



MHA Anacua Senior Village, Ltd.  
1300 E 8<sup>th</sup> Street  
Mission, TX 78572

May 29, 2024

Bobby Wilkinson  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Re: #24137 Anacua Senior Village – Scoring Notice Appeal

Dear Mr. Wilkinson,

MHA Anacua Senior Village, Ltd, (the “Partnership”) respectfully appeals the scoring notice received for Application #24137, Anacua Senior Village, in Mission, Texas. The Pre-Application Participation points (“pre-app points”) for the subject Application were deducted from the Application’s self-score because “the total number of units increase by more than 10% from pre-application to Application.” While this is technically true, it is the result of an error at pre-application: the pre-application was intended to be submitted with a unit count of 95; it was inadvertently submitted at 90 units.

Background

Anacua Senior Village is an At-Risk Reconstruction Application sponsored by the Mission Housing Authority in Mission, Texas. The subject Application replaces seventy-year-old Public Housing stock that has long passed its useful life – the new units are being built on the same site. The unit mix will include 26 Public Housing units which will serve the area’s lowest income tenants (proforma rents are just above 10% AMI, which will be supported by a Public Housing Operating Subsidy). The unit mix will also have 12 market rate units, although “market rate” is really a misnomer in this scenario. In reality, these unrestricted units will serve tenants who are over-income for the LIHTC program, but still can’t afford a true market rate rent. Proforma rents for these unrestricted units are below the 80% rent limit for the area (see attached Exhibit A). Furthermore, despite being exempt as an elderly development (55+ designation), all of the zoned schools have satisfactory TEA ratings, which is beneficial for the few tenants who may be guardians to minor children.

When the pre-application log was released, the Partnership confirmed the accuracy of the subject pre-application’s score and tiebreaker distance but did not notice that the unit count was listed incorrectly. Upon seeing that the pre-application was in a scoring position, the Partnership proceeded to develop the Application’s proforma.

During development of the proforma, it was determined that the Mission Housing Authority would forgo any acquisition cost on the land (which was being reused for the subject Application) in order to maximize the unit count. Knowing that the unit count could not increase more than 10%, the calculation was run based on the “correct” number of units: 95. A 10% increase on 95 units is 104.5, and thus the

unit count of 104 was used for the Application. If not for this rule, the Application would have been submitted at 108 units.

It was not until the Application was reviewed by Department staff that the initial pre-application error became evident. The Partnership believes that the QAP allows for this error to be cured via the Deficiency Process.

### Deficiency Process

It should be noted that the capitalized term “Application” is not defined in the QAP but is defined in statute. Pursuant to Tex. Gov’t Code 2306.6702(2) ““Application” means an application filed with the department by an applicant and includes any exhibits or other supporting materials.” Therefore, the capitalized term Application in the QAP includes the pre-application within its meaning; henceforth, this letter will denote ***Application*** in bold italics to denote this specific meaning (this meaning is reiterated in 10 TAC §11.8(a)(4), which states that the “pre-application becomes part of the full Application if the full Application claims pre-application points”).

Pursuant to 10 TAC §11.201(6), related to Deficiency Process, “the purpose of the deficiency process is to allow an Applicant to provide clarification, explanation, or non-material missing information to resolve inconsistencies in the original ***Application*** (enfaces added)”. This paragraph goes on to state “because the review of an ***Application*** occurs in several phases, deficiency notices may be issued during any of these phases (enfaces added).”

In this case, the ***Application*** includes an inconsistency: the first phase of the ***Application*** (the pre-app) indicated 90 units and a self-score that included pre-app points. The second phase of the ***Application*** (what is commonly referred to as the “full” app) again indicated a self-score that included pre-app points but listed a unit count of 104, which would exceed the 10% unit increase threshold.

Staff identified this inconsistency but in issuing the following deficiency, did not allow for the noted error to be resolved.

