

July 8, Addendum to Board Appeals

<i>Project</i>	<i>Project Name</i>	<i>Nature of Appeal</i>
04028	Heritage Park	The appeal is in regard to the denial of Quantifiable Community Participation points by the Executive Director
04188	Ambassador North Apartments	The appeal to the Board is in regard to termination of the application for an ineligible building type
04214	Las Villas de Magnolia	The appeal to the Board is in regard to subsidy funding from the City of Houston
04224	Commons of Grace Senior	The appeal to the Board is in regard to subsidy funding from the City of Houston

Project # 04028

Heritage Park

Board Appeal

Jennifer Joyce

From: Brian Rumsey
Sent: Friday, July 02, 2004 1:12 PM
To: Jennifer Joyce
Subject: Re: Heritage Park-04028

Thank you for the your response, Will we have an opportunity to attend and/or speak at the July 8th board meeting.

Thanks for your help,

Brian Rumsey
Cross Architects, PLLC
555 Republic Drive, Suite 108
Plano, Texas 75074
Phone: 972.398.6644
Fax: 972.692.8668

----- Original Message -----

From: Jennifer Joyce
To: 'Brian Rumsey'
Sent: Friday, July 02, 2004 12:44 PM
Subject: RE: Heritage Park-04028

Confirmed. Thank you!

Jen Joyce
Program Analyst
Texas Dept. of Housing and Community Affairs
(512) 475-3995

-----Original Message-----

From: Brian Rumsey [mailto:brumsey@crossarchitects.com]
Sent: Friday, July 02, 2004 12:52 PM
To: Jennifer Joyce
Subject: Heritage Park-04028

Jennifer,

Please forward our appeal to the TDHCA Board for their review for final scoring. We would like to add to the appeal, that we spoke with staff members and that the package was received and logged in, but no description was noted.

Will we have an opportunity to attend and/or speak at the July 8th board meeting.

Please respond that the appeal has been forwarded to the Board.

Thanks for your help,

Brian Rumsey

Executive Director's Response

04028



WWW.TDHCA.STATE.TX.US

July 2, 2004

RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

Steve Rumsey
Housing Associates of Heritage Park, Ltd.
3500 Duval Dr.
Plano, TX 75025
Telephone: (214) 893-4208
Fax: (775) 796-8647

**Re: Response to appeal received June 18, 2004
Heritage Park TDHCA Project No. 04028**

Dear Mr. Rumsey:

Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that we received on June 18, 2004 on the above-referenced development, regarding the eligibility of your application to receive points under §50.9(g)(13) of the 2004 Qualified Allocation Plan (QAP), Low Income Targeting.

In your appeal you indicate that the Denison Industrial Foundation commitment letter was sent to the Department by the June 14, 2004 deadline. Unfortunately, while your appeal does confirm that some document was received by the Department on May 18, 2004, it does not confirm that the formal commitment letter was received on that date. The Department could not confirm the receipt of this letter until we received the letter with your appeal on June 18, 2004.

Appeal Determination

Because of the above-mentioned reason, the appeal is denied.


Section 50.18(b)(4) of the 2004 QAP states that if you are not satisfied with this response to your appeal, you may appeal directly in writing to the Board of the Texas Department of Housing and Community Affairs. Please note that an appeal filed with the Board must be received by the Board before the third day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made. To have an appeal considered by the Board at the July 8 Board meeting, the appeal must be received by Delores Gronck, Board Secretary, no later than today. You will be eligible to file an appeal with the Board for the July 28, 2004 Board meeting. To have an appeal considered by the Board at the July 28 Board meeting, the appeal must be

Mr. Steve Rumsey
July 2, 2004

received by Delores Groneck, Board Secretary, no later than July 20, although it is strongly encouraged to have the appeal submitted by July 14, 2004.

If you have questions or comments, please call (512) 475-3340.

