.181	Bldg 2 / 204	Bathroom	Shower/Tub - Damaged/Missing	15%	3	0.5
0.096	Bldg 2 / 204	Floors	Soft Floor Covering Missing/Damaged	4%	3	1

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0.068	Bldg 2 / 204	Bathroom	Lavatory Sink - Damaged/Missing	15%	2.25	0.25
0.040	Bldg 2 / 204	Walls	Mold/Mildew/Water Stains/Water Damage	4%	1.25	1
0.040	Bldg 2 / 204	Ceiling	Mold/Mildew/Water Stains/Water Damage	4%	1.25	1
0.020	Bldg 2 / 204	Doors	Damaged Hardware/Locks	4.5%	2.25	0.25
<b>0.602</b>	<b>Bldg 20 / 2003</b>	<b>Health &amp; Safety</b>	<b>Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable</b>	<b>15%</b>	<b>5</b>	<b>1</b>
<b>0.271</b>	<b>Bldg 20 / 2003</b>	<b>Health &amp; Safety</b>	<b>Hazards - Sharp Edges</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.081	Bldg 20 / 2003	Windows	Cracked/Broken/Missing Panes	4.5%	2.25	1
0.081	Bldg 20 / 2003	Doors	Damaged Hardware/Locks	4.5%	2.25	1
0.075	Bldg 20 / 2003	Kitchen	Countertops - Missing/Damaged	15%	1.25	0.5
0.075	Bldg 20 / 2003	Kitchen	Dishwasher/Garbage Disposal - Inoperable	15%	1.25	0.5
0.068	Bldg 20 / 2003	Bathroom	Lavatory Sink - Damaged/Missing	15%	2.25	0.25
0.045	Bldg 20 / 2003	Doors	Damaged Frames/Threshold/Lintels/Trim	4.5%	1.25	1
0.020	Bldg 20 / 2003	Doors	Damaged Surface (Holes/Paint/Rusting)	4.5%	2.25	0.25
0.010	Bldg 20 / 2003	Ceiling	Mold/Mildew/Water Stains/Water Damage	4%	1.25	0.25
<b>0.602</b>	<b>Bldg 21 / 2104</b>	<b>Health &amp; Safety</b>	<b>Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable</b>	<b>15%</b>	<b>5</b>	<b>1</b>
0.602	Bldg 21 / 2104	Bathroom	Plumbing - Clogged Drains	15%	5	1
0.602	Bldg 21 / 2104	HVAC System	Not Operable	15%	5	1
<b>0.602</b>	<b>Bldg 21 / 2104</b>	<b>Health &amp; Safety</b>	<b>Electrical Hazards - Exposed Wires/Open Panels</b>	<b>15%</b>	<b>5</b>	<b>1</b>
0.361	Bldg 21 / 2104	Kitchen	Plumbing - Clogged Drains	15%	3	1
<b>0.271</b>	<b>Bldg 21 / 2104</b>	<b>Health &amp; Safety</b>	<b>Infestation - Insects</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
<b>0.271</b>	<b>Bldg 21 / 2104</b>	<b>Health &amp; Safety</b>	<b>Air Quality - Mold and/or Mildew Observed</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.136	Bldg 21 / 2104	Kitchen	Range/Stove - Missing/Damaged/Inoperable	15%	2.25	0.5
0.090	Bldg 21 / 2104	Bathroom	Plumbing - Leaking Faucet/Pipes	15%	3	0.25
0.081	Bldg 21 / 2104	Doors	Damaged Hardware/Locks	4.5%	2.25	1
0.075	Bldg 21 / 2104	Kitchen	Dishwasher/Garbage Disposal - Inoperable	15%	1.25	0.5
0.075	Bldg 21 / 2104	Kitchen	Cabinets - Missing/Damaged	15%	1.25	0.5
0.068	Bldg 21 / 2104	Bathroom	Lavatory Sink - Damaged/Missing	15%	2.25	0.25
0.045	Bldg 21 / 2104	Doors	Missing Door	4.5%	5	0.25
0.036	Bldg 21 / 2104	Stairs	Broken/Missing Hand Railing	2%	2.25	1
<b>0.271</b>	<b>Bldg 25 / 2507</b>	<b>Health &amp; Safety</b>	<b>Infestation - Insects</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.045	Bldg 25 / 2507	Doors	Damaged Frames/Threshold/Lintels/Trim	4.5%	1.25	1
0.108	Bldg 3 / 304	Doors	Deteriorated/Missing Seals (Entry Only)	4.5%	3	1
0.090	Bldg 3 / 304	Bathroom	Plumbing - Leaking Faucet/Pipes	15%	3	0.25
0.081	Bldg 3 / 304	Doors	Damaged Hardware/Locks	4.5%	2.25	1
0.024	Bldg 3 / 304	Floors	Hard Floor Covering Missing/Damaged Flooring/Tiles	4%	3	0.25
<b>0.602</b>	<b>Bldg 3 / 306</b>	<b>Health &amp; Safety</b>	<b>Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable</b>	<b>15%</b>	<b>5</b>	<b>1</b>
0.301	Bldg 3 / 306	Bathroom	Water Closet/Toilet - Damaged/Clogged/Missing	15%	5	0.5
0.108	Bldg 3 / 306	Doors	Deteriorated/Missing Seals (Entry Only)	4.5%	3	1
0.041	Bldg 3 / 306	Doors	Damaged Hardware/Locks	4.5%	2.25	0.5
0.038	Bldg 3 / 306	Bathroom	Cabinets - Damaged/Missing	15%	1.25	0.25
0.602	Bldg 31 / 3106	HVAC System	Not Operable	15%	5	1
0.602	Bldg 32 / 3206	HVAC System	Not Operable	15%	5	1
0.081	Bldg 32 / 3206	Doors	Damaged Hardware/Locks	4.5%	2.25	1
0.075	Bldg 32 / 3206	Kitchen	Dishwasher/Garbage Disposal - Inoperable	15%	1.25	0.5
0.045	Bldg 32 / 3206	Doors	Damaged Frames/Threshold/Lintels/Trim	4.5%	1.25	1
0.602	Bldg 33 / 3306	HVAC System	Not Operable	15%	5	1
<b>0.602</b>	<b>Bldg 33 / 3306</b>	<b>Health &amp; Safety</b>	<b>Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable</b>	<b>15%</b>	<b>5</b>	<b>1</b>
<b>0.271</b>	<b>Bldg 33 / 3306</b>	<b>Health &amp; Safety</b>	<b>Hazards - Sharp Edges</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
<b>0.271</b>	<b>Bldg 33 / 3306</b>	<b>Health &amp; Safety</b>	<b>Infestation - Insects</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.181	Bldg 33 / 3306	Bathroom	Shower/Tub - Damaged/Missing	15%	3	0.5

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Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.108	Bldg 33 / 3306	Doors	Deteriorated/Missing Seals (Entry Only)	4.5%	3	1
0.096	Bldg 33 / 3306	Floors	Soft Floor Covering Missing/Damaged	4%	3	1
0.096	Bldg 33 / 3306	Floors	Hard Floor Covering Missing/Damaged Flooring/Tiles	4%	3	1
0.068	Bldg 33 / 3306	Outlets/Switches	Missing/Broken Cover Plates	4%	2.25	0.25
0.045	Bldg 33 / 3306	Doors	Damaged Frames/Threshold/Lintels/Trim	4.5%	1.25	1
<b>0.271</b>	<b>Bldg 34 / 3403</b>	<b>Health &amp; Safety</b>	<b>Infestation - Insects</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
<b>0.271</b>	<b>Bldg 36 / 3601</b>	<b>Health &amp; Safety</b>	<b>Infestation - Insects</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.136	Bldg 36 / 3601	Kitchen	Range/Stove - Missing/Damaged/Inoperable	15%	2.25	0.5
0.090	Bldg 36 / 3601	HVAC System	Noisy/Vibrating/Leaking	15%	3	0.25
0.081	Bldg 36 / 3601	Doors	Damaged Surface (Holes/Paint/Rusting)	4.5%	2.25	1
0.075	Bldg 36 / 3601	Kitchen	Dishwasher/Garbage Disposal - Inoperable	15%	1.25	0.5
0.045	Bldg 36 / 3601	Doors	Missing Door	4.5%	5	0.25
0.108	Bldg 37 / 3703	Doors	Deteriorated/Missing Seals (Entry Only)	4.5%	3	1
0.090	Bldg 37 / 3703	Bathroom	Shower/Tub - Damaged/Missing	15%	3	0.25
0.068	Bldg 37 / 3703	Bathroom	Lavatory Sink - Damaged/Missing	15%	2.25	0.25
0.045	Bldg 37 / 3703	Doors	Damaged Frames/Threshold/Lintels/Trim	4.5%	1.25	1
0.045	Bldg 37 / 3703	Doors	Missing Door	4.5%	5	0.25
0.041	Bldg 37 / 3703	Doors	Damaged Hardware/Locks	4.5%	2.25	0.5
0.301	Bldg 39 / 3902	Bathroom	Water Closet/Toilet - Damaged/Clogged/Missing	15%	5	0.5
0.081	Bldg 39 / 3902	Doors	Damaged Surface (Holes/Paint/Rusting)	4.5%	2.25	1
0.045	Bldg 39 / 3902	Doors	Missing Door	4.5%	5	0.25
0.045	Bldg 39 / 3902	Doors	Damaged Frames/Threshold/Lintels/Trim	4.5%	1.25	1
0.012	Bldg 39 / 3902	Lighting	Missing/Inoperable Fixture	2%	3	0.25
0.181	Bldg 39 / 3903	Bathroom	Ventilation/Exhaust System - Inoperable	15%	3	0.5
0.090	Bldg 39 / 3903	HVAC System	Noisy/Vibrating/Leaking	15%	3	0.25
0.036	Bldg 39 / 3903	Stairs	Broken/Missing Hand Railing	2%	2.25	1
0.018	Bldg 39 / 3903	Walls	Damaged	4%	2.25	0.25
0.010	Bldg 39 / 3903	Ceiling	Mold/Mildew/Water Stains/Water Damage	4%	1.25	0.25
0.602	Bldg 39 / 3904	Bathroom	Plumbing - Clogged Drains	15%	5	1
0.602	Bldg 39 / 3904	Bathroom	Water Closet/Toilet - Damaged/Clogged/Missing	15%	5	1
<b>0.602</b>	<b>Bldg 39 / 3904</b>	<b>Health &amp; Safety</b>	<b>Electrical Hazards - Water Leaks on/near Electrical Equipment</b>	<b>15%</b>	<b>5</b>	<b>1</b>
0.402	Bldg 39 / 3904	Hot Water Heater	Inoperable Unit/Components	10%	5	1
<b>0.271</b>	<b>Bldg 39 / 3904</b>	<b>Health &amp; Safety</b>	<b>Hazards - Sharp Edges</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
<b>0.271</b>	<b>Bldg 39 / 3904</b>	<b>Health &amp; Safety</b>	<b>Infestation - Insects</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.108	Bldg 39 / 3904	Doors	Deteriorated/Missing Seals (Entry Only)	4.5%	3	1
0.090	Bldg 39 / 3904	Bathroom	Plumbing - Leaking Faucet/Pipes	15%	3	0.25
0.068	Bldg 39 / 3904	Bathroom	Lavatory Sink - Damaged/Missing	15%	2.25	0.25
0.068	Bldg 39 / 3904	Kitchen	Refrigerator-Missing/Damaged/Inoperable	15%	2.25	0.25
0.036	Bldg 39 / 3904	Stairs	Broken/Missing Hand Railing	2%	2.25	1
0.020	Bldg 39 / 3904	Doors	Damaged Hardware/Locks	4.5%	2.25	0.25
0.010	Bldg 39 / 3904	Ceiling	Mold/Mildew/Water Stains/Water Damage	4%	1.25	0.25
0.181	Bldg 39 / 3905	Bathroom	Shower/Tub - Damaged/Missing	15%	3	0.5
0.108	Bldg 39 / 3905	Doors	Deteriorated/Missing Seals (Entry Only)	4.5%	3	1
0.081	Bldg 39 / 3905	Doors	Damaged Hardware/Locks	4.5%	2.25	1
0.068	Bldg 39 / 3905	Bathroom	Lavatory Sink - Damaged/Missing	15%	2.25	0.25
0.045	Bldg 39 / 3905	Doors	Missing Door	4.5%	5	0.25
0.036	Bldg 39 / 3905	Stairs	Broken/Missing Hand Railing	2%	2.25	1
<b>0.271</b>	<b>Bldg 40 / 4005</b>	<b>Health &amp; Safety</b>	<b>Infestation - Insects</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
0.020	Bldg 40 / 4005	Doors	Damaged Surface (Holes/Paint/Rusting)	4.5%	2.25	0.25
0.602	Bldg 6 / 602	Bathroom	Plumbing - Clogged Drains	15%	5	1
0.181	Bldg 6 / 602	Bathroom	Shower/Tub - Damaged/Missing	15%	3	0.5
0.081	Bldg 6 / 602	Doors	Damaged Hardware/Locks	4.5%	2.25	1
<b>0.271</b>	<b>Bldg 7 / 701</b>	<b>Health &amp; Safety</b>	<b>Hazards - Sharp Edges</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>
<b>0.271</b>	<b>Bldg 7 / 701</b>	<b>Health &amp; Safety</b>	<b>Air Quality - Mold and/or Mildew Observed</b>	<b>15%</b>	<b>2.25</b>	<b>1</b>

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Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.108	Bldg 7 / 701	Doors	Deteriorated/Missing Seals (Entry Only)	4.5%	3	1
0.096	Bldg 7 / 701	Floors	Hard Floor Covering Missing/Damaged Flooring/Tiles	4%	3	1
0.096	Bldg 7 / 701	Floors	Soft Floor Covering Missing/Damaged	4%	3	1
0.090	Bldg 7 / 701	Bathroom	Plumbing - Leaking Faucet/Pipes	15%	3	0.25
0.081	Bldg 7 / 701	Doors	Damaged Surface (Holes/Paint/Rusting)	4.5%	2.25	1
0.075	Bldg 7 / 701	Kitchen	Dishwasher/Garbage Disposal - Inoperable	15%	1.25	0.5
0.048	Bldg 7 / 701	Lighting	Missing/Inoperable Fixture	2%	3	1
0.045	Bldg 7 / 701	Doors	Damaged Frames/Threshold/Lintels/Trim	4.5%	1.25	1
0.038	Bldg 7 / 701	Bathroom	Cabinets - Damaged/Missing	15%	1.25	0.25
0.036	Bldg 7 / 701	Stairs	Broken/Missing Hand Railing	2%	2.25	1
0.068	Bldg 7 / 705	Bathroom	Lavatory Sink - Damaged/Missing	15%	2.25	0.25
0.041	Bldg 7 / 705	Doors	Damaged Hardware/Locks	4.5%	2.25	0.5
0.036	Bldg 7 / 705	Stairs	Broken/Missing Hand Railing	2%	2.25	1

**Health & Safety**

Ded. Pts	Building/Unit Name	Inspectable Item	Deficiency	Item Weight	Criticality Level	Severity Level
0.077	Bldg 40	Health & Safety	Electrical Hazards - Exposed Wires/Open Panels	10%	5	1

**Exhibit 2: Actively Monitored Development Analysis**

Property	David Ratliff	Michael Volz	Evan Hunden	Referred for penalty during last 3 years?	Control Began (date)	Actively Monitored
The Mondello HTC 07053 / CMTS 4080	Managing Member	Managing Member	11/3/2021 – 7/17/2024: No Control authority 7/17/2024 - present: Managing Member of Class B Member and the Developer	4/2022 File Monitoring Referral	11/3/2021 for Ratliff and Volz 7/17/2024 for Hunden <sup>1</sup>	Yes for Ratliff and Volz  No for Hunden
Rosemont Ash Creek HTC 23420 / HTC 03410 / Bond 03410B / CMTS 3399	Managing Member	Managing Member	Managing Member	2/2022 UPCS Referral	12/29/2020	Yes
Rosemont Meadow Lane HTC 03433 / CMTS 3421	Managing Member	Managing Member	Managing Member	11/2021 UPCS Referral 4/2024 UPCS Referral	1/29/2021	Yes
Rosemont Lancaster HTC 02479 / Bond 20034 / CMTS 3279	Managing Member	Managing Member	Managing Member	2/2022 UPCS Referral 6/2022 File Monitoring Referral	12/29/2020	Yes
Park at Humble HTC 23434 / HTC 03465 / 03465B / CMTS 4036	Managing Member	Managing Member	Managing Member	No	8/2/2021	Yes
The Positano HTC 23421 / HTC 04490 / CMTS 4184	Managing Member	Managing Member	12/17/2021 – 8/24/2023: No Control authority 8/24/2023 – present: Managing Member of Class B Member and the Developer	No	12/17/2021 for Ratliff and Volz 8/24/2023 for Hunden <sup>2</sup>	Yes for Ratliff and Volz  No for Hunden

<sup>1</sup> Mr. Hunden is now in a position of Control for The Mondello as of 7/17/2024, due to resyndication. The development is counted in the totals below for Mr. Ratliff and Mr. Volz because it is an Actively Monitored Development (A) during the last three years and (B) since their Control began. However, it has not been monitored since 7/17/2024, so the development is not counted in the totals below for Mr. Hunden.