“90 units are stated as the total number of units in the development in the Pre-Application. 104 are stated in the Rent Schedule, an increase of over 15%. Explain the request in the Application for Pre-Application points.”

Applicant response: “The pre-application was supposed to have been submitted with 95 units - see attached scoring analysis. The total number of units for full app were calculated to be an increase of less than 10% based on this analysis. It wasn’t until this review that the pre-application error was discovered.” (Noted attachment is included herein as Exhibit B)

There is nothing in the QAP that specifically says pre-application errors can’t be corrected. In fact, because the Deficiency Process allows for deficiencies to be issued during “any” of the ***Application*** phases, the Partnership believes that the QAP indeed allows for this error to be resolved.

Moreover, the Board allowed a very similar pre-application error to be corrected in the 2023 Application Round (23168 Majestic Villas submitted its pre-app in the Urban subregion but changed to Rural at full app; staff deducted pre-app points, but the Board reversed this deduction upon appeal). In that case, staff’s argument for denying the appeal was that the Applicant’s competitors weren’t given the

opportunity to assess the competitive nature of their own filings, in violation of statute. That isn't the case here.

### Preapplication Process

Pursuant to Tex. Gov't Code 2306.6704, related to Preapplication Process, the Statutory purpose of the preapplication process is "to prevent unnecessary filing costs" by establishing "a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing" with the Department. This process allows Applicants to assess an *Application's* competitive standing within its particular subregion or set-aside. Consequently, the QAP specifies that certain criteria cannot change between pre-application and "full" application, because Applicants are making business decisions based on this information.

If an Applicant were to change the Rural or Urban designation or Set-Aside of the full application, it would mean a completely different group of competitors would be affected, and that group of competitors would not have had the benefit of assessing their competitive standing against the Applicant who made such a change. Similarly, if an Applicant were to change the Target Population, it would change the calculus for competing Applicants because there are scoring components affected by the choice of population (Underserved area for example), and certain subregions have caps on the number of credits that can be awarded to Elderly transactions. Certain scoring components cannot change at all, and the overall score cannot change by more than four (4) points. Again, this allows competitors to assess their own competitive standing, in order to determine whether or not to file a full application, which involves spending a significant amount of money.

The unit count of a pre-application does not factor into competitors' evaluation of the pre-application log, at all. In fact, an Applicant could submit a pre-application with a unit count of 500, and then come in at full application with a unit count of 75, and that would be perfectly acceptable under the QAP. Furthermore, a limit on increasing unit count seems contrary to the TDHCA Board's stated policy of increasing unit count production. It is truly unfortunate that a simple error would result in an effective death-penalty for this Application.

For these reasons, the Partnership respectfully requests that the appeal be granted, and that a deficiency be issued so that the pre-application unit count can be corrected. Should the appeal be denied at the Department level, the Partnership respectfully requests to appeal directly to the Board of Directors on June 13, 2024. Should you have any questions or need additional information, please contact Kathryn Saar at (512) 828-6413 or by email at [kathryn@tbsg.com](mailto:kathryn@tbsg.com).

Sincerely,



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Arnold Padilla, Manager

**LIHTC Income Limits for 2023**  
(Based on 2023 MTSP Income Limits)

	Charts	60.00%	10.00%	15.00%	30.00%	50.00%	60.00%	80.00%	140.00%
<b>1 Person</b>		30,300	5,050	7,575	15,150	25,250	30,300	40,400	42,420
<b>2 Person</b>		34,620	5,770	8,655	17,310	28,850	34,620	46,160	48,468
<b>3 Person</b>		38,940	6,490	9,735	19,470	32,450	38,940	51,920	54,516
<b>4 Person</b>		43,260	7,210	10,815	21,630	36,050	43,260	57,680	60,564
<b>5 Person</b>		46,740	7,790	11,685	23,370	38,950	46,740	62,320	65,436
<b>6 Person</b>		50,220	8,370	12,555	25,110	41,850	50,220	66,960	70,308
<b>7 Person</b>		53,700	8,950	13,425	26,850	44,750	53,700	71,600	75,180
<b>8 Person</b>		57,120	9,520	14,280	28,560	47,600	57,120	76,160	79,968
<b>9 Person</b>		60,540	10,090	15,135	30,270	50,450	60,540	80,720	84,756
<b>10 Person</b>		64,020	10,670	16,005	32,010	53,350	64,020	85,360	89,628
<b>11 Person</b>		67,500	11,250	16,875	33,750	56,250	67,500	90,000	94,500
<b>12 Person</b>		70,920	11,820	17,730	35,460	59,100	70,920	94,560	99,288