Sincerely,


for Edywina P. Carrington
Executive Director

EPC/BLB/MFMU

Executive Director's Appeal

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2335
CONNECTION TEL 97757968647
CONNECTION ID
ST. TIME 07/02 16:25
USAGE T 01'23
PGS. SENT 2
RESULT OK



WWW.TDHCA.STATE.TX.US

July 2, 2004

.....
RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
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C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

Steve Rumsey
Housing Associates of Heritage Park, Ltd.
3500 Duval Dr.
Plano, TX 75025
Telephone: (214) 893-4208
Fax: (775) 796-8647

**Re: Response to appeal received June 18, 2004
Heritage Park TDHCA Project No. 04028**

Dear Mr. Rumsey:

Appeal Review

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In your appeal you indicate that the Denison Industrial Foundation commitment letter was sent to the Department by the June 14, 2004 deadline. Unfortunately, while your appeal docs confirm that some document was received by the Department on May 18, 2004, it does not confirm that the formal commitment letter was received on that date. The Department could not confirm the receipt of this letter until we received the letter with your appeal on June 18, 2004.

Appeal Determination

Because of the above-mentioned reason, the appeal is denied.

RECEIVED
JUN 17 2004

Housing Associates of Heritage Park, Ltd.

3500 Duval Dr.
Plano, Texas 75025
214.893.4208 * fax 1.775.796.8647

June 17, 2004

Brooke Boston
Director
Texas Department of Housing and Community Affairs
507 Sabine
Suite 400
Austin, Texas 78701

Re: Appeal for Final Scoring Notice - Revised
Heritage Park - 04028
Denison, Texas

Dear Ms. Boston,

This letter is in response to the fax received this morning concerning our Final Scoring. Under the "Explanation for Deductions to Points Requested" it states that no documentation for subsidy was received (-10). Thus also making our point total change more than 5 % (-7) and reducing our score to 136 points.

The process listed below is the process that produced the Formal commitment letter from the Denison Industrial foundation. I am attaching a copy of the documentation to support the detailed time line.

Time line that generated the letter is as follows:

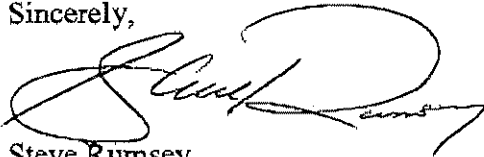
- 1) February 15, 2004 Letter generated and sent to Denison Industrial Foundation requesting a grant or loan
- 2) February 18, 2004 Letter received from Denison Industrial Foundation confirming request and commitment to present the Proposal to their Board
- 3) April 30, 2004 Email(s) sent from Scott Smathers to Brian Rumsey with proposed letter and confirmation that The Denison Industrial Foundation Board has approved our proposal and that with Ronnie Cole's (Chairman) signature the letter will be submitted to us
- 4) May 4, 2004 Formal commitment letter signed and mailed (US Mail - ground) to Housing Associates of Heritage Park, Ltd.
- 5) On or about May 7, 2004 Formal commitment letter received by Housing Associates of Heritage Park, Ltd.
- 6) May 17, 2004 Formal commitment letter sent to Brooke Boston, Texas Department of Housing and Community Affairs via UPS Ground

(10 PAGES)

- 7) May 18, 2004 Formal commitment letter received at 11:03 A.M. and signed by Mcrae at The Texas Department of Housing and Community Affairs

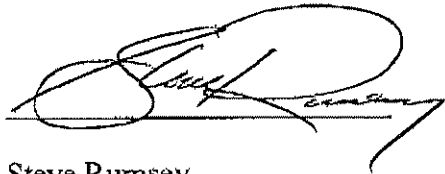
Please call after you have had a chance to review, or if you have any questions.
Thank you for your time.

Sincerely,



Steve Rumsey
Vice President

I Steve Rumsey affirm and attest that the document that was in the envelope sent UPS Ground, Tracking Number 1z6a9r370398257159, on May 17th 2004 to Brooke Boston; Director Texas Department of Housing and Community Affairs; 507 Sabine; Suite 400; Austin, Texas 78701 was the Formal Commitment Letter from The Denison Industrial Foundation dated May 4th, 2004 signed by Ronnie Cole.