<sup>2</sup> Mr. Hunden is now in a position of Control for The Positano as of 8/24/2023, due to resyndication. The development is counted in the totals below for Mr. Ratliff and Mr. Volz because it is an Actively Monitored Development (A) during the last three years and (B) since their Control began. However, it has not been monitored since 8/24/2023, so the development is not counted in the totals below for Mr. Hunden.

- Continued from prior page -

Property	David Ratliff	Michael Volz	Evan Hunden	Referred for penalty during last 3 years?	Control Began (date)	Actively Monitored
Tigoni Villas HTC 23424 / HTC 03136 / CMTS 3353	Managing Member of the Limited Partner, but has primary Control authority per Section 5.1.of LPA	Managing Member of the Limited Partner, but has primary Control authority per Section 5.1.of LPA	Managing Member of the Limited Partner, but has primary Control authority per Section 5.1.of LPA	No	1/7/2022	Yes
Plainview Vistas HTC 04154 / CMTS 4073	No Control authority	No Control authority	No Control authority	No	1/7/2022	Yes, but not in Control, so not counted in the totals for any of the parties. Control structure verified by Coats Rose 5/15/2024.
Costa Almadena HTC 23437 / HTC 060426 / CMTS 4429	Managing Member of Co-GP (primary control authority)	Managing Member of Co-GP (primary control authority)	12/1/2021 – 7/28/2023: No Control authority 7/28/2023 - present: Managing member of Class B Member and the Developer	No	12/1/2021 for Ratliff and Volz 7/28/2023 for Hunden <sup>3</sup>	No. <sup>4</sup>
Brookside Gardens HTC 23454 / HTC 04611 / Bond 04611B / CMTS 4160	Managing Member	Managing Member	Managing Member & Guarantor	No	6/22/2022	No. <sup>5</sup>
<b>Total Actively Monitored Developments in Control</b>	<b>7 (4 referred)</b>	<b>7 (4 referred)</b>	<b>5 (3 referred)</b>	<b>4</b>		

<sup>3</sup> Mr. Hunden is now in a position of Control for Costa Almadena as of 7/28/2023, due to resyndication. The development is counted in the totals above for Mr. Ratliff and Mr. Volz because it is an Actively Monitored Development (A) during the last three years and (B) since their Control began. However, it has not been monitored since 7/28/2023, so the development is not counted in the totals above for Mr. Hunden.

<sup>4</sup> Inspected 7/7/2021. Report issued 8/6/2021. Corrections submitted by prior owner 10/18/2021. Property sold 12/1/2021. TDHCA close-out letter issued 3/14/2022, after the sale, but none of the monitoring events were during their Control, so it is not considered an Actively Monitored Development for purposes of this analysis

<sup>5</sup> Inspected 4/19/2022. Report issued 5/20/2022. Corrections submitted by prior owner 6/6/2022. Property sold 6/22/2022. TDHCA close-out letter issued 10/3/2022, after the sale, but none of the monitoring events were during their Control, so it is not considered an Actively Monitored Development for purposes of this analysis

## Texas Administrative Code

<a href="#">TITLE 10</a>	COMMUNITY DEVELOPMENT
<a href="#">PART 1</a>	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
<a href="#">CHAPTER 2</a>	ENFORCEMENT
<a href="#">SUBCHAPTER A</a>	GENERAL
RULE §2.102	Definitions

The words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific chapters of this title that govern the program associated with the request, in Chapter 1 of this title (relating to Administration), or assigned by federal or state law.

(1) **Actively Monitored Development**--A Development that within the last three years has been monitored by the Department, either through a Uniform Physical Condition Standards (UPCS) inspection, a National Standards for the Physical Inspection of Real Estate (NSPIRE) inspection, an onsite or desk file monitoring review, an Affirmative Marketing Plan review, or a Written Policies and Procedures Review. UPCS and NSPIRE inspections include inspections completed by Department staff, Department contractors and inspectors from the Real Estate Assessment Center through federal alignment efforts.

(2) **Consultant**--A Person who provides services or advice for a fee in a capacity other than as an employee and does not have Control.

(3) **Control (including the terms Controlled and Controlling)**--"Control" is defined in §11.1 of this title (relating to General) or as identified in the specific Program rule.

(4) **Debarment**--A prohibition from future participation in some or all Programs administered by the Department. Except as otherwise stated in the Order, Debarment does not impact existing or ongoing participation in Department Programs, prior to the date of the Debarment, nor does it affect any continuing responsibilities or duties thereunder.

(5) **Enforcement Committee (Committee)**--A Committee of employees of the Department appointed by the Executive Director. The Committee may be composed of any member of any Department division, but members from the referring division may not be present during deliberations. The Legal Division will designate person(s) to attend meetings and advise the Committee. A Legal Division designee will serve as Secretary to the Committee.

(6) **Event of Noncompliance (including the alternate term Finding of Noncompliance)**--Any event for which a Person may be found to be in noncompliance with Texas Government Code Chapters 2105 or 2306, any rule adopted thereunder, any Program Agreement requirement, or federal program requirements.

(7) **Legal Requirements**--All requirements, as it relates to the particular Department Program, of state, federal, or local statutes, rules, regulations, ordinances, orders, court opinions, official interpretations, policy issuances, OMB Circulars, representations to secure awards, or any similar memorialization of requirement, including contract requirements.

(8) **Monitoring Event**--An onsite or desk monitoring review, a UPCS inspection, a NSPIRE inspection, the submission of the Annual Owner's Compliance Report, Final Construction Inspection, a Written Policies and Procedures Review, or any other instance when the Department's Compliance Division or other reviewing area provides written notice to an Owner or Contact Person requesting a response by a certain date. This would

include, but not be limited to, responding to a tenant complaint.

(9) Person--A legal entity including, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability corporation, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality or other organization or entity of any nature whatsoever, and shall include any group of Persons acting in concert toward a common goal, including individual members of the group.

(10) Program--Includes any activity performed by a Subrecipient, Administrator, Contractor, Development Owner, or other Person under a Program Agreement or activities performed by a third party under a Program Agreement, including but not limited to a Subgrantee or Subcontractor.

(11) Program Agreements include:

(A) agreements between the Department and a Person setting forth Legal Requirements; and

(B) agreements between a Person subject to a Program Agreement and a third party to carry out one or more Legal Requirements.

(12) Responsible Party--Any Person subject to a Program Agreement.

(13) Vendor--A person who is procured by a subrecipient to provide goods or services in any way relating to a Department program or activity.

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**Source Note:** The provisions of this §2.102 adopted to be effective April 1, 2021, 46 TexReg 1992; amended to be effective March 28, 2024, 49 TexReg 1891

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# Texas Administrative Code

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TITLE 10

COMMUNITY DEVELOPMENT

PART 1

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 11

QUALIFIED ALLOCATION PLAN (QAP)

SUBCHAPTER A

PRE-APPLICATION, DEFINITIONS, THRESHOLD REQUIREMENTS AND COMPETITIVE SCORING

RULE §11.1

General

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(29) Control (including the terms "Controlling," "Controlled by," and "under common Control with")--The power, ability, or authority, acting alone or in concert with others, directly or indirectly, to manage, direct, superintend, restrict, regulate, govern, administer, or oversee. As used herein "acting in concert" involves more than merely serving as a single member of a multi-member body. A member of a multi-member body is not acting in concert and therefore does not exercise control in that role, but may have other roles, such as executive officer positions, which involve actual or apparent authority to exercise control. Controlling entities of a partnership include the general partners, may include special limited partners when applicable, but not investor limited partners or special limited partners who do not possess other factors or attributes that give them Control. Persons with Control of a Development must be identified in the Application. Controlling individuals and entities are set forth in subparagraphs (A) - (E) of this paragraph. Multiple Persons may be deemed to have Control simultaneously.

(A) For for-profit corporations, any officer authorized by the board of directors, regardless of title, to act on behalf of the corporation, including, but not limited to, the president, vice president, secretary, treasurer, and all other executive officers, and each stock holder having a 50% or more interest in the corporation, and any individual who has Control with respect to such stockholder.

(B) For nonprofit corporations or governmental instrumentalities (such as housing authorities), any officer authorized by the board, regardless of title, to act on behalf of the corporation, including, but not limited to, the president, vice president, secretary, treasurer, and all other executive officers, the Audit committee chair, the Board chair, and anyone identified as the executive director or equivalent.

(C) For trusts, all beneficiaries that have the legal ability to Control the trust who are not just financial beneficiaries.

(D) For limited liability companies, all managers, managing members, members having a 50% or more interest in the limited liability company, any individual Controlling such members, or any officer authorized to act on behalf of the limited liability company.

(E) For partnerships, Principals include all General Partners, and Principals with ownership interest and special limited partners with ownership interest who also possess factors or attributes that give them Control.

Sec. 2306.0504. DEBARMENT FROM PROGRAM PARTICIPATION. (a) The department shall develop, and the board by rule shall adopt, a policy providing for the debarment of a person from participation in programs administered by the department.

(b) The department may debar a person from participation in a department program on the basis of the person's past failure to comply with any condition imposed by the department in the administration of its programs.

(c) The department shall debar a person from participation in a department program if the person:

(1) materially or repeatedly violates any condition imposed by the department in connection with the administration of a department program, including a material or repeated violation of a land use restriction agreement regarding a development supported with a housing tax credit allocation; or

(2) is debarred from participation in federal housing programs by the United States Department of Housing and Urban Development.

(d) A person debarred by the department from participation in a department program may appeal the person's debarment to the board.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 8.01, eff. Sept. 1, 2001. Transferred, redesignated and amended from Government Code, Section 2306.6721 by Acts 2013, 83rd Leg., R.S., Ch. 556 (S.B. 659), Sec. 1, eff. September 1, 2013.

Transferred, redesignated and amended from Government Code, Section 2306.6721 by Acts 2013, 83rd Leg., R.S., Ch. 1079 (H.B. 3361), Sec. 1.07, eff. September 1, 2013.

# Texas Administrative Code

TITLE 10

COMMUNITY DEVELOPMENT

PART 1

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 2

ENFORCEMENT

SUBCHAPTER D

DEBARMENT FROM PARTICIPATION IN PROGRAMS ADMINISTERED BY THE DEPARTMENT

RULE §2.401

General

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(a) The Department may debar a Responsible Party, a Consultant and/or a Vendor who has exhibited past failure to comply with any condition imposed by the Department in the administration of its programs. A Responsible Party, Consultant or Vendor may be referred to the Committee for Debarment for any of the following:

(1) Refusing to provide an acceptable plan to implement and adhere to procedures to ensure compliant operation of the program after being placed on Modified Cost Reimbursement;

(2) Refusing to repay disallowed costs;

(3) Refusing to enter into a plan to repay disallowed costs or egregious violations of an agreed repayment plan;

(4) Meeting any of the ineligibility criteria referenced in §11.202 of this title (relating to Ineligible Applicants and Applications) or other ineligibility criteria outlined in a Program Rule, with the exception of: ineligibility related to conflicts of interest disclosed to the Department for review, and ineligibility identified in a previous participation review in conjunction with an application for funds or resources (unless otherwise eligible for Debarment under this Subchapter D);

(5) Providing fraudulent information, knowingly falsified documentation, or other intentional or negligent material misrepresentation or omission with regard to any documentation, certification or other representation made to the Department;

(6) Failing to correct Events of Noncompliance as required by an order that became effective after April 1, 2021, and/or failing to pay an administrative penalty as required by such order, within six months of a demand being issued by the Department. In this circumstance, if the Debarment process is initiated but the Responsible Party fully corrects the findings of noncompliance to the satisfaction of the referring division and pays the administrative penalty as required by the order before the Debarment is finalized by the Board, the Debarment recommendation may be cancelled or withdrawn by Committee recommendation and Executive Director concurrence. This type of referral would be initiated by the Secretary;

(7) Controlling a multifamily Development that was foreclosed after April 1, 2021, where the foreclosure or deed in lieu of foreclosure terminates a subordinate TDHCA LURA;

(8) Controlling a multifamily Development and allowing a change in ownership after April 1, 2021, without Department approval;

(9) Transferring a Development, after April 1, 2021, without regard for a Right of First Refusal requirement;

(10) Being involuntary removed, or replaced due to a default by the General Partner under the Limited Partnership Agreement, after April 1, 2021;

(11) Controlling a multifamily Development and failing to correct Events of Noncompliance before the expiration of a Land Use Restriction Agreement, after the effective date of this rule;

(12) Refusing to comply with conditions approved by the Board that were recommended by the Executive Award Review Advisory Committee after April 1, 2021;

(13) Having any Event of Noncompliance that occurs after April 1, 2021, that causes the Department to be required to repay federal funds to any federal agency including, but not limited to the U.S. Department of Housing and Urban Development; and/or

(14) Submitting a written certification that non-compliance has been corrected when it is determined that the Event of Noncompliance was not corrected. For certain Events of Noncompliance, in lieu of documentation, the Compliance Division accepts a written certification that noncompliance has been corrected. If it is determined that the Event of Noncompliance was not corrected, a Person who signed the certification may be recommended for debarment;

(15) Refusing to provide an amenity required by the LURA after April 1, 2021;

(16) Failing to reserve units for Section 811 PRA participants after April 1, 2021;

(17) Failing to notify the Department of the availability of 811 PRA units after April 1, 2021;

(18) Taking "choice limiting" actions prior to receiving HUD environmental clearance (24 CFR §58.22);

(19) Substandard construction, as defined by the Program, and repeated failure to conduct required inspections;

(20) Repeated failure to provide eligible match. 24 CFR §92.220, 24 CFR §576.201, and as required by NOFA;

(21) Repeated failure to report program income. 24 CFR §200.80, 24 CFR §570.500, 24 CFR §576.407(c), 24 CFR §92.503, (as applicable), and 10 TAC §20.9, or as defined by Program Rule;

(22) Participating in activities leading to or giving the appearance of "Conflict of Interest". As applicable, in 2 CFR Part 215 2 CFR Part 200. 24 CFR §93.353, §92.356 24 CFR, §570.489, 24 CFR §576.404, 10 TAC §20.9, or as defined by Program Rule;

(23) Repeated material financial system deficiencies. As applicable, 2 CFR Part 200, 24 CFR §§, 92.205, 92.206, 92.350, 92.505, and 92.508, 2 CFR Part 215, 2 CFR Part 225 (if applicable), 2 CFR Part 230 (, 10 TAC §20.9, Uniform Grant Management Standards, and Texas Grant Management Standards (as applicable), and as defined by Program Rule.