**LIHTC Rent Limits for 2023**  
(Based on 2023 MTSP/VLI Income Limits)

Bedrooms (People)	Charts	60.00%	10.00%	15.00%	30.00%	50.00%	60.00%	80.00%	FMR
<b>1 Bedroom (1.5)</b>		811	135	202	405	676	811	1,082	693
<b>2 Bedrooms (3.0)</b>		973	162	243	486	811	973	1,298	877

Rent Designations (select from Drop down menu)															
HTC Units	MFDL HOME Units	MFDL NHTF Units	HOME ARP Units	Existing Restrictions	Other/ Subsidy Units	HOME Match Units	# of Units	# of Bed-rooms	# of Baths	Unit Size (Net Rentable Sq. Ft.)	Total Net Rentable Sq. Ft.	Program Rent Limit	Tenant Paid Utility Allow.	Rent Collected /Unit	Total Monthly Rent
							(A)			(B)	(A) x (B)			(E)	(A) x (E)
TC 30%					PH		17	1	1.0	677	11,509	215	75	140	2,380
TC 50%					PH		7	1	1.0	677	4,739	215	75	140	980
TC 50%							9	1	1.0	677	6,093	676	75	601	5,409
TC 60%							40	1	1.0	677	27,080	811	75	736	29,440
MR							8	1	1.0	677	5,416	975		975	7,800
TC 30%					PH		2	2	2.0	978	1,956	263	98	165	330
TC 50%							3	2	2.0	978	2,934	811	98	713	2,139
TC 60%							14	2	2.0	978	13,692	973	98	875	12,250
MR							4	2	2.0	978	3,912	1,075		1,075	4,300

Address Anacua Senior Village  
 Unit Count 95  
 Population 85,311  
 Census Tract 48215020403  
 Quartile 4th  
 Poverty Rate 31.7

2023 QCT

	MAX		
(b)(1) - unit size/quality	15	15	
(b)(2) - sponsor	2	2	
(b)(3) - quantity of LIHTC	3	0	not available in at-risk
(c)(1) - income levels	15	15	
(c)(2) - rent levels	11	11	
(c)(3) - services	11	11	
(c)(4) - special needs	3	3	(4th pt available for supportive housing)
(c)(5) - opportunity index	7	0	4th Quartile; would have to go through CRP
(c)(6) - underserved area	5	4	no senior deals in ct, 5th pt cluster pt not available to at-risk
(c)(7) - proximity to job areas	6	0	at-risk not eligible
(d)(1) - local gov't support	17	17	
(d)(2) - lps funding	1	1	
(d)(3) - disaster area	10	10	all counties eligible
(d)(4) - qcp	4	4	
(d)(5) - state rep	8	8	
(d)(6) - community orgs	4	4	
(d)(7) - crp	0	7	same crp from last year
(e)(1) - financial feasibility	26	26	
(e)(2) - cost per foot	12	12	
(e)(3) - pre-app	6	6	
(e)(4) - leveraging	3	3	
(e)(5) - extended affordability	4	4	
(e)(6) - historic preservation	5	0	
(e)(7) - RoFR	1	1	
(e)(8) - funding request	1	1	
(e)(9) - readiness to proceed	5	0	not available in at-risk
Total Score	180	165	
self score		125	