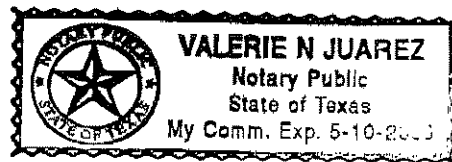
Steve Rumsey
Housing Associates of Heritage Park, Ltd.
Vice President

Notarized BY:

Sworn Before me on this 18th day of June, 2004



Signature



Notary Public in and for the State of Texas



DENISON
Industrial Foundation

May 4, 2004

Brooke Boston, Director
Texas Department of Housing
and Community Affairs
507 Sabine, Suite 400
Austin, Texas 78701

Re: Heritage Park
Denison, Texas

Dear Ms. Boston:

The Denison Industrial Foundation has made a commitment to award the Housing Associates of Heritage Park, Ltd. a forgivable loan in the amount of \$75,000. This forgivable loan will be issued upon: i) execution of a mutually acceptable agreement; ii) the acceptance of a financial feasibility review by the Denison Industrial Foundation, and iii) the Texas Department of Housing and Community Affairs awarding tax credits to the Housing Associates of Heritage Park, Ltd.

We fully support the project and look forward to working with Housing Associates of Heritage Park, Ltd.

Sincerely,

Denison Industrial Foundation

By: 
Ronnie Cole, President

311 West Woodard Street • Denison, Texas 75020 • (903) 464-0883 • Fax (903) 465-6476

**Housing Associates of Heritage Park, Ltd
3500 Duval Dr.
Plano, Texas 75025**

February 15, 2004

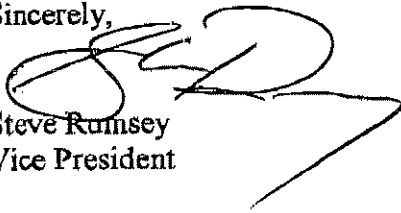
Denison Industrial Foundation
311 West Woodard Street
Denison, Texas 75020

Re: Heritage Park
Denison, Texas

To Whom It May Concern:

Housing Associates of Heritage Park, Ltd. would like to apply a \$50,000 grant or loan for Heritage Park. We are requesting \$12,500 for three of our 30% units (\$37,500) and \$12,500 for general construction. This allocation will be very instrumental in the effort to make Heritage Park a reality. As you know the Tax Credit's are awarded based on points received, if our application to the Denison Industrial Foundation Board is approved it will immensely help make Heritage Park a reality. Please let me know when you will be hosting the next meeting so that we may make a presentation.

Sincerely,



Steve Rumsey
Vice President



DENISON
Industrial Foundation

February 18, 2004

Mr. Steve Rumsey
Housing Associates of Heritage Park, Ltd.
3500 Duval Drive
Plano, Texas 75025

Dear Mr. Rumsey:

Let this letter serve as confirmation that our board has received a request from Heritage Park, Ltd. for funding of up to \$50,000 for fiscal year 2004. The board will consider this request at one of our upcoming monthly board meetings.

The Denison Development Foundation is a private non-profit organization that can act on a request of this type without any public hearings, committee meetings, etc. The board has full authority to make a funding decision of this nature and will do so in a timely fashion.

We are very interested in your project and look forward to working with you in the future.

Best regards,

Ronnie Cole
Chairman

311 West Woodard Street • Denison, Texas 75020 • (903) 464-0883 • Fax (903) 465-6476



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Status: Delivered
Delivered on: May 18, 2004 11:03 A.M.
Signed by: MCRAE
Location: MAIL ROOM
Delivered to: AUSTIN, TX, US
Shipped or Billed on: May 18, 2004

Tracking Number: 1Z 6A9 R37 03 9825 715 9
Service Type: GROUND
Weight: .10 Lb

Package Progress:

Date	Time	Location	Activity
May 18, 2004	6:02 P.M.	US	BILLING INFORMATION RECEIVED
	11:03 A.M.	AUSTIN, TX, US	DELIVERY
	7:24 A.M.	AUSTIN, TX, US	OUT FOR DELIVERY
	6:21 A.M.	AUSTIN, TX, US	ARRIVAL SCAN
May 17, 2004	2:44 A.M.	MESQUITE, TX, US	DEPARTURE SCAN
	8:47 P.M.	DENTON, TX, US	ORIGIN SCAN
Dec 23, 2003	3:55 P.M.	BEAUMONT, TX, US	DELIVERY