(24) Repeated violations of Single Audit or other programmatic audit requirements;

(25) Failure to remain a CHDO for Department committed HOME funds;

(26) Commingling of funds, Misapplication of funds;

(27) Refusing to submit a required Audit Certification Form, Single Audit, or other programmatic audit;

(28) Refusing to timely respond to reports/provide required correspondence;

(29) Failure to timely expend funds; and

(30) A Monitoring Event determines that 50% or more of the client or household files reviewed do not contain required documentation to support income eligibility or indicate that the client or household is not income eligible.

(b) The Department shall debar any Responsible Party, Consultant, or Vendor who is debarred from participation in any program administered by the United States Government.

(c) Debarment for violations of the Department's Multifamily Programs. The Department shall debar any Responsible Party who has materially or repeatedly violated any condition imposed by the Department in connection with the administration of a Department program, including but not limited to a material or repeated violation of a land use restriction agreement (LURA) or Contract. Subsection (d) of this section provides the criteria the Department will use to determine if there has been a material violation of a LURA. Subsections (e) (1) and (e)(2) of this section provide the criteria the Department shall use to determine if there have been repeated violations of a LURA.

(d) Material violations of a LURA. A Responsible Party will be considered to have materially violated a LURA, Program Agreement, or condition imposed by the Department and shall be referred to the committee for mandatory Debarment if they:

(1) Control a Development that has, on more than one occasion scored 50 or less on a UPCS inspection or has, on more than one occasion scored 50 or less on a NSPIRE inspection, or any combination thereof. The Compliance Division may temporarily decrease this NSPIRE score threshold with approval by the Executive Director, for a period of time not longer than one year, so long as the score threshold is applied evenly to all properties;

(2) Refuse to allow a monitoring visit when proper notice was provided or failed to notify residents, resulting in inspection cancellation, or otherwise fails to make units and records available;

(3) Refuse to reduce rents to less than the highest allowed under the LURA;

(4) Refuse to correct a UPCS, NSPIRE, or final construction inspection deficiency after the effective date of this rule;

(5) Fail to meet minimum set aside by the end of the first year of the credit period (HTC Developments only) after April 1, 2021; or

(6) Excluding an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program after April 1, 2021.

**(e) Repeated Violations of a LURA that shall be referred to the Committee for Debarment.**

(1) A Responsible Party shall be referred to the Committee for mandatory Debarment if they Control a Development that, during two Monitoring Events in a row is found to be out of compliance with the following Events of Noncompliance:

(A) No evidence of, or failure to certify to, material participation of a non-profit or HUB, if required by the Land Use Restriction Agreement;

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# Texas Administrative Code

<u>TITLE 10</u>	COMMUNITY DEVELOPMENT
<u>PART 1</u>	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
<u>CHAPTER 2</u>	ENFORCEMENT
<u>SUBCHAPTER D</u>	DEBARMENT FROM PARTICIPATION IN PROGRAMS ADMINISTERED BY THE DEPARTMENT
RULE §2.401	General

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(B) Any Uniform Physical Condition Standards Violations that result in a score of 70 or below in sequential UPCS inspections after April 1, 2021 or NSPIRE violations that result in a score of 50 or below in sequential inspections after the effective date of this rule, or any combination thereof. The Compliance Division may temporally decrease this NSPIRE score threshold with approval by the Executive Director, for a period not to exceed one year, so long as the score threshold is applied evenly to all properties;

(C) Refuse to submit all or parts of the Annual Owner's Compliance Report for two consecutive years after April 1, 2021; or

(D) Gross rents exceed the highest rent allowed under the LURA or other deed restriction.

(2) Repeated violations in a portfolio. Persons who control five or more Actively Monitored Developments will be considered for Debarment based on repeated violations in a portfolio. A Person shall be referred to be committee if an inspection or referral, after April 1, 2021, indicates the following:

(A) 50% or more of the Actively Monitored Developments in the portfolio have been referred to the Enforcement Committee within the last three years. The Enforcement Committee may increase this threshold at its discretion. For example, if three properties in a five-property portfolio are monitored in the same month, and then referred to the Enforcement Committee at the same time, it may be appropriate to increase the 50% threshold; or,

(B) 50% or more of the Actively Monitored Developments in the portfolio score a 70 or less during a Uniform Physical Conditions Standards inspection or score 50 or less during a NSPIRE inspection, or any combination thereof. The Compliance Division may decrease this NSPIRE score threshold with approval by the Executive Director, for a period not to exceed one year, so long as the score threshold is applied evenly to all properties.

(f) Debarment for violations of Department Programs, with the exception of the Non-Discretionary funds in the Community Services Block Grant program. Material or repeated violations of conditions imposed in connection with the administration of Programs administered by the Department. Administrators, Subrecipients, Responsible Parties, contractors, multifamily owners, and related parties shall be referred to the Committee for consideration for Debarment for violations including but not limited to:

(1) 50% or more loan defaults in the first 12 months of the loan agreement after April 1, 2021;

(2) The following Davis Bacon Act Violations:

(A) Refusing to pay restitution (underpayment of wages). 29 CFR §5.31.

(B) Refusing to pay liquidated damages (overtime violations). 29 CFR §5.8.

(C) Repeated failure to pay full prevailing wage, including fringe benefits, for all hours worked. 29 CFR §5.31.

(3) The following violations of the Uniform Relocation Act and requirements of §104(d):

(A) Repeated failure to provide the General Information Notice to tenants prior to application. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352 and HUD Handbook 1378.

(B) Repeated failure to provide all required information in the General Information Notice. 49 CFR §24.203, 24 CFR §570.606, 24 CFR §92.353, 24 CFR §93.352, or HUD Handbook 1378.

(C) Repeated failure to provide the Notice of Eligibility and/or Notice of Non-displacement on or before the Initiation of Negotiations date. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, or 24 CFR §570.606.

(D) Repeated failure to provide all required information in the Notice of Eligibility and/or Notice of Non-displacement. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, or 24 CFR §570.606.

(E) Repeated failure to provide 90 Day Notices to all "displaced" tenants and/or repeated failure to provide 30 Day Notices to all "non-displaced" tenants. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, or 24 CFR §570.606.

(F) Repeated failure to perform and document "decent, safe and sanitary" inspections of replacement housing. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §93.352, or 24 CFR §570.606.

(G) Refusing to properly provide Uniform Relocation Act or §104(d) assistance. 49 CFR §24.203, 24 CFR §92.353, 24 CFR §570.606 and §104(d) of the Housing & Community Development Act of 1974 - 24 CFR Part 42.

(4) Refusing to reimburse excess cash on hand;

(5) Using Department funds to demolish a homeowner's dwelling and then refusing to rebuild;

(6) Drawing down Department funds for an eligible use and then refusing to pay a properly submitted request for payment to a subgrantee or vendor with the drawn down funds.

(g) The referring division shall provide the Responsible Party with written notice of the referral to the Committee, setting forth the facts and circumstances that justify the referral for Debarment consideration.

(h) The Secretary shall then offer the Responsible Party the opportunity to attend an Informal Conference with the Committee to discuss resolution of the. In the event that the Debarment referral was the result of a violated agreed order or a determination that 50% or more of the Actively Monitored Developments in their portfolio have been referred to the Enforcement Committee, the above written notice of the referral to the Committee and the informal conference notice shall be combined into a single notice issued by the Secretary.

(i) A Debarment Informal Conference may result in the following, which shall be reported to the Executive Director:

(1) A determination that the Department did not have sufficient information and/or that the Responsible Party does not meet any of the criteria for Debarment;

(2) An agreed Debarment, with a proposed agreed order to be prepared and presented to the Board for approval;

(3) A recommendation by the Committee to the Executive Director for Debarment;

(4) A request for further information, to be considered during a future meeting; or,

(5) If Debarment is not mandatory, an agreement to dismiss the matter with no further action, an agreement to

dismiss the matter with corrective action being taken, or any other action as the Committee deems appropriate, which will then be reported to the Executive Director.

(j) The Committee's recommendation to the Executive Director regarding Debarment shall include a recommended period of Debarment. Recommended periods of Debarment will be based on material factors such as repeated occurrences, seriousness of underlying issues, presence or absence of corrective action taken or planned, including corrective action to install new responsible persons and ensure they are qualified and properly trained. Recommended periods of Debarment if based upon HUD Debarment, shall be for the period of the remaining HUD Debarment; or, if based upon criminal conviction, shall be up to ten (10) years or until fulfillment of all conditions of incarceration and/or probation, whichever is greater.

(k) The Executive Director shall accept, reject, or modify the Debarment recommendation by the Committee and shall provide written notice to the Responsible Party of the determination, and an explanation of the determination if different than the Committee's recommendation, including the period of Debarment, if any. The Responsible Party may appeal the Debarment determination in writing to the Board as described in §1.7 of this title (relating to Appeals Process).

(l) The Debarment recommendation will be brought to the next Board meeting for which the matter can be properly posted. The Board reserves discretion to impose longer or shorter Debarment periods than those recommended by staff based on its finding that such longer or shorter periods are appropriate when considering all factors and/or for the purposes of equity or other good cause. An action on a proposed Debarment of an Eligible Entity under the CSBG Act will not become final until and unless proceedings to terminate Eligible Entity status have occurred, resulting in such termination and all rights of appeal or review have run or Eligible Entity status has been voluntarily relinquished.

(m) Until the Responsible Party's Debarment referral is fully resolved, the Responsible Party may not participate in new Department financing and assistance opportunities.

(n) Any person who has been debarred is prohibited from participation as set forth in the final order of Debarment for the term of their Debarment. Unless specifically stated in the order of Debarment, Debarment does not relieve a Responsible Party from its current obligations, or prohibit it from continuing its participation in any existing engagements funded through the Department, nor limit its responsibilities and duties thereunder. The Board will not consider modifying the terms of the Debarment after the issuance of a final order of Debarment.

(o) If an Eligible Entity under the CSBG Act meets any of the criteria for Debarment in this rule, the Department may recommend the Eligible Entity for Debarment. However, that referral or recommendation shall not proceed until the termination of the Eligible Entity's status under the CSBG Act has concluded, and no right of appeal or review remains.

(p) All correspondence under this rule shall be delivered electronically.

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**Source Note:** The provisions of this §2.401 adopted to be effective November 19, 2014, 39 TexReg 8976; amended to be effective April 1, 2021, 46 TexReg 1992; amended to be effective March 28, 2024, 49 TexReg 1891

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OPEN MEETINGS

Exhibit 4:  
2024 NSPIRE Scoring

**Rosemont at Meadow Lane (correct  
building #): (Multiple Units)**  
Results by Area  
**NSPIRE: Annual**

Scheduled: 09/26/2024

Closed: Sep 26 2024

ID: 557377

Score: 75.28

### Scoring Summary - NSPIRE

Units Inspected: 27 HUD Samp. Size: 15	Outside		Inside		Unit		Totals	
	#	Pts	#	Pts	#	Pts (Adj)	#	Pts
Life Threatening	1	3.31	0	0.00	3	6.67	4	9.97
Severe	0	0.00	0	0.00	6	3.29	6	3.29
Moderate	3	0.90	0	0.00	37	7.54	40	8.44
Low	0	0.00	0	0.00	34	3.02	34	3.02
<b>Totals</b>	<b>4</b>	<b>4.21</b>	<b>0</b>	<b>0.00</b>	<b>80</b>	<b>20.52</b>	<b>84</b>	<b>24.72</b>

<b>Score</b>	75.28*	Note: The unit points are adjusted based on the count of units inspected and not the HUD-defined unit sample size. Outside and Inside points are based on the HUD Sample Size.
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<b>Message</b>	Non-scoring findings excluded from score: (Handrail,Smoke Detectors), Temporary non-scoring findings excluded from score, Repeated HUD Standard findings within an area are counted only once
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### Inspection Results

Outside											
3	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Side Entry	Conductors, Outlets, Switches	Electrical conductor is not properly insulated/enclosed	AC connection	6	09/26/24 10:27 CF		LT	3.31 <sup>3</sup>		24H
<b>3 Outside NSPIRE Totals</b>											
Life Threatening: 1/3.31			Severe: 0/0			Moderate: 0/0			Low: 0/0		
5	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Side of Building	Wall Covering and Finish – Exterior	Building has large holes in the exterior wall	At AC unit 502	11	09/26/24 10:48 CF		Mod	0.30		30D
<b>5 Outside NSPIRE Totals</b>											
Life Threatening: 0/0			Severe: 0/0			Moderate: 1/0.3			Low: 0/0		



# Inspection Results (Continued)

14	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Side of Building	Roof Assembly	Roof assembly is damaged		1	09/26/24 11:57 CF		Mod	0.30		30D

### 14 Outside NSPIRE Totals

Life Threatening: 0/0      Severe: 0/0      Moderate: 1/0.3      Low: 0/0

18	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Side of Building	Conductors, Outlets, Switches	Exposed electrical conductor	AC connection unit 1803	2	09/26/24 13:22 CF		LT	3.31		24H

### 18 Outside NSPIRE Totals

Life Threatening: 1/3.31      Severe: 0/0      Moderate: 0/0      Low: 0/0

21	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Walkway/Steps	Handrail	Handrail is missing (Evidence of Prior Installation)		3	09/26/24 13:43 CF		Mod	0.00 <sup>1</sup>		30D

### 21 Outside NSPIRE Totals

Life Threatening: 0/0      Severe: 0/0      Moderate: 1/0      Low: 0/0

28	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Side of Building	Conductors, Outlets, Switches	Electrical conductor is not properly insulated/enclosed	AC conduit near unit 2806	4	09/26/24 14:47 CF		LT	3.31 <sup>3</sup>		24H

### 28 Outside NSPIRE Totals

Life Threatening: 1/3.31      Severe: 0/0      Moderate: 0/0      Low: 0/0

29	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Side of Building	Conductors, Outlets, Switches	Electrical conductor is not properly insulated/enclosed	Wiring for electrical exterior lights exposed	5	09/26/24 14:58 CF		LT	3.31 <sup>3</sup>		24H

### 29 Outside NSPIRE Totals

Life Threatening: 1/3.31      Severe: 0/0      Moderate: 0/0      Low: 0/0

30	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Side of Building	Conductors, Outlets, Switches	Electrical conductor is not properly insulated/enclosed	Hey, see conduit exposed wire	7	09/26/24 15:11 CF		LT	3.31 <sup>3</sup>		24H

### 30 Outside NSPIRE Totals

Life Threatening: 1/3.31      Severe: 0/0      Moderate: 0/0      Low: 0/0

33	Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
	Rear of Building	Conductors, Outlets, Switches	Electrical conductor is not properly insulated/enclosed	AC unit conduit at 3304	8	09/26/24 15:18 CF		LT	3.31 <sup>3</sup>		24H

### 33 Outside NSPIRE Totals

Life Threatening: 1/3.31      Severe: 0/0      Moderate: 0/0      Low: 0/0

<sup>1</sup>Non-Scoring    <sup>2</sup>Temporary Non-Scoring    <sup>3</sup>Repeat finding within the area (only 1-scored)    \*Note: Unit points adjusted to reflect the actual unit count