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Shipment-----
UPS Ground - Commercial
Ship To:

TEXAS DEPT. OF HOUSING COM AFFAIR
607 SABINE SUITE 400
ATTN: BROOKE BOSTON
AUSTIN, TX 78701

Package Id: 65715	5.55
Tracking #: 1Z6A9R370398257159	
Packing Materials	1.25 TX
SUBTOTAL	6.80
TAX:	
Standard Station 1.25	0.10
TOTAL	6.90
TEND MCVisa	6.90

STEVE RUMSEY	
DARYL A. (121)	05/17/2004
#91139	04:31 PM

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EXPRESS MAIL 1-800-222-1811

LET US PACK YOUR NEXT SHIPMENT

Steve Rumsey

From: Brian Rumsey [brumsey@crossarchitects.com]
Sent: Friday, June 18, 2004 9:57 AM
To: Steve James Rumsey
Subject: Fw: Proposed DDF Letter

Brian Rumsey
Cross Architects, PLLC
555 Republic Drive, Suite 108
Plano, Texas 75074
Phone: 972.398.6644
Fax: 972.692.8668

----- Original Message -----

From: J Scott Smathers
To: 'Brian Rumsey'
Sent: Friday, April 30, 2004 2:09 PM
Subject: RE: Proposed DDF Letter

Brian,

Once we have Ronnie sign this, do you want us to send it directly to her or will you all want to submit it? One other point, the only stationary we have for the DDF is in their original official name of Denison Industrial Foundation. Therefore, I will be changing the name from DDF to DIF in the letter. Let me know if this is a problem.

Regards,
Scott

-----Original Message-----

From: Brian Rumsey [mailto:brumsey@crossarchitects.com]
Sent: Friday, April 30, 2004 1:50 PM
To: ssmathers@denisonix.org
Subject: Re: Proposed DDF Letter

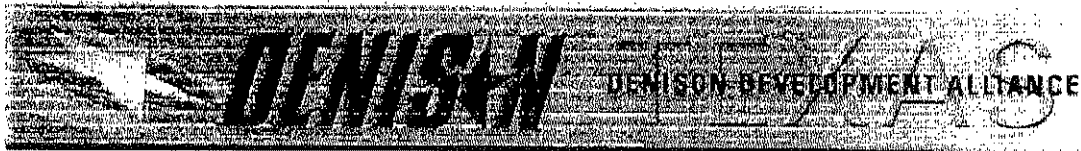
Looks Great!! Thanks for your help,

Thanks,

Brian Rumsey
Cross Architects, PLLC
555 Republic Drive, Suite 108
Plano, Texas 75074
Phone: 972.398.6644
Fax: 972.692.8668

----- Original Message -----

From: J Scott Smathers
To: Brian Rumsey (E-mail)
Sent: Friday, April 30, 2004 12:01 PM
Subject: Proposed DDF Letter



Brian,

As we discussed, attached is a copy of the proposed letter in regards to the forgivable loan. I will wait to hear from you next week.

J. Scott Smathers

311 W. Woodard St.
Denison, Texas 75020
Ph: 903.464.0883
Fax: 903.465.6476
www.denison.tx.org

(Denison Development Foundation Letterhead)

April 26, 2004

Brooke Boston, Director
Texas Department of Housing
and Community Affairs
507 Sabine, Suite 400
Austin, Texas 78701

Re: Heritage Park
Denison, Texas

Dear Ms. Boston:

The Denison Development Foundation has made a commitment to award the Housing Associates of Heritage Park, Ltd. a forgivable loan in the amount of \$75,000. This forgivable loan will be issued upon: i) execution of a mutually acceptable agreement; ii) the acceptance of a financial feasibility review by the Denison Development Foundation, and iii) the Texas Department of Housing and Community Affairs awarding tax credits to the Housing Associates of Heritage Park, Ltd.

We fully support the project and look forward to working Housing Associates of Heritage Park, Ltd.

Sincerely,

Denison Development Foundation

By: _____
Ronnie Cole, President

JUN 17 PM 12:58

Housing Associates of Heritage Park, Ltd.

3500 Duval Dr.
Plano, Texas 75025
214.893.4208 * fax 1.775.796.8647

June 17, 2004

Brooke Boston
Director
Texas Department of Housing and Community Affairs
507 Sabine
Suite 400
Austin, Texas 78701

Re: Final Scoring Notice - Revised
Heritage Park - 04028
Denison, Texas

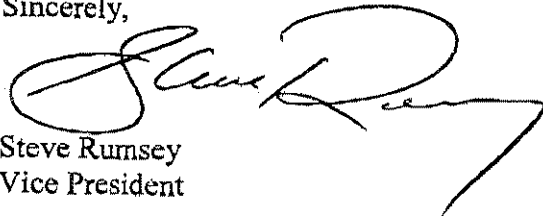
Dear Mrs. Boston,

This letter is in response to the fax received this morning concerning our Final Scoring. Under the "Explanation for Deductions to Points Requested" it states that no documentation for subsidy was received (-10). Thus also making our point total change more than 5 % (-7) and reducing our score to 136 points.

We did however receive this information which was then forwarded to you. I am faxing you a copy of the letter sent by The Denison Industrial Foundation committing the forgivable loan, the print out from UPS with tracking number, and the receipt for payment.

Please call after you a chance to review this fax or if you have any questions. Thank you for your time.

Sincerely,


Steve Rumsey
Vice President

4 PAGES



DENISON

Industrial Foundation

May 4, 2004

Brooke Boston, Director
Texas Department of Housing
and Community Affairs
507 Sabine, Suite 400
Austin, Texas 78701

Re: Heritage Park
Denison, Texas

Dear Ms. Boston:

The Denison Industrial Foundation has made a commitment to award the Housing Associates of Heritage Park, Ltd. a forgivable loan in the amount of \$75,000. This forgivable loan will be issued upon: i) execution of a mutually acceptable agreement; ii) the acceptance of a financial feasibility review by the Denison Industrial Foundation, and iii) the Texas Department of Housing and Community Affairs awarding tax credits to the Housing Associates of Heritage Park, Ltd.

We fully support the project and look forward to working with Housing Associates of Heritage Park, Ltd.

Sincerely,

Denison Industrial Foundation

By: 

Ronnie Cole, President

311 West Woodard Street • Denison, Texas 75020 • (903) 464-0883 • Fax (903) 465-6476



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Delivered on: May 18, 2004 11:03 A.M.
Signed by: MCRAE
Location: MAIL ROOM
Delivered to: AUSTIN, TX, US
Shipped or Billed on: May 18, 2004

Tracking Number: 1Z 6A9 R37 03 9825 715 9
Service Type: GROUND
Weight: .10 Lb

Package Progress:

Date	Time	Location	Activity
May 18, 2004	6:02 P.M.	US	BILLING INFORMATION RECEI
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	7:24 A.M.	AUSTIN, TX, US	OUT FOR DELIVERY
	6:21 A.M.	AUSTIN, TX, US	ARRIVAL SCAN
May 17, 2004	2:44 A.M.	MESQUITE, TX, US	DEPARTURE SCAN
Dec 23, 2003	8:47 P.M.	DENTON, TX, US	ORIGIN SCAN
	3:55 P.M.	BEAUMONT, TX, US	DELIVERY

Tracking results provided by UPS: Jun 17, 2004 1:22 P.M. Eastern Time (USA)

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Shipment
UPS Ground - Commercial
Ship To:

TEXAS DEPT. OF HOUSING COM AFFAIR
507 SABINE SUITE 400
ATTN: BROOKE BOSTON
AUSTIN, TX 78701

Package Id: 66715	5.55
Tracking #: 1ZGA9R370398257159	
Packing Materials	1.25 TX
SUBTOTAL	6.80
TAX:	
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TOTAL	6.90
TEND MCVisa	6.90