# Inspection Results (Continued)

<b>35</b>										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Side of Building	Conductors, Outlets, Switches	Electrical conductor is not properly insulated/enclosed	Conduit on AC unit for unit 3505	<a href="#">9</a>	09/26/24 15:41 CF		LT	3.31 <sup>3</sup>		24H
Side of Building	Wall Covering and Finish – Exterior	Exterior wall with missing section greater than 12x12in.		<a href="#">10</a>	09/26/24 15:40 CF		Mod	0.30		30D
<b>35 Outside NSPIRE Totals</b>										
Life Threatening: 1/3.31		Severe: 0/0		Moderate: 1/0.3			Low: 0/0			

Unit										
<b>2: Unit 206</b>										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom (Half)	Cabinets/Vanity	50%+ of vanity components are missing/damaged/inoperable in a bathroom or laundry		<a href="#">32</a>	09/26/24 10:19 CF		Mod	0.37 <sup>3</sup>	0.20 <sup>3</sup>	30D
Bathroom (Half)	Sink	Sink component is damaged or missing impacting functionality	Sink not installed	<a href="#">33</a>	09/26/24 10:21 CF		Mod	0.37	0.20	30D
Bathroom (Half)	Toilet	Toilet is missing (not only toilet in unit)		<a href="#">34</a>	09/26/24 10:19 CF		Mod	0.37	0.20	30D
Bathroom 1	Cabinets/Vanity	50%+ of vanity components are missing/damaged/inoperable in a bathroom or laundry		<a href="#">35</a>	09/26/24 10:22 CF		Mod	0.37 <sup>3</sup>	0.20 <sup>3</sup>	30D
Kitchen	Cabinetry	50% or more of cabinet components are missing, damaged, or inoperable		<a href="#">36</a>	09/26/24 10:16 CF		Mod	0.37	0.20	30D
Kitchen	Kitchen Sink	Sink is missing or not installed within the primary kitchen			09/26/24 10:18 CF		Mod	0.37	0.20	30D
Kitchen	Wall Covering and Finish – Interior	Interior wall has holes affecting an area greater than 6x6in.		<a href="#">37</a>	09/26/24 10:15 CF		Mod	0.37	0.20	30D
Laundry Room	Door – General	Closet door component is missing, damaged or inoperable		<a href="#">38</a>	09/26/24 10:24 CF		Low	0.16	0.09	60D
<b>2: Unit 206 Unit NSPIRE Totals</b>										
Life Threatening: 0/0		Severe: 0/0		Moderate: 7/1.43			Low: 1/0.09			

<b>4: Unit 403</b>										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Alternate Location - See Notes for Details	Exhaust System	Exhaust system component is damaged or missing.	Missing exhaust scan cover in the laundry room	<a href="#">76</a>	09/26/24 10:39 CF		Mod	0.37	0.20	30D
Bathroom 1	Toilet	Toilet is damaged or inoperable (not only toilet in unit)	Toilet does not flush		09/26/24 10:37 CF		Mod	0.37	0.20	30D
Bathroom 1	Wall Covering and Finish – Interior	Interior wall has hole greater than 2in.		<a href="#">77</a>	09/26/24 10:35 CF		Mod	0.37	0.20	30D
Bathroom 2	Door – General	A passage door component is damaged/missing/inoperable		<a href="#">78</a>	09/26/24 10:40 CF		Low	0.16	0.09	60D
Bathroom 2	Infestation	Evidence of cockroaches (Live, Dead, or Other Evidence)		<a href="#">79</a>	09/26/24 10:43 CF		Mod	0.37	0.20	30D
Bathroom 2	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">80</a>	09/26/24 10:43 CF		Low	0.16	0.09	60D
Den	Flammables or Combustibles	Improperly Stored Chemicals (Paint, Gasoline, etc.)		<a href="#">81</a>	09/26/24 10:35 CF		LT	4.00	2.22	24H
<b>4: Unit 403 Unit NSPIRE Totals</b>										
Life Threatening: 1/2.22		Severe: 0/0		Moderate: 4/0.81			Low: 2/0.18			

<b>5: Unit 501</b>										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Entire Unit	No Issues/Violations	Inspected - No Issues Were Found			09/26/24 15:55			0.00 <sup>1</sup>	0.00 <sup>1</sup>	

<sup>1</sup>Non-Scoring <sup>2</sup>Temporary Non-Scoring <sup>3</sup>Repeat finding within the area (only 1-scored) \*Note: Unit points adjusted to reflect the actual unit count



**5: Unit 501 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 0/0      Moderate: 0/0      Low: 0/0

**6: Unit 601**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">84</a>	09/26/24 11:00 CF		Low	0.16 <sup>3</sup>	0.09 <sup>3</sup>	60D
Bathroom 2	Bathhtub/Shower	Bath/shower stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">85</a>	09/26/24 11:02 CF		Low	0.16	0.09	60D
Bathroom 2	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 11:01 CF		Low	0.16 <sup>3</sup>	0.09 <sup>3</sup>	60D
Kitchen	Infestation	Evidence of cockroaches (Live, Dead, or Other Evidence)		<a href="#">86</a>	09/26/24 10:59 CF		Mod	0.37	0.20	30D

**6: Unit 601 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 0/0      Moderate: 1/0.2      Low: 3/0.27

**7: Unit 705**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">87</a>	09/26/24 11:07 CF		Low	0.16	0.09	60D
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		<a href="#">88</a>	09/26/24 11:10 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H

**7: Unit 705 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 1/0      Moderate: 0/0      Low: 1/0.09

**9: Unit 904**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">89</a>	09/26/24 11:17 CF		Low	0.16	0.09	60D
Kitchen	Infestation	Evidence of other pests	Nats	<a href="#">90</a>	09/26/24 11:15 CF		Mod	0.37	0.20	30D

**9: Unit 904 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 0/0      Moderate: 1/0.2      Low: 1/0.09

**10: Unit 1006**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom (Half)	Sink	Sink component is damaged or missing impacting functionality		<a href="#">12</a>	09/26/24 11:24 CF		Mod	0.37	0.20	30D
Den	Smoke Alarms	Smoke alarm does not produce an audio or visual alarm when tested			09/26/24 11:26 CF		LT	0.00 <sup>1</sup>	0.00 <sup>1</sup>	24H

**10: Unit 1006 Unit NSPIRE Totals**

Life Threatening: 1/0      Severe: 0/0      Moderate: 1/0.2      Low: 0/0

**11: Unit 1104**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">13</a>	09/26/24 11:37 CF		Low	0.16	0.09	60D
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		<a href="#">14</a>	09/26/24 11:35 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H

**11: Unit 1104 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 1/0      Moderate: 0/0      Low: 1/0.09

\*Non-Scoring    \*Temporary Non-Scoring    \*Repeat finding within the area (only 1-scored)    \*Note: Unit points adjusted to reflect the actual unit count



## Inspection Results (Continued)

<b>13: Unit 1302</b>										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom (Half)	Sink	Sink component is damaged or missing impacting functionality		<a href="#">15</a>	09/26/24 11:42 CF		Mod	0.37	0.20	30D
Bathroom (Half)	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">16</a>	09/26/24 11:42 CF		Low	0.16	0.09	60D
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		<a href="#">17</a>	09/26/24 11:44 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H
Main Entry	Door Hardware - Entry (non-fire)	Entry door component is damaged, inoperable, or missing (does not affect privacy or security)		<a href="#">18</a>	09/26/24 11:45 CF		Low	0.16	0.09	60D

### 13: Unit 1302 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 1/0      Moderate: 1/0.2      Low: 2/0.18

<b>14: Unit 1401</b>										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom (Half)	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 11:48 CF		Low	0.16 <sup>3</sup>	0.09 <sup>3</sup>	60D
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 11:51 CF		Low	0.16 <sup>3</sup>	0.09 <sup>3</sup>	60D
Hallways & Corridors	Sharp Edges	Any item or component has a sharp edge that can puncture or cut		<a href="#">19</a>	09/26/24 11:53 CF		Severe	0.99	0.55	24H
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		<a href="#">20</a>	09/26/24 11:54 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H
Stairwell	Handrail	Handrail is not secure/movement at the anchors			09/26/24 11:50 CF		Mod	0.37	0.20	30D

### 14: Unit 1401 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 2/0.55      Moderate: 1/0.2      Low: 2/0.18

<b>15: Unit 1511</b>										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Bathtub/Shower	Bath/shower basin discolored on more than 50% of surface		<a href="#">21</a>	09/26/24 12:07 CF		Low	0.16	0.09	60D
Bathroom 1	Cabinets/Vanity	50%+ of vanity components are missing/damaged/inoperable in a bathroom or laundry		<a href="#">22</a>	09/26/24 12:06 CF		Mod	0.37	0.20	30D
Rear Entry	Door Hardware - Entry (non-fire)	Entry door component is damaged, inoperable, or missing (does not affect privacy or security)		<a href="#">23</a>	09/26/24 12:03 CF		Low	0.16	0.09	60D
Stairwell	Handrail	Handrail is not secure/movement at the anchors			09/26/24 12:05 CF		Mod	0.37	0.20	30D

### 15: Unit 1511 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 0/0      Moderate: 2/0.41      Low: 2/0.18

<b>17: Unit 1702</b>										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Laundry Room	Door – General	Closet door component is missing, damaged or inoperable		<a href="#">24</a>	09/26/24 13:16 CF		Low	0.16	0.09	60D

### 17: Unit 1702 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 0/0      Moderate: 0/0      Low: 1/0.09

<sup>1</sup>Non-Scoring <sup>2</sup>Temporary Non-Scoring <sup>3</sup>Repeat finding within the area (only 1-scored) \*Note: Unit points adjusted to reflect the actual unit count



# Inspection Results (Continued)

18: Unit 1802										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Bathtub/Shower	Bath/shower basin discolored on more than 50% of surface		<a href="#">25</a>	09/26/24 13:31 CF		Low	0.16	0.09	60D
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">26</a>	09/26/24 13:30 CF		Low	0.16	0.09	60D
Bathroom 1	Toilet	Toilet is not secured at base/loose		<a href="#">27</a>	09/26/24 13:30 CF		Mod	0.37 <sup>a</sup>	0.20 <sup>a</sup>	30D
Bathroom 2	Toilet	Toilet is not secured at base/loose			09/26/24 13:35 CF		Mod	0.37 <sup>a</sup>	0.20 <sup>a</sup>	30D
Bedroom 2	Conductors, Outlets, Switches	Electrical conductor is not properly insulated/enclosed	Bedroom 2	<a href="#">28</a>	09/26/24 13:34 CF		LT	4.00	2.22	24H
Kitchen	Cabinetry	50% or more of cabinet components are missing, damaged, or inoperable		<a href="#">29</a>	09/26/24 13:25 CF		Mod	0.37	0.20	30D
Kitchen	Kitchen Sink	Water is directed outside of the basin		<a href="#">30</a>	09/26/24 13:26 CF		Low	0.16	0.09	60D
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		<a href="#">31</a>	09/26/24 13:28 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H

### 18: Unit 1802 Unit NSPIRE Totals

Life Threatening: 1/2.22      Severe: 1/0      Moderate: 3/0.61      Low: 3/0.27

20: Unit 2002										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Bathtub/Shower	Bath/shower basin discolored on more than 50% of surface		<a href="#">39</a>	09/26/24 13:49 CF		Low	0.16	0.09	60D
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 13:49 CF		Low	0.16	0.09	60D
Kitchen	Refrigerator	Refrigerator drawers or shelving is damaged		<a href="#">40</a>	09/26/24 13:46 CF		Mod	0.37	0.20	30D
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		<a href="#">41</a>	09/26/24 13:47 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H

### 20: Unit 2002 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 1/0      Moderate: 1/0.2      Low: 2/0.18

23: Unit 2305										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 13:58 CF		Low	0.16	0.09	60D

### 23: Unit 2305 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 0/0      Moderate: 0/0      Low: 1/0.09

24: Unit 2404										
Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 2	Sharp Edges	Any item or component has a sharp edge that can puncture or cut	Broken floor tiles	<a href="#">42</a>	09/26/24 14:11 CF		Severe	0.99	0.55	24H
Kitchen	Cooking Appliance	Cooking range, cooktop, or oven component is damaged or missing		<a href="#">43</a>	09/26/24 14:05 CF		Mod	0.37	0.20	30D
Living Room	Tripping Hazard	Tripping hazard - 3/4in. vertical difference		<a href="#">44</a>	09/26/24 14:12 CF		Mod	0.37	0.20	30D
Main Entry	Door Hardware - Entry (non-fire)	Entry door cannot be secured/locked		<a href="#">45</a>	09/26/24 14:03 CF		Severe	0.99	0.55	24H
Stairwell	Handrail	Handrail is missing (Evidence of Prior Installation)		<a href="#">46</a>	09/26/24 14:06 CF		Mod	0.00 <sup>1</sup>	0.00 <sup>1</sup>	30D

<sup>1</sup>Non-Scoring <sup>2</sup>Temporary Non-Scoring <sup>3</sup>Repeat finding within the area (only 1-scored) <sup>4</sup>Note: Unit points adjusted to reflect the actual unit count



**24: Unit 2404 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 2/1.1      Moderate: 3/0.41      Low: 0/0

**25: Unit 2502**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">47</a>	09/26/24 14:22 CF		Low	0.16	0.09	60D
Bathroom 3	Door – General	Closet door component is missing, damaged or inoperable		<a href="#">48</a>	09/26/24 14:23 CF		Low	0.16	0.09	60D
Main Entry	Door Hardware - Entry (non-fire)	Entry door component is damaged, inoperable, or missing (does not affect privacy or security)			09/26/24 14:26 CF		Low	0.16	0.09	60D
Stairwell	Handrail	Handrail is missing (Evidence of Prior Installation)		<a href="#">49</a>	09/26/24 14:20 CF		Mod	0.00'	0.00'	30D
Stairwell	Tripping Hazard	Tripping hazard - 3/4in. vertical difference		<a href="#">50</a>	09/26/24 14:22 CF		Mod	0.37	0.20	30D

**25: Unit 2502 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 0/0      Moderate: 2/0.2      Low: 3/0.27

**27: Unit 2705**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Bathtub/Shower	Bath/shower stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 14:32 CF		Low	0.16	0.09	60D
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 14:32 CF		Low	0.16	0.09	60D

**27: Unit 2705 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 0/0      Moderate: 0/0      Low: 2/0.18

**28: Unit 2802**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Bathtub/Shower	Bath/shower basin discolored on more than 50% of surface		<a href="#">51</a>	09/26/24 14:40 CF		Low	0.16	0.09	60D
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 14:39 CF		Low	0.16	0.09	60D
Bathroom 2	Mold-Like Substances	Moisture damage on a surface from 1 to 9 S.F. (Units)		<a href="#">52</a>	09/26/24 14:43 CF		Severe	0.99	0.55	24H
Kitchen	Cabinetry	50% or more of cabinet components are missing, damaged, or inoperable		<a href="#">53</a>	09/26/24 14:38 CF		Mod	0.37	0.20	30D
Laundry Room	GFCI/AFCI	GFCI outlet or GFCI breaker reset button does not test (No visible damage)		<a href="#">54</a>	09/26/24 14:42 CF		Severe	0.99	0.55	24H
Main Entry	Door Hardware - Entry (non-fire)	Entry door component is damaged, inoperable, or missing (does not affect privacy or security)	Door seal does not function as intended	<a href="#">55</a>	09/26/24 14:37 CF		Low	0.16	0.09	60D