STEVE RUMSEY
DARYL A. (121) 05/17/2004
#91139 04:31 PM

FOR TRACKING INFO, PLEASE CALL
UPS 1-800-PICK-UPS
FEDEX 1-800-GO-FEDEX
EXPRESS MAIL 1-800-222-1811

LET US PACK YOUR NEXT SHIPMENT

**EXECUTIVE DIRECTOR'S
ACTION ITEM**

DATE: July 2, 2004

(please highlight if applicable)

RUSH

ITEM: Appeal Response #04028

Staff to Contact: Brooke Boston

Phone No: 5-3296

BACKGROUND: An appeal was received June 18, 2004. In accordance with the Appeals Policy in the QAP, a response from the Executive Director must be provided by today at 5:00 pm.

PROPOSAL: Please review the attached appeal response letter.


ACTION REQUESTED: Please sign this action item and the appeal response letter.

ATTACHMENTS:

- Appeal letter for signature.
- Copy of appeal

APPROVED BY:

N/A
DIVISION DIRECTOR

N/A
CHIEF - AGENCY ADMINISTRATION

DEPUTY EXECUTIVE
DIRECTOR - PROGRAMS

N/A
DIRECTOR OF HOUSING
CENTER


REVIEWING ATTORNEY
7/2
GENERAL COUNSEL

COMMENTS:


EXECUTIVE DIRECTOR

7/2/04
DATE APPROVED

Project # 04188

Ambassador North Apts.

Board Appeal

July 2, 2004

VIA FACSIMILE: (512) 475-0764 & (512) 472-8526

Members of the Board
Texas Department of Housing and Community Affairs
c/o Ms. Delores Croneck
Executive Division Secretary
507 Sabine
Suite 300
Austin, Texas 78701

Re: Application Termination Appeal; TDHCA No. 04188, Ambassador North
Apartments (the "Project"); Our File No. 73028.1

Dear Members of the Board:

This letter constitutes an appeal under § 50.18(b)(4)(B) of the 2004 Qualified Action Plan ("QAP") of the decision of the Department to terminate the Application of Creative Choice Texas I, Ltd. ("Applicant") for the Project. Edwina Carrington, Executive Director, failed to respond to Applicant's letter of appeal (the "Appcal Letter") dated June 18, 2004, within fourteen (14) days of the Appeal Letter, as provided in § 50.18(b)(4) of the QAP. Consequently, Applicant files this appeal with the Board, availing Applicant to the relief provided in § 50.18(b)(4)(B) of the QAP. This appeal is made prior to the third day preceding the Board's meeting scheduled for July 8, 2004 (the "Meeting"), and is therefore timely.

Applicant appeals the Application termination decision on the basis that the Department incorrectly determined that Applicant must comply with the provisions of § 50.3(47)(G) of the QAP regarding the maximum percentage of two-bedroom units in the Project.

The Department claims that the Project may not have two-bedroom units exceeding 45% of the total units due to the Project having "new construction". I respectfully submit to you that the use of the words "new construction" in § 50.3(47)(G) of the QAP is ambiguous at best. This language does not differentiate between a rehabilitation project or a new project. Under the Department's interpretation, the use of the words "new construction" would therefore mean that any rehabilitation project, including a rehabilitation project in which none of the units are being remodeled, that adds one or more units must satisfy the requirements § 50.3(47)(G) of the QAP.

To what end does this interpretation extend? Is "new construction" a new clubhouse or new maintenance facility that is constructed at an existing rehabilitation project? By the Department's interpretation, a developer in this State could not do a rehabilitation project unless the project currently complies with the bedroom mix percentages of § 50.3(47)(G) of the QAP, or unless it is economically feasible for the developer to change the bedroom mix percentages to comply with § 50.3(47)(G). Application of this standard would have a material adverse effect on developers looking at rehabilitation projects, and would not be in the best interest of many of our neighborhoods.

Moreover, I submit to the Board that any construction is "new construction" when it is first done, whether it is with respect to a new building or an existing building. Does the QAP then require every developer of every project, new or rehabilitation, to comply with the provisions of § 50.3(47)(G) of the QAP? I do not think that was intended by the Board, but instead what was intended was for only developments comprised primarily or substantially of new units to comply with the provisions of § 50.3(47)(G) of the QAP.