**28: Unit 2802 Unit NSPIRE Totals**

Life Threatening: 0/0      Severe: 2/1.1      Moderate: 1/0.2      Low: 3/0.27

**29: Unit 2912**

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Bathtub/Shower	Bath/shower basin discolored on more than 50% of surface		<a href="#">56</a>	09/26/24 14:52 CF		Low	0.16	0.09	60D
Bedroom 3	Door – General	Closet door component is missing, damaged or inoperable		<a href="#">57</a>	09/26/24 14:54 CF		Low	0.16	0.09	60D
Kitchen	Cooking Appliance	A Stove Burner is Inoperable (with at least one operable burner)	Right front burner		09/26/24 14:51 CF		Mod	0.37	0.20	30D

\*Non-Scoring \*Temporary Non-Scoring \*Repeat finding within the area (only 1-scored) \*Note: Unit points adjusted to reflect the actual unit count



# Inspection Results (Continued)

## 29: Unit 2912 (Continued)

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		58	09/26/24 14:48 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H

### 29: Unit 2912 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 1/0      Moderate: 1/0.2      Low: 2/0.18

## 30: Unit 3001

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom (Half)	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 15:06 CF		Low	0.16 <sup>3</sup>	0.09 <sup>3</sup>	60D
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation			09/26/24 15:07 CF		Low	0.16 <sup>3</sup>	0.09 <sup>3</sup>	60D
Kitchen	Ceiling Covering and Finishes	Ceiling has a hole 2in. or more in diameter		59	09/26/24 15:09 CF		Mod	0.37	0.20	30D
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source			09/26/24 15:07 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H

### 30: Unit 3001 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 1/0      Moderate: 1/0.2      Low: 2/0.18

## 32: Unit 3204

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Cabinets/Vanity	50%+ of vanity components are missing/damaged/inoperable in a bathroom or laundry		60	09/26/24 15:14 CF		Mod	0.37	0.20	30D
Laundry Room	Conductors, Outlets, Switches	Exposed electrical conductor	Water heater cover missing	61	09/26/24 15:13 CF		LT	4.00	2.22	24H

### 32: Unit 3204 Unit NSPIRE Totals

Life Threatening: 1/2.22      Severe: 0/0      Moderate: 1/0.2      Low: 0/0

## 33: Unit 3302

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		62	09/26/24 15:22 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H

### 33: Unit 3302 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 1/0      Moderate: 0/0      Low: 0/0

## 34: Unit 3401

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Cabinets/Vanity	50%+ of vanity components are missing/damaged/inoperable in a bathroom or laundry		63	09/26/24 15:33 CF		Mod	0.37	0.20	30D
Bedroom 2	Floor Covering and Finishes	10% or more of the floor substrate area is exposed in any room		64	09/26/24 15:32 CF		Mod	0.37 <sup>3</sup>	0.20 <sup>3</sup>	30D
Kitchen	Cabinetry	50% or more of cabinet components are missing, damaged, or inoperable		65	09/26/24 15:29 CF		Mod	0.37	0.20	30D
Kitchen	Cooking Appliance	Cooking range, cooktop, or oven component is damaged or missing		66	09/26/24 15:31 CF		Mod	0.37	0.20	30D
Kitchen	Kitchen Sink	Sink is missing or not installed within the primary kitchen		67	09/26/24 15:30 CF		Mod	0.37	0.20	30D

\*Non-Scoring    \*Temporary Non-Scoring    \*Repeat finding within the area (only 1-scored)    \*Note: Unit points adjusted to reflect the actual unit count



## Inspection Results (Continued)

### 34: Unit 3401 (Continued)

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Kitchen	Wall Covering and Finish – Interior	Interior wall has holes affecting an area greater than 6x6in.		<a href="#">68</a>	09/26/24 15:29 CF		Mod	0.37 <sup>3</sup>	0.20 <sup>3</sup>	30D
Living Room	Ceiling Covering and Finishes	Ceiling has a hole 2in. or more in diameter		<a href="#">69</a>	09/26/24 15:27 CF		Mod	0.37	0.20	30D
Living Room	Floor Covering and Finishes	10% or more of the floor substrate area is exposed in any room		<a href="#">70</a>	09/26/24 15:27 CF		Mod	0.37 <sup>3</sup>	0.20 <sup>3</sup>	30D
Living Room	Wall Covering and Finish – Interior	Interior wall has holes affecting an area greater than 6x6in.		<a href="#">71</a>	09/26/24 15:28 CF		Mod	0.37 <sup>3</sup>	0.20 <sup>3</sup>	30D

#### 34: Unit 3401 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 0/0      Moderate: 9/1.83      Low: 0/0

### 35: Unit 3505

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom (Half)	Sink	Sink is clogged/not draining		<a href="#">72</a>	09/26/24 15:49 CF		Mod	0.37	0.20	30D
Kitchen	Infestation	Evidence of cockroaches (Live, Dead, or Other Evidence)			09/26/24 15:44 CF		Mod	0.37	0.20	30D
Kitchen	Kitchen Sink	Kitchen Sink with disposal missing/damaged/inoperable stopper		<a href="#">73</a>	09/26/24 15:42 CF		Low	0.16	0.09	60D
Main Entry	Door Hardware - Entry (non-fire)	Entry door cannot be secured/locked	Front entry door deadbolt does not lock		09/26/24 15:48 CF		Severe	0.99	0.55	24H

#### 35: Unit 3505 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 1/0.55      Moderate: 2/0.41      Low: 1/0.09

### 37: Unit 3704

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Bathtub/Shower	Bath/shower stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">74</a>	09/26/24 15:54 CF		Low	0.16	0.09	60D
Laundry Room	GFCI/AFCI	Missing GFCI protection on outlet within Six Feet of water source		<a href="#">75</a>	09/26/24 15:55 CF		Severe	0.00 <sup>2</sup>	0.00 <sup>2</sup>	24H

#### 37: Unit 3704 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 1/0      Moderate: 0/0      Low: 1/0.09

### 40: Unit 4004

Location	Item	Results	Notes	Pic	Date	Fixed	Sev	Pts	Pts (Adj)	Fix By
Bathroom 1	Sink	Sink stopper damaged, inoperable, or missing with evidence of prior installation		<a href="#">82</a>	09/26/24 15:37 CF		Low	0.16	0.09	60D
Bathroom 1	Toilet	Toilet components are damaged and inoperable		<a href="#">83</a>	09/26/24 15:37 CF		Mod	0.37	0.20	30D

#### 40: Unit 4004 Unit NSPIRE Totals

Life Threatening: 0/0      Severe: 0/0      Moderate: 1/0.2      Low: 1/0.09

<sup>1</sup>Non-Scoring <sup>2</sup>Temporary Non-Scoring <sup>3</sup>Repeat finding within the area (only 1-scored) \*Note: Unit points adjusted to reflect the actual unit count



# COATS | ROSE

A PROFESSIONAL CORPORATION

BARRY PALMER  
DIRECTOR

BPALMER@COATSROSE.COM  
DIRECT: (713) 653-7395  
FAX: (713) 890-3944

October 22, 2024

By Email to [bobby.wilkinson@tdhca.state.tx.us](mailto:bobby.wilkinson@tdhca.state.tx.us)

TDHCA Governing Board  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin, TX 78711  
c/o Bobby Wilkinson, Executive Director

RE: Appeal of Notice of Debarment Determination for David B. Ratliff, Michael Volz, and Evan J. Hunden dated October 15, 2024.

Dear Chair Vasquez and Board Members:

This is an appeal of the October 15, 2024 Notice of Debarment Determination for David B. Ratliff, Michael Volz, and Evan J. Hunden sent by Bobby Wilkinson, Executive Director (the "Debarment Determination"). Each of the named individuals was determined to be debarred for a period of two (2) years, subject to the TDHCA Board's concurrence. We take issue with this Debarment Determination on the grounds that the debarment proceeding was brought under 10 (TAC §2.401(e)(2)(A)), but the conditions set out in that rule were not met.

We also suggest that a two-year debarment is not warranted for what were initially primarily late filing responses to noncompliance issues, for which the third party property management company accepted responsibility. Only with the September 26, 2023 REAC inspection of Rosemont at Meadow Lane (Score of 47 out of 100) did the condition of a single property slip to the point that it has been an incredible lift to resolve the physical noncompliances identified. Notwithstanding the severe issues, at the most recent NSPIRE inspection of Rosemont at Meadow Lane on September 26, 2024, the project obtained a passing score of 75.28, with 60 being the minimum passing score, as established by HUD. We note that under 10 TAC §2.401(d)(1), a project is referred to the Enforcement Committee for mandatory debarment if it has, on more than one occasion scored 50 or less on a UPCS or an NSPIRE inspection, or any combination thereof. That criterion has never been met in this portfolio, and we suggest that the two-year debarment terms recommended by the Staff do not match the standards suggested by this rule, especially in view of the extreme measures taken to bring Rosemont at Meadow Lane into compliance for the scheduled NSPIRE inspection.

9 GREENWAY PLAZA, STE 1000, HOUSTON, TEXAS 77046  
PHONE: (713) 651-0111 FAX: (713) 651-0220  
WEB: [www.coatsrosc.com](http://www.coatsrosc.com)

HOUSTON | AUSTIN | DALLAS | CINCINNATI

**1. Background:**

David B. Ratliff, Michael Volz, and Evan J. Hunden (collectively, the “Officers”) are all executive officers of DevCo, LLC, an integrated development and investment company headquartered in the State of Washington which is the largest provider of affordable housing in Washington State. Since 1994, DevCo, LLC has focused on developing, owning and managing 12,000 affordable and market rate apartment units throughout the United States. DevCo Preservation, LLC is a division that concentrates on rehabilitating affordable multifamily developments located outside the State of Washington. (DevCo, LLC and DevCo Preservation, LLC are collectively referred to hereafter as “DevCo”.)

**2. Basis for Debarment Determination [10 TAC §2.401(e)(2)(A)]:**

The TDHCA notified the of a referral for possible debarment pursuant to a specific provision of the Texas Administrative Code, which reads as follows:

*(e) Repeated Violations of a LURA that shall be referred to the Committee for Debarment.*

...

*(2) Repeated violations in a portfolio. Persons who control five or more Actively Monitored Developments will be considered for Debarment based on repeated violations in a portfolio. A Person shall be referred to be committee if an inspection or referral, after April 1, 2021, indicates the following:*

*(A) 50% or more of the Actively Monitored Developments in the portfolio have been referred to the Enforcement Committee within the last three years. The Enforcement Committee may increase this threshold at its discretion. For example, if three properties in a five-property portfolio are monitored in the same month, and then referred to the Enforcement Committee at the same time, it may be appropriate to increase the 50% threshold; or, ...*

**3. Definition of “Actively Monitored Development”:**

In 10 TAC §2.102(1) the Texas Administrative Code specifically defines an “Actively Monitored Development” as used in Chapter 2 provisions relating to Enforcement:

*The words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific chapters of this title that govern the program associated with the request, in Chapter 1 of this title (relating to Administration), or assigned by federal or state law.*

*(1) Actively Monitored Development--A Development that within the last three years has been monitored by the Department, either through a Uniform Physical Condition Standards (UPCS) inspection, a National Standards for the Physical Inspection of Real Estate (NSPIRE) inspection, an onsite or desk file monitoring review, an Affirmative Marketing Plan review, or a Written Policies and Procedures Review. UPCS and NSPIRE inspections include inspections completed by Department staff, Department contractors and inspectors from the Real Estate Assessment Center through federal alignment efforts.*

**4. The DevCo portfolio:**

DevCo currently has a 10-property Texas portfolio that consists of developments that have been re-syndicated after the expiration of the initial 15-year Compliance Period. The projects owned by DevCo are as shown on Exhibit 2 of the Debarment Determination (copy attached).

The TDHCA has listed all of the projects except Costa Almedena and Brookside Gardens as being Actively Monitored Developments. Under the applicable definition [10 TAC §2.102(1)], we assert that both of these projects should have been considered Actively Monitored Developments:

1. Costa Almedena received a physical inspection on July 7, 2021, as evidenced by a Close-out letter dated March 14, 2022. A physical inspection was also initially scheduled for April 9, 2024, by letter dated March 20, 2024, but was subsequently cancelled at the request of the Property Manager, as shown by email correspondence between Eric Rios and Jamila Ghadamosi dated March 25 – 26, 2024.
2. Brookside Gardens received a physical inspection on April 19, 2022, as referenced in the Close-out letter dated October 3, 2022.

These circumstances were previously brought to the attention of Staff by letter dated July 29, 2024. Staff rejected this information on the grounds that the inspections for Costa Almedena and Brookside Gardens were conducted during a predecessor in title's ownership and therefore the projects were not considered "Actively Monitored Developments" as they related to the Officers.

**5. Number of Actively Monitored Developments should be 10:**

We have been unable to identify any rule or precedent that suggests whether or not a project being "actively monitored" is dependent upon the identity of the owner of the project. The definition is tied to the dates that UPCS or NSPIRE inspections, or an onsite or desk file monitoring review, Affirmative Marketing Plan review or Written Policies and Procedures review took place. Nothing in the definition speaks to the ownership of a project at the time of such inspection or review. Accordingly, Costa Almedena and Brookside Gardens should have been counted as part of the portfolio of Actively Monitored Developments. This would mean that of the 10 projects owned by DevCo, all 10 should have been considered Actively Monitored Developments.

**6. Ownership by Hunden is not shown in three instances:**

The listing of projects and their ownership and referral status does not show that at the time of re-syndication, the following projects were acquired by entities in which Evan (Jack) Hunden held Controlling interests: (i) The Mondello (07/17/2024); (ii) The Positano (08/24/2023); and (iii) Costa Almadena (07/28/2023). Mr. Hunden's Control over The Mondello would be irrelevant to this procedure, since it was not acquired until after issuance of the Debarment Notice on April 24, 2024. His interests in The Positano and Costa Almadena should have been

considered at the time of the Debarment Notice, however. This would have given Mr. Hunden a portfolio of 8 Controlled Actively Monitored Developments. Copies of the organizational charts for these three projects post re-syndication are attached as Exhibit A, and copies of their organizational documents are available upon request.

**7. Percentages of referred developments fail to meet 10 TAC §2.401(e)(2)(A) criteria:**

Had the Staff used a portfolio count of 10 Actively Monitored Developments, then the portfolio number considered to be under the Control of the Officers would be 9 for David Ratliff and Michael Volz, and 6 for Evan (Jack) Hunden. The percentages of those Actively Monitored Developments under the Control of each of the Officers that were referred to the Enforcement Committee within the three years preceding the Debarment Notice dated April 24, 2024, would be as follows:

1. David Ratliff – 40%
2. Michael Volz – 40%
3. Evan (Jack) Hunden – 37.5% (At the time of the April 24, 2024 Debarment Notice, Jack Hunden did not have an ownership interest in The Mondello, so at the most, he could only “Control” 8 developments, of which 3 had been referred to the Enforcement Committee.)

Based upon these percentages, the referral of the Officers to the Enforcement Committee was not in accordance with the criteria set out in 10 TAD §2.401(e)(2)(A).

**8. Extreme effort has been devoted to resolving physical noncompliance issues:**

In December 2023 it became clear to DevCo and the Officers that their third party property management company was not taking adequate steps to resolve the outstanding noncompliances from the September 26, 2023 REAC inspection of Rosemont at Meadow Lane. They stepped in to directly supervise resolution of the noncompliance issues. They have undertaken an intense effort to resolve the physical noncompliances identified in the 2023 REAC inspection. Since December 2023 a total of **\$2,346,884.00** has been spent to bring the project up to TDHCA standards and to successfully pass the anticipated September 26, 2024 NSPIRE inspection. Please see the attached Exhibit B. Additionally, Devco has terminated the previous non-performing property management company and as of October 2024, Alpha Barnes Real Estate Services, LLC was engaged to serve as the third party Property Manager overseeing all efforts to fix physical problems with Rosemont at Meadow Lane and to bring it into compliance with the TDHCA standards and procedures. As of this time, DevCo has replaced the previous property manager with Alpha Barnes Real Estate Services, LLC on five of the portfolio projects, and the lenders of four additional projects have requests pending that HUD approve property management changes.

We believe that all of the above circumstances indicate that the Officers and DevCo are acting in good faith to bring the problematic Rosemont at Meadow Lane into compliance in all respects, and to the best of our knowledge, any noncompliances noted for other properties in DevCo’s Control per TDHCA rules have been resolved and close-out letters are in place.

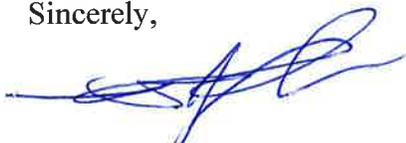
**9. Summary:**

In summary, we think that this Debarment Determination against the Officers is faulty in that it should not have been brought against them, given the size of their various Controlled Actively Monitored Development portfolios. We accordingly request that the debarment proceeding be terminated without any penalties to the Officers.

If, however, the Board does not agree with our analysis of the underpinnings of this debarment proceeding, then we request that the Board reduce the debarment terms, taking into consideration the major efforts that have been undertaken to resolve the outstanding noncompliances, and the really major turn-around that was made to enable Rosemont at Meadow Lane to pass the recent NSPIRE inspection. We point out that the NSPIRE inspection noted that all of the noncompliances still outstanding from the 2023 REAC inspection (window screens and faulty swimming pool equipment) were observed to have been cured.

Thank you for the opportunity to submit this appeal of the Debarment Determination. If there are any questions, we are glad to provide clarification.

Sincerely,



Barry J. Palmer, Director

Enclosures:

Copy of Exhibit 2 from Debarment Determination

Exhibit A - Copies of organizational charts (Mondello, Positano & Costa Almadena)

Exhibit B - Capital Expenditures for Rosemont at Meadow Lane

cc: Bobby Wilkinson  
David B. Ratliff  
Michael Volz  
Evan (Jack) Hunden  
Mattye Gouldsby Jones  
Tamea A. Dula

**Exhibit 2: Actively Monitored Development Analysis**

<b>Property</b>	<b>David Ratliff</b>	<b>Michael Volz</b>	<b>Evan Hunden</b>	<b>Referred for penalty during last 3 years?</b>	<b>Control Began (date)</b>	<b>Actively Monitored</b>
The Mondello HTC 07053 / CMTS 4080	Managing Member	Managing Member	Guarantor. No Control authority	4/2022 File Monitoring Referral	11/3/2021	Yes
Rosemont Ash Creek HTC 23420 / HTC 03410 / Bond 03410B / CMTS 3399	Managing Member	Managing Member	Managing Member	2/2022 UPCS Referral	12/29/2020	Yes
Rosemont Meadow Lane HTC 03433 / CMTS 3421	Managing Member	Managing Member	Managing Member	11/2021 UPCS Referral 4/2024 UPCS Referral	1/29/2021	Yes
Rosemont Lancaster HTC 02479 / Bond 20034 / CMTS 3279	Managing Member	Managing Member	Managing Member	2/2022 UPCS Referral 6/2022 File Monitoring Referral	12/29/2020	Yes
Park at Humble HTC 23434 / HTC 03465 / 03465B / CMTS 4036	Managing Member	Managing Member	Managing Member	No	8/2/2021	Yes
Positano HTC 23421 / HTC 04490 / CMTS 4184	Managing Member	Managing Member	No Control authority	No	12/17/2021	Yes
Tigoni Villas HTC 23424 / HTC 03136 / CMTS 3353	Managing Member of the Limited Partner, but has primary Control authority per Section 5.1. of LPA)	Managing Member of the Limited Partner, but has primary Control authority per Section 5.1. of LPA)	Managing Member of the Limited Partner, but has primary Control authority per Section 5.1. of LPA)	No	1/7/2022	Yes
Plainview Vistas HTC 04154 / CMTS 4073	No Control authority	No Control authority	No Control authority	No	1/7/2022	Yes, but not in Control. Verified by Coats Rose 5/15/2024

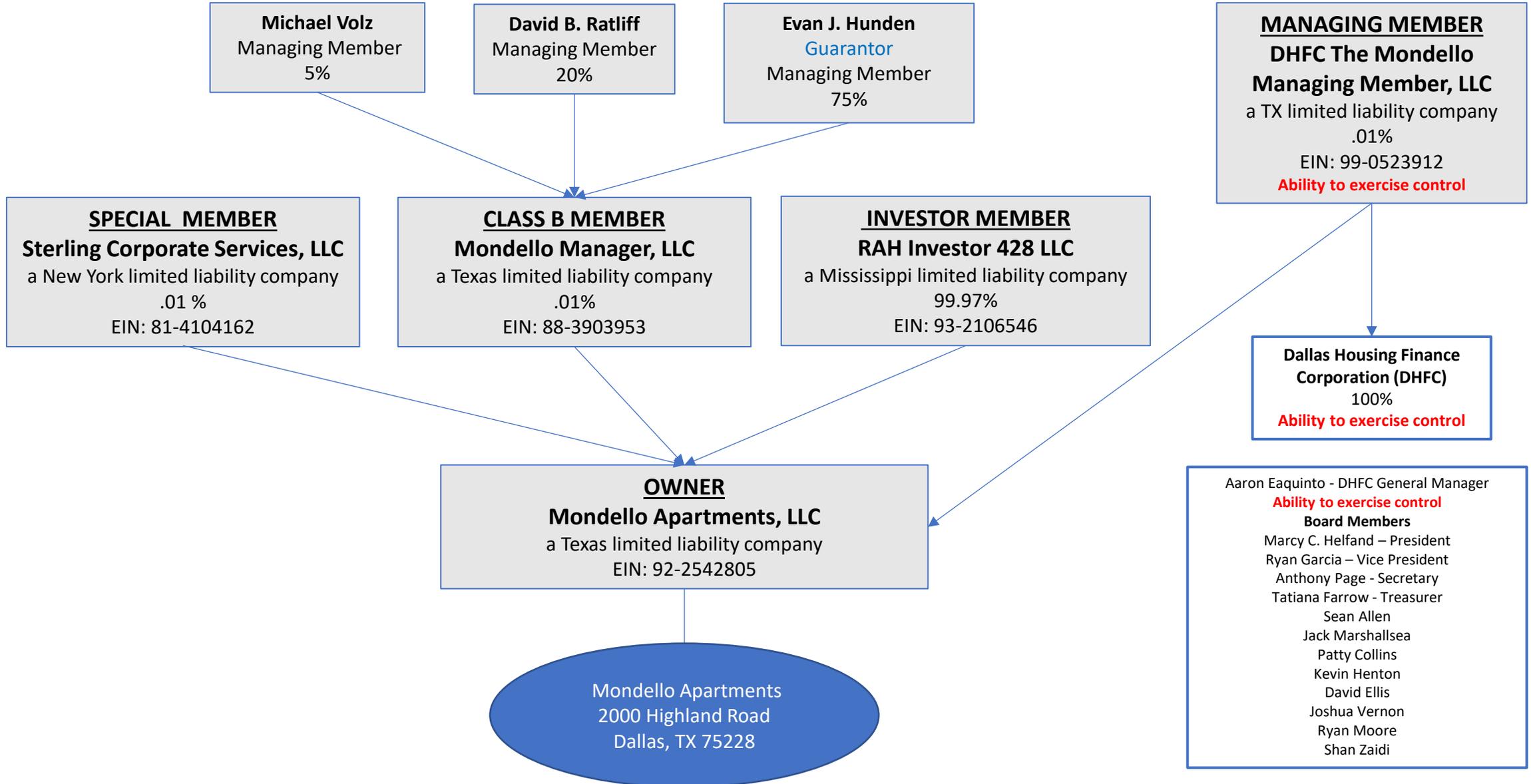
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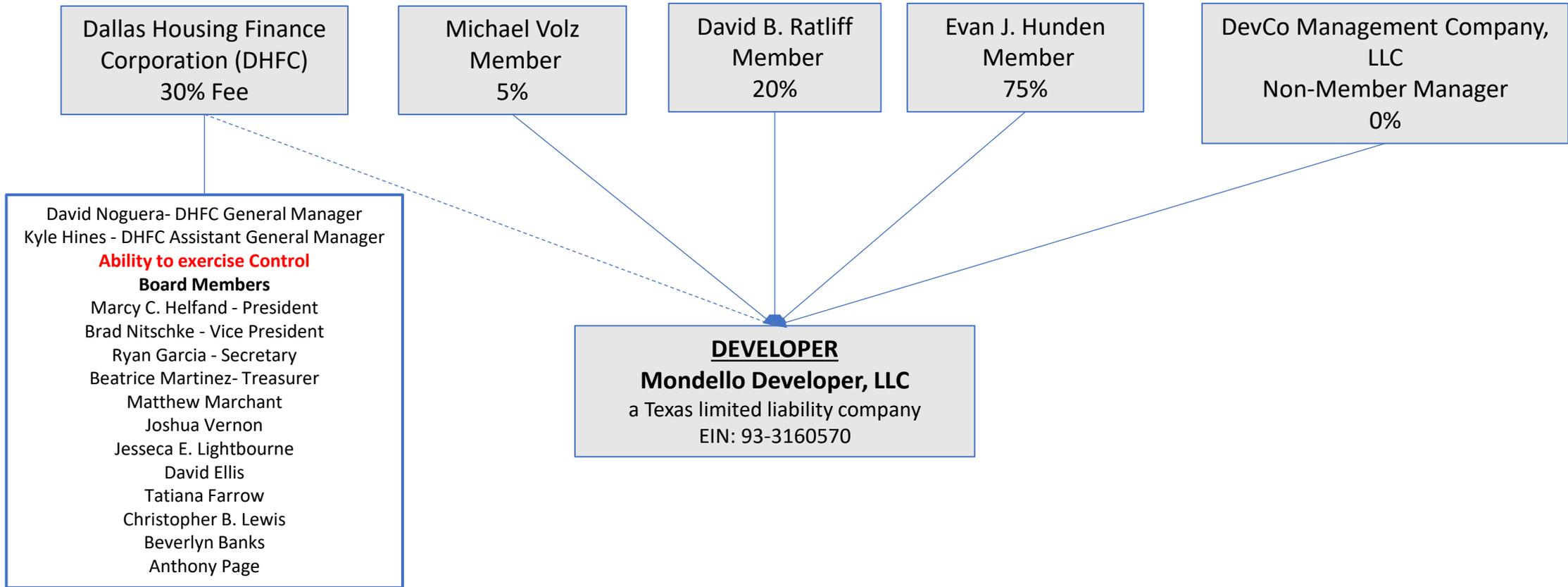
Property	David Ratliff	Michael Volz	Evan Hunden	Referred for penalty during last 3 years?	Control Began (date)	Actively Monitored
Costa Almedena HTC 23437 / HTC 060426 / CMTS 4429	Managing Member of Co-GP (primary control authority)	Managing Member of Co-GP (primary control authority)	No Control authority	No	12/1/2021	No. Inspected 7/7/2021. Report issued 8/6/2021. Corrections submitted by prior owner 10/18/2021. Property sold 12/1/2021. TDHCA close-out letter was issued 3/14/2022, after the sale, but none of the above monitoring events were during their Control, so it is not considered an Actively Monitored Development for purposes of this analysis
Brookside Gardens HTC 23454 / HTC 04611 / Bond 04611B / CMTS 4160	Managing Member	Managing Member	Managing Member & Guarantor	No	6/22/2022	No. Inspected 4/19/2022. Report issued 5/20/2022. Corrections submitted by prior owner 6/6/2022. Property sold 6/22/2022. TDHCA close-out letter was issued 10/3/2022, after the sale, but none of the above monitoring events were during their Control, so it is not considered an Actively Monitored Development for purposes of this analysis
<b>Total Actively Monitored Developments in Control</b>	<b>7</b>	<b>7</b>	<b>5</b>	<b>4 Developments referred</b>		

## Exhibit A

Copies of organizational charts (Mondello, Positano & Costa Almadena)

# Mondello Apartments, LLC Resyndication Org Chart of Owner & Developer DRAFT





\*This is proposed partnership with DHFC and has not yet been finalized or approved by DHFC.

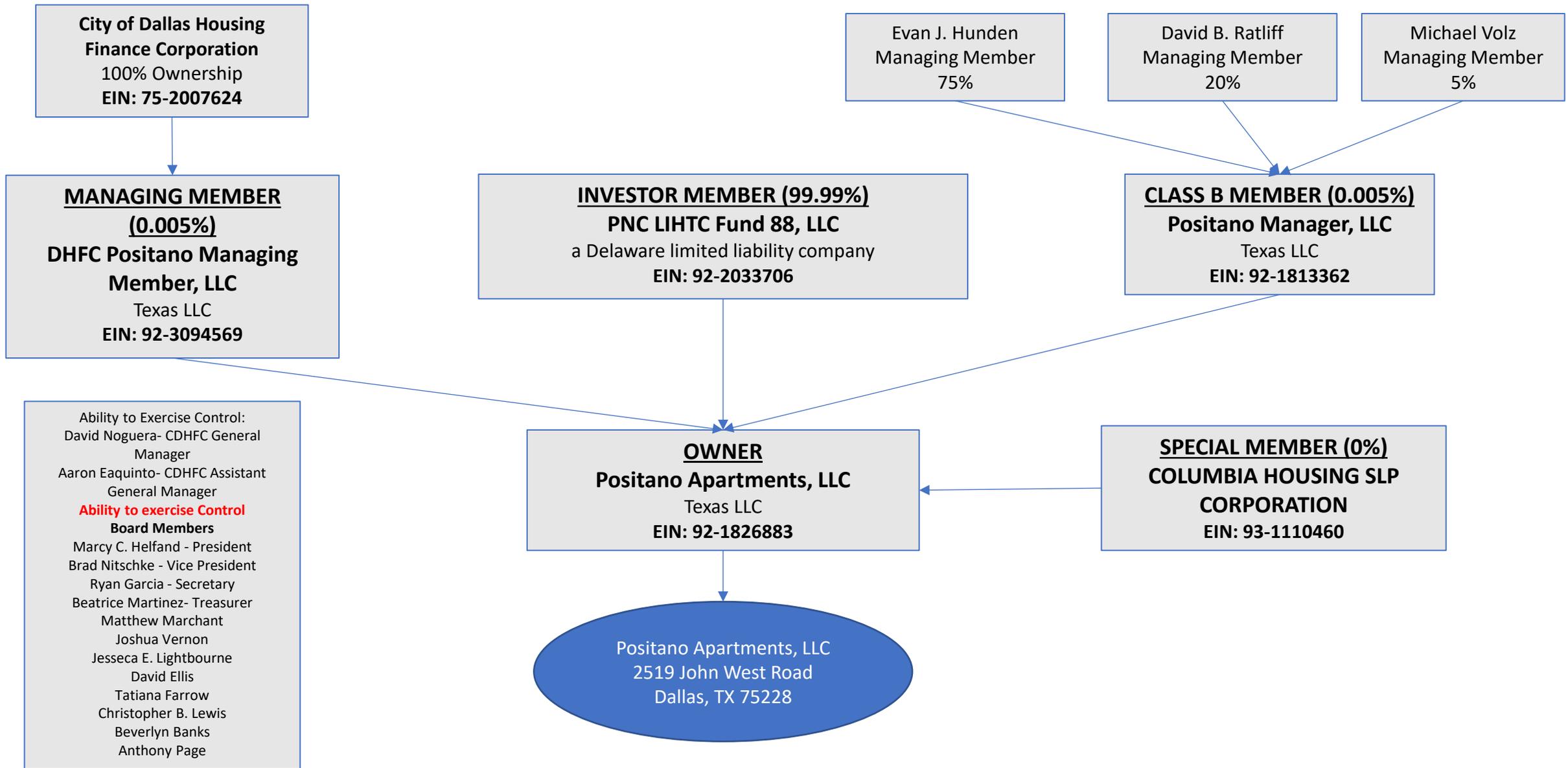
## Guarantor Chart

**Evan J. Hunden**

Sole Guarantor

# Positano Apartments, LLC Resyndication Org Charts of Owner and Developer

Dated as of Amended & Restated OA 2023-08-23



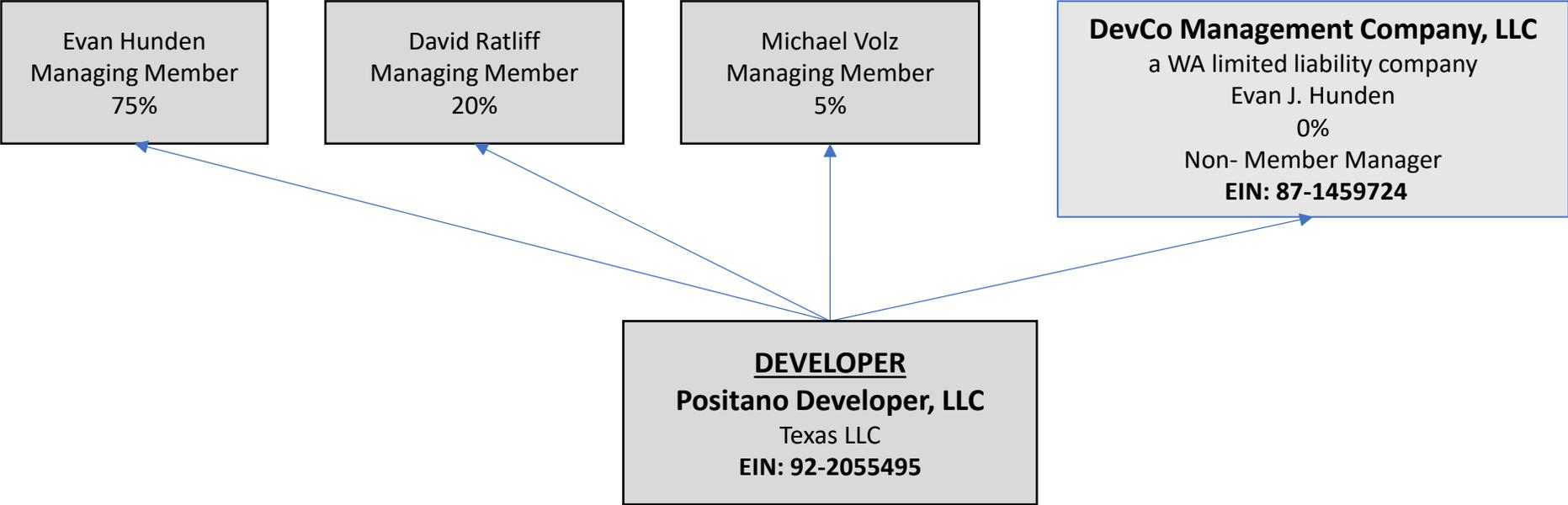
Evan Hunden  
Managing Member  
75%

David Ratliff  
Managing Member  
20%

Michael Volz  
Managing Member  
5%

**DevCo Management Company, LLC**  
a WA limited liability company  
Evan J. Hunden  
0%  
Non- Member Manager  
**EIN: 87-1459724**

**DEVELOPER**  
**Positano Developer, LLC**  
Texas LLC  
**EIN: 92-2055495**

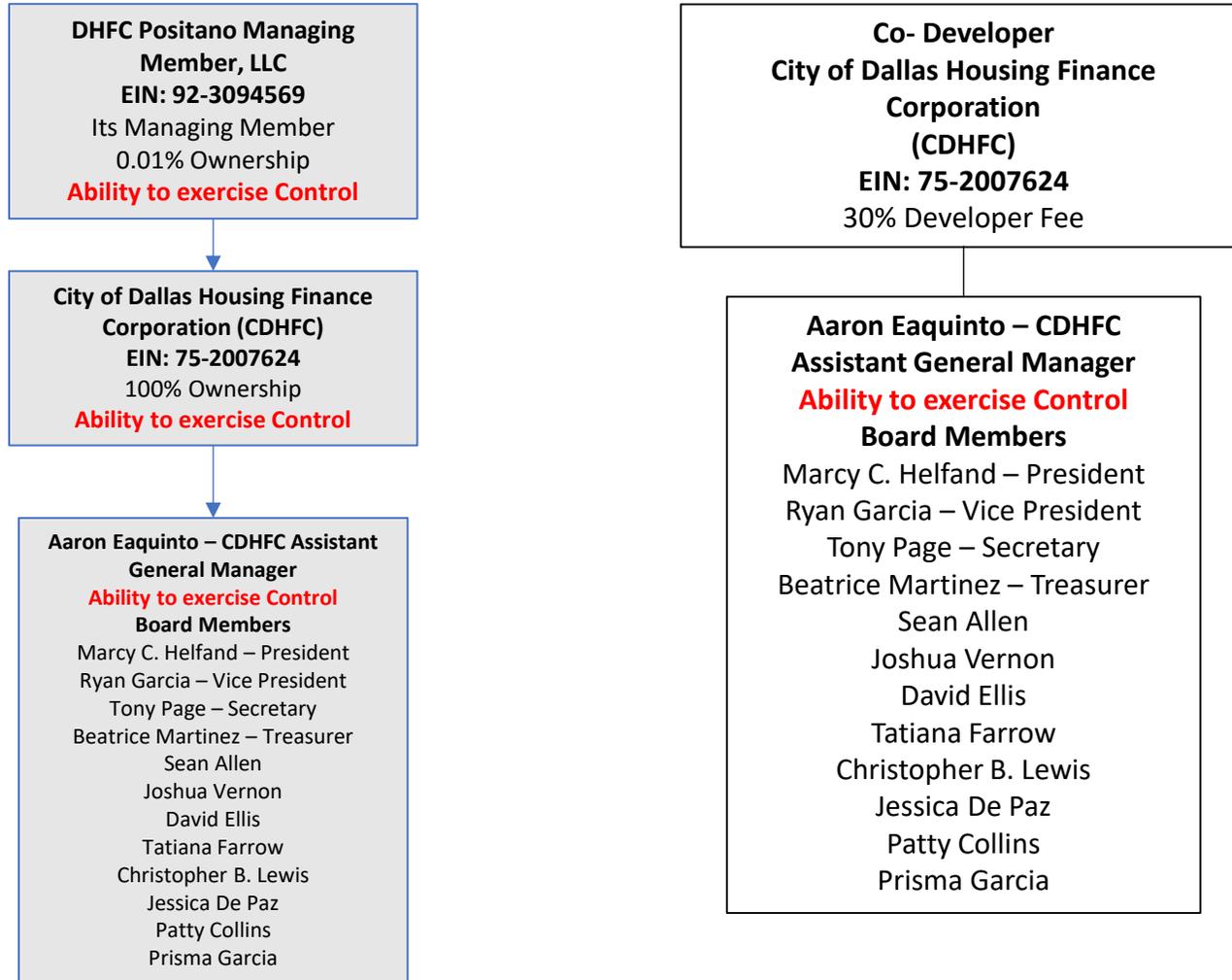


## Guarantor Chart

**Evan J. Hunden**

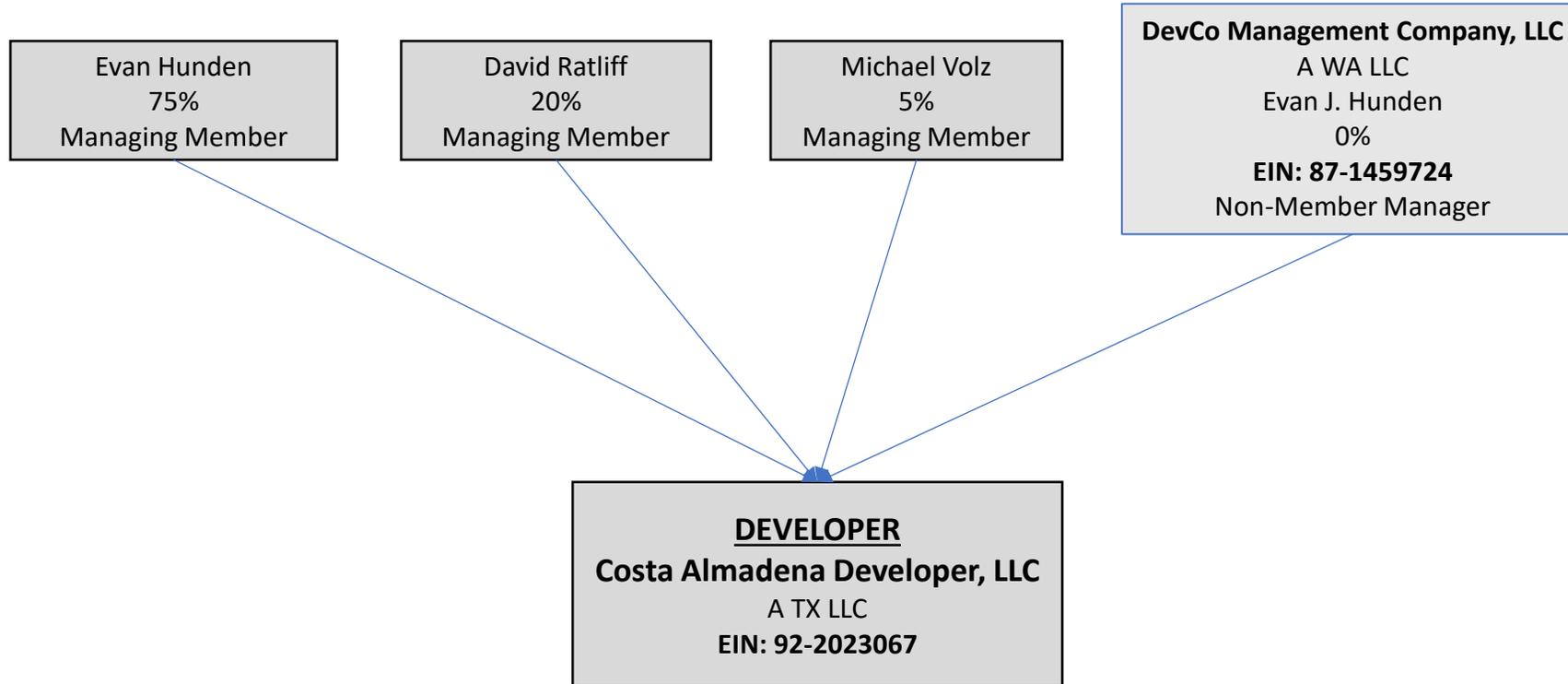
Sole Guarantor

# DHFC Org Chart





# Costa Almadena Developer Org Chart



## Guarantor Chart

**Evan J. Hunden**

Sole Guarantor

Exhibit B

CAPITAL EXPENDITURES FOR ROSEMONT AT MEADOW LANE

(Repairs, replacements, deferred maintenance and making ready of over 100  
vacant units )

December 2023 - Present

Item	Cost	Vendor	Date	Notes
Blind Replacement	\$16,096	Various	12/31/2023	Blind replacement '23 YTD.
Cabinet Replacement	\$17,900	Various	12/31/2023	Cabinet replacement '23 YTD.
Door and Hardware	\$38,251	Various	12/31/2023	Door & hardware replacement '23 YTD.
HVAC Replacement (2023)	\$147,316	Various	12/31/2023	HVAC system replacement '23 YTD.
Window Repair/Replacement (2023)	\$26,324	Various	12/31/2023	Window repair/replacement '23 YTD.
Appliances (2023)	\$31,323	Various	12/31/2023	Appliance replacement '23 YTD.
Flooring Replacement (2023)	\$223,109	Various	12/31/2023	Flooring replacement '23 YTD.
Fence Repair	\$12,331	Various	12/31/2023	Fence repair '23 YTD.
Landscaping - Tree Trimming (2023)	\$36,156	Black Diamond	12/31/2023	
Roof Replacement	\$596,844	Wells and Son	2/29/2024	
Surveillance Cameras	\$105,860	Stealth Monitoring	3/31/2024	
Electrical Repair	\$8,162	Cano Electric	4/30/2024	
Parking Lot Restripping	\$15,720	Fireman's Paving	4/30/2024	
Window Screens	\$56,195	Lone Star Solar Screens	5/8/2024	
Painting - Carports	\$19,682	Centex	5/31/2024	
Painting - Fence	\$26,884	Centex	5/31/2024	Includes all perimeter metal, pool, playground, and unit railings.
Concrete Repairs	\$4,113	Centex	5/31/2024	
Speed Bump Installation	\$12,021	Centex	5/31/2024	
Dumpster Enclosure Repairs/Repaint	\$18,510	Centex	5/31/2024	
Gutter Repair/Replacement	\$37,357	Centex	5/31/2024	
Splash Blocks	\$7,500	Indigo Construction	5/31/2024	
Landscaping - Erosion Control	\$17,861	Black Diamond	5/31/2024	
Landscaping - Tree Trimming	\$25,385	Black Diamond	5/31/2024	
Landscaping - Irrigation Repair	\$58,671	Rivera Brothers	5/31/2024	
Lighting Repair/Replacement	\$60,056	Centex	5/31/2024	Includes carport, building, and site.
Storm Drain Repair	\$12,000	Indigo Construction	5/31/2024	
Painting - Exterior Façade	\$175,032	Centex	6/30/2024	
Carpentry - Exterior Repair/Replacement	\$36,820	Centex	6/30/2024	Repair/replacement of all rotten wood on exterior façade.
Window Repair/Replacement	\$14,300	AmeriStar	6/30/2024	
Appliances	\$17,011	HD Supply	6/30/2024	Various appliance, YTD.
Flooring Replacement	\$51,420	Various	6/30/2024	Carpet and vinyl flooring replacement, YTD.
Water Meter installation	\$23,826	YES Energy Management	6/30/2024	Water & sewer meter installation.
HVAC Replacement	\$15,114	Various	6/30/2024	HVAC system replacement, YTD.

Pool Repair	\$17,781	Swim Solution	7/1/2024	Work is still pending on this item and should be completed by 8/9 weather dependent.
Entrance/Exit Gate Repair	\$38,208	Indigo Construction, Guardian Construction, and GateWise	7/15/2024	
100% Unit Prevenative Mainteance	\$22,500	ALFA2B Solutions	8/22/2024	Includes replacing A/C filters, smoke detectors, HVAC, GFCI and window inspections
100% Unit Pest Control	\$23,599	Massey Services	8/16/2024	Unit and Attic Pest Control
HVAC Replacements, Window Replacements, Various Repair Costs	\$50,246	ALFA2B Solutions	August and September 2024	Replaced multiple broken AC units, window replacements, electrical repairs and various other unit work that the prior Management Agent did not address
HVAC Drain Line Flushing	\$30,360	ALFA2B Solutions	8/28/2024	A/C flushing and drain pan tablet installation
Unit Turns/Repairs/Painting	\$48,390	Rivera's Painting	August and September 2024	Turned for occupancy multiple units that needed to be turned that the prior Management Unit did not address (including units needed rebuild work due to mitigation)
Unit Turns/Repairs/Painting	\$40,493	I&G's Painting	9/1/2024	Engagement of a second vendor to work on turning 100 vacant units that Management had neglected
Unit Turns/Repairs/Painting	\$26,350	S.A. Texas Construction	9/24/2024	Engagement of a third vendor to work on turning 100 vacant units that Management had neglected
Unit Appliances and Materials	\$83,808	H.D. Supply	August and September 2024	Supplies and appliances to make the vacant units rent ready
<b>Total</b>	<b>\$2,346,884</b>			

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
ROSEMONT MEADOW LANE	§	TEXAS DEPARTMENT OF
APARTMENTS, LLC WITH RESPECT TO	§	HOUSING AND COMMUNITY
ROSEMONT AT MEADOW LANE	§	AFFAIRS
(HTC FILE # 03433 / CMTS # 3421)	§	

**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 7<sup>th</sup> day of November, 2024, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **ROSEMONT MEADOW LANE APARTMENTS, LLC**, a Texas limited liability company (“Respondent”).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (“APA”), Tex. Gov’t Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

**WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov’t Code §2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov’t Code §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

**FINDINGS OF FACT (FOF)**

**Jurisdiction:**

1. In 2004, Parmer Villas Housing, L.P. (Prior Owner) was awarded an allocation of Low Income Housing Tax Credits by the Board to build and operate Rosemont at Meadow Lane (HTC # 03433 / CMTS # 3421).

2. Prior Owner signed a Land Use Restriction Agreement (LURA) regarding the Property. The LURA was effective October 4, 2024, and filed of record on December 13, 2004, at Document Number 200403166760 in Volume 2004239, Page 50 of the Official Public Records of Real Property of Dallas County, Texas (Records). In accordance with Section 2 of the LURA, the LURA is a restrictive covenant/deed restriction encumbering the property and binding on all successors and assigns for the full term of the LURA.
3. Respondent purchased the Property on January 29, 2021. The restrictions remained in place in accordance with Section 2 of the LURA, thereby binding Respondent to the terms of the agreement.
4. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

1. The Department conducted a Uniform Physical Condition Standards (“UPCS”) inspection on September 26, 2023. This inspection scored 47 out of 100, and the inspection report showed numerous property condition violations, a violation of 10 TAC § 10.621 (Property Condition Standards). The Department issued a notification of noncompliance setting a corrective action deadline of December 27, 2023, and granted an extension until March 26, 2024, the maximum allowed. Respondent uploaded a certification for correction of exigent fire and safety hazards on October 1, 2024, but did not submit any work orders or invoices to document correction of any of the cited deficiencies listed at Exhibit 1. TDHCA’s Compliance Division referred Respondent for an administrative penalty. Respondent submitted partial corrections on April 11, 2024 and April 12, 2024, in response, and then submitted additional corrective documentation on May 15, 2024, and July 26, 2024. The status of the noncompliance as of the July 30, 2024 informal conference is at Exhibit 1. The Compliance Division confirmed resolution of the final deficiencies during its September 26, 2024 National Standards for the Physical Inspection of Real Estate (“NSPIRE”) inspection at the Property<sup>2</sup>.
2. All violations listed above are considered resolved at the time of this Order.

**CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov’t Code §§2306.041-.0503 and 10 TAC Chapter 2.

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<sup>1</sup> Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

<sup>2</sup> New noncompliance was identified during the September 26, 2024 NSPIRE inspection, however, that new noncompliance is within a 90-day corrective action period, which will expire December 26, 2024. The 2024 NSPIRE inspection is not part of this Agreed Final Order, except to the extent that the inspection verified resolution of the lines marked in red at Exhibit 1.

2. Respondent is a “housing sponsor” as that term is defined in Tex. Gov’t Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Pursuant to Tex. Gov’t Code Chapter 2306, Subchapter DD and Tex. Gov’t Code §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance.
5. Respondent violated 10 TAC §10.621 in 2023 and I.R.C. §42, as amended, by failing to comply with HUD’s Uniform Physical Condition Standards when major violations were discovered and not timely corrected.<sup>3</sup>
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov’t Code §2306.041 and Tex. Gov’t Code §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov’t Code §2306.267.
8. Because Respondent has violated rules promulgated pursuant to Tex. Gov’t Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov’t Code §2306.041.
9. An administrative penalty of \$15,000.00 is an appropriate penalty in accordance with 10 TAC Chapter 2.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov’t Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Governing Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent is assessed an administrative penalty in the amount of \$15,000.00 as further ordered below.

**IT IS FURTHER ORDERED** that Respondent shall pay and is hereby directed to pay a \$15,000.00 portion of the assessed administrative penalty by check payable to the “Texas Department of

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<sup>3</sup> HUD’s UPCS was the inspection protocol adopted by TDHCA pursuant to 10 TAC 10.621(a) at the time of the inspection that was conducted on September 26, 2023. That rule was amended to adopt the HUD NSPIRE protocol on February 26, 2024.

Housing and Community Affairs” to the following address within thirty days of the date this Agreed Final Order is approved by the Board:

<b>If via overnight mail (FedEx, UPS):</b>	<b>If via USPS:</b>
TDHCA Attn: Ysella Kaseman 221 E 11 <sup>th</sup> St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of [10 TAC §10.406](#), and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

**IT IS FURTHER ORDERED** that the terms of this Agreed Final Order shall be published on the TDHCA website.

*[Remainder of page intentionally blank]*

Approved by the Governing Board of TDHCA on November 7th, 2024.

By: \_\_\_\_\_

Name: Leo Vasquez

Title: Chair of the Board of TDHCA

By: \_\_\_\_\_

Name: James "Beau" Eccles

Title: Secretary of the Board of TDHCA

**THE STATE OF TEXAS §**

**§**

**COUNTY OF TRAVIS §**

Before me, the undersigned notary public, on this 7<sup>th</sup> day of November, 2024, personally appeared Leo Vasquez, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**THE STATE OF TEXAS §**

**§**

**COUNTY OF TRAVIS §**

Before me, the undersigned notary public, on this 7<sup>th</sup> day of November, 2024, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas



Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
EVAN J. HUNDEN, DAVID B. RATLIFF,	§	TEXAS DEPARTMENT OF HOUSING
AND MICHAEL VOLZ	§	AND COMMUNITY AFFAIRS

**FINAL ORDER OF DEBARMENT**

**General Remarks and official action taken:**

On this 7th day of November, 2024, the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or Department) considered the matter of whether enforcement action should be taken against Evan J. Hunden, David B. Ratliff, and Michael Volz (collectively, Respondents), for exceeding the 50% administrative penalty referral threshold identified at 10 TAC §2.401(e)(2)(a).

This Final Order is executed pursuant to the authority granted in Texas Government Code section 2306.0504, which requires the Board to adopt a policy providing for the debarment of a person from participation in Department programs because of a person’s past failure to comply with conditions imposed by the Department in the administration of its programs. A rule was adopted by the Board and is set forth at 10 TAC §2.401.

Upon recommendation of the Executive Director, the Board makes the following findings of fact and conclusions of law and enters this Order:

**FINDINGS OF FACT**

**Jurisdiction:**

1. Respondents are Persons in Control of the following Actively Monitored Developments, as those terms are defined by 10 TAC §2.102 and 10 TAC §11.1(29):

#	Property	David Ratliff	Michael Volz	Evan Hunden	Date Control Began
1	The Mondello (HTC 07053 / CMTS 4080)	Managing Member	Managing Member	No Control authority	November 3, 2021
2	Rosemont Ash Creek (HTC 23420 / HTC 03410 / Bond 03410B / CMTS 3399)	Managing Member	Managing Member	Managing Member	December 29, 2020
3	Rosemont Meadow Lane (HTC 03433 / CMTS 3421)	Managing Member	Managing Member	Managing Member	January 29, 2021
4	Rosemont Lancaster (HTC 02479 / Bond 20034 / CMTS 3279)	Managing Member	Managing Member	Managing Member	January 29, 2020

5	Park at Humble (HTC 23434 / HTC 03465 / 03465B / CMTS 4036)	Managing Member	Managing Member	Managing Member	August 2, 2021
6	Positano (HTC 23421 / HTC 04490 / CMTS 4184)	Managing Member	Managing Member	No Control authority	December 17, 2021
7	Tigoni Villas (HTC 23424 / HTC 03136 / CMTS 3353)	Managing Member of the Limited Partner, but has primary Control authority	Managing Member of the Limited Partner, but has primary Control authority	Managing Member of the Limited Partner, but has primary Control authority	January 7, 2022

2. The following Actively Monitored Developments from the table above were referred for an administrative penalty during the last three years: The Mondello (HTC 07053 / CMTS 4080); Rosemont Ash Creek (HTC 23420 / HTC 03410 / Bond 03410B / CMTS 3399); Rosemont Meadow Lane (HTC 03433 / CMTS 3421); and Rosemont Lancaster (HTC 02479 / Bond 20034 / CMTS 3279).
3. Each Actively Monitored Development listed above is subject to a TDHCA Land Use Restriction Agreement (LURA).
4. Respondents are subject to the regulatory authority of TDHCA.

Repeated Violations Subject To Debarment:

1. TDHCA analysis of the above ownership portfolio determined that Evan J. Hunden, David B. Ratliff, and Michael Volz, the Responsible Parties in Control, have exceeded the 50% administrative penalty referral threshold identified at 10 TAC §2.401(e)(2)(A), which states, “(e) Repeated Violations of a LURA that shall be referred to the Committee for Debarment. [...] (2) Repeated violations in a portfolio. Persons who control five or more Actively Monitored Developments will be considered for Debarment based on repeated violations in a portfolio. A Person shall be referred to be committee if an inspection or referral, after April 1, 2021, indicates the following: (A) 50% or more of the Actively Monitored Developments in the portfolio have been referred to the Enforcement Committee within the last three years. The Enforcement Committee may increase this threshold at its discretion. For example, if three properties in a five-property portfolio are monitored in the same month, and then referred to the Enforcement Committee at the same time, it may be appropriate to increase the 50% threshold;”  
  
Evan J. Hunden controls five Actively Monitored Developments, three of which have been referred for an administrative penalty during the last three years, for a referral percentage of 60%.

David B. Ratliff controls seven Actively Monitored Developments, four of which have been referred for an administrative penalty during the last three years, for a referral percentage of 57%.

Michael Volz controls seven Actively Monitored Developments, four of which have been referred for an administrative penalty during the last three years for a referral percentage of 57%.

### **CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §2306.0504 and 10 TAC §2.401.
2. Respondents are Responsible Parties as defined by 10 TAC §2.102(12).
3. Respondents are in a position of Control as defined by 10 TAC §11.1(29).
4. Respondents Control more than five Actively Monitored Developments.
5. 50% or more of those Actively Monitored Developments have been referred for an administrative penalty during the past three years.
6. Pursuant to Tex. Gov't Code §2306.185, TDHCA is required to monitor to ensure compliance.
7. Respondents violated 10 TAC §2.401(e)(2)(A) in 2024 when they exceeded the 50% administrative penalty referral threshold.
8. Pursuant to Tex. Gov't. Code §2306.0504(b), the Department may debar a person from participation in a Department program on the basis of the person's past failure to comply with any condition imposed by the department in the administration of its programs.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of material factors including those set forth in 10 TAC §2.401(j) to be considered for a recommended period of debarment, as applied specifically to the facts and circumstances present in this case, the Board of the TDHCA orders the following:

**IT IS HEREBY ORDERED** that Respondents are barred from future participation in all programs administered by the Department for a **two-year term ending November 7, 2026**. This debarment does not prohibit Respondents from participating in any existing engagements funded through the Department, nor does it affect any responsibilities or duties thereunder.

**IT IS FURTHER ORDERED** that the terms of this Final Order shall be published on the TDHCA website.

[remainder of page intentionally blank]

Approved by the Governing Board of TDHCA on November 7, 2024.

By: \_\_\_\_\_

Name: Leo Vasquez

Title: Chair of the Board of TDHCA

By: \_\_\_\_\_

Name: James "Beau" Eccles

Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §

§

COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 7<sup>th</sup> day of November, 2024, personally appeared Leo Vasquez, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS §

§

COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 7<sup>th</sup> day of November, 2024, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 816**

**Agenda Date: 11/7/2024**

**Agenda #: 18.**

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Presentation, discussion, and possible action on order proposing the repeal of 10 TAC Chapter 23, Single Family HOME Program, and orders proposing new 10 TAC Chapter 23, Single Family HOME Program Rules, and directing their publication for public comment in the Texas Register

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 817**

**Agenda Date: 11/7/2024**

**Agenda #: 19.**

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Presentation, discussion, and possible action on an order adopting amendments to 10 Texas Administrative Code Chapter 10, Uniform Multifamily Rules, Subchapter I, Public Facility Corporation Compliance Monitoring §10.1103 Reporting Requirements and directing it will be published for adoption in the Texas Register

**TO BE POSTED  
NOT LATER THAN  
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BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 818

**Agenda Date:** 11/07/2024

**Agenda #:** 20.

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Presentation, discussion, and possible action regarding material amendments to previous 9% Competitive Housing Tax Credit Applications to award State Housing Tax Credits and approval of the waiting list for 2024 State Housing Tax Credit Applications.

**TO BE POSTED  
NOT LATER THAN  
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BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 820**

**Agenda Date: 11/07/2024**

**Agenda #: 21.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for 3300 Caroline

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 821**

**Agenda Date: 11/7/2024**

**Agenda #: 22.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Beaumont Pioneer Crossing

**TO BE POSTED  
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THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 822**

**Agenda Date: 11/7/2024**

**Agenda #: 23.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Brownwood Pioneer Crossing

**TO BE POSTED  
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BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 823**

**Agenda Date: 11/7/2024**

**Agenda #: 24.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Burkburnett Royal Gardens

**TO BE POSTED  
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THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 824**

**Agenda Date: 11/7/2024**

**Agenda #: 25.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Royal Gardens Lufkin

**TO BE POSTED  
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DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 825**

**Agenda Date: 11/7/2024**

**Agenda #: 26.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Estacado Estates

**TO BE POSTED  
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DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 826**

**Agenda Date: 11/7/2024**

**Agenda #: 27.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Parkside on Carrier

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 827**

**Agenda Date: 11/7/2024**

**Agenda #: 28.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Riverview Manor

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 828**

**Agenda Date: 11/7/2024**

**Agenda #: 29.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Sweetwater Station

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 829**

**Agenda Date: 11/7/2024**

**Agenda #: 30.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Trailside Estates

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 830**

**Agenda Date: 11/7/2024**

**Agenda #: 31.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Avanti Legacy Del Sol

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 831**

**Agenda Date: 11/7/2024**

**Agenda #: 32.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Avanti Legacy Lyon

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 832**

**Agenda Date: 11/7/2024**

**Agenda #: 33.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Candlewood Village

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 833**

**Agenda Date: 11/7/2024**

**Agenda #: 34.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Country Villa

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 834**

**Agenda Date: 11/7/2024**

**Agenda #: 35.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Vista at Thousand Oaks

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 835**

**Agenda Date: 11/7/2024**

**Agenda #: 36.**

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Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for The Rushmore

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #: 836**

**Agenda Date: 11/7/2024**

**Agenda #: 37.**

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Presentation, discussion, and possible action on the adoption of the repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, adoption of new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and directing their publication for adoption in the Texas Register following the statutory opportunity for gubernatorial acceptance, revision, or rejection.

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**