It is important to advise you that all twenty (20) of the new units to be constructed will be one-bedroom units, which would cause the bedroom mix percentages of the Project to come closer to the standard required by § 50.3(47)(G) of the QAP. Also, this Project helps revitalize the neighborhood, and puts back in service existing units. It is a well known concern of the Board and the Department that too many projects seeking allocations would add units to areas in the State where too many units exist already. This Project is the exception. This Project addresses the Board's and the Department's concerns.

It is also noteworthy to point out that the Project has considerable support from not only the local legislators but also the community. Letters from State Representative Kevin Bailey and State Senator Mario Gallegos, Jr. evidencing their support for the Project were provided to the Executive Director contemporaneous with the Appeal Letter. It is contemplated that members from the community in which the Project is located will be present at the Board Meeting to voice their support of the Project. As the Board is well aware, neighborhood groups typically express their opposition to affordable housing projects. This Project, on the other hand, will only serve to enhance the community in which it is located by rehabilitating an existing dilapidated apartment complex, and it therefore enjoys the support of the community.

I argue that in a situation like this where a project is facing termination if ambiguous language in the QAP is applied, it is good public policy for the Board to resolve the ambiguity in favor of the developer when there is support for the project from the community and the local politicians. As you well know, it is becoming increasingly more difficult for developers to find projects that enjoy support from the community and local governmental officials. It would be unfortunate in this instance for a project that does enjoy such support not to obtain an allocation on the basis of a narrow interpretation of what I believe is ambiguity in the wording of certain provisions of the QAP.

Ms. Delores Cronceck
July 2, 2004
Page 3

Based upon the foregoing, Applicant respectfully requests the Board to reverse the decision of the Department and reinstate the Application.

Although not stated in the letter from the Department dated June 11, 2004 terminating the application of the Applicant (the "Termination Letter"), it is my understanding that the Department has determined that the application should be terminated also on the basis of it violating the provisions of § 50.5(a)(8) of the QAP restricting new Developments (as defined in the QAP) located within one mile from another Development. I do not believe that is correct or that the Project should be terminated on this basis for the following reasons.

First, the Termination Letter did not advise Applicant that one of the bases of the termination of the application was due to the provisions of § 50.3(a)(8) of the QAP, and therefore Applicant did not have an opportunity to fully exercise its appeal rights provided for in § 50.18(b) of the QAP. The Termination Letter states only one basis for the termination and that is the first issue addressed in this letter. I submit that it is inequitable for an applicant to have its application terminated on a basis that is not set forth in the notice from the Department setting forth the basis or bases upon which it determined to terminate the application.

Second, at a workshop held by the Department, Amay Inamdar specifically asked Brooke Boston if a rehabilitation project was required to comply with provisions of § 50.5(8) of the QAP and he was told by Ms. Boston that a rehabilitation project did not have to comply with such provisions. It is Applicant's position that it is unfair and inequitable to terminate an application on a basis in which a member of the Department has expressly told the Applicant something that is contrary to the position being taken by the Department.

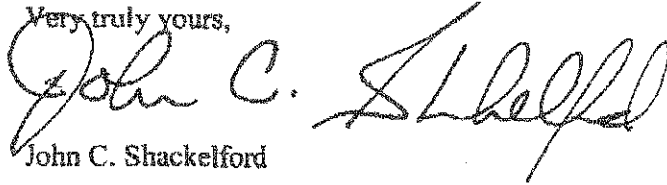
Third, the provisions of § 50.5(a)(8) of the QAP is again ambiguous with respect to a term "new Development". As stated above, the Project does include the construction of twenty (20) new units, which constitutes merely 17.5% of the total units of the Project. I submit that a minimal amount of new units does not cross the threshold of being a "new Development" under § 50.5(a)(8) of the QAP.

What is a "new development?" The QAP does not define it. There is undoubtedly a distinction between "Development" "new Development" one would presume or else the use of the word "new" preceding the word "Development" in § 50.5(a)(8) of the QAP would be meaningless and superfluous. Since "Development" means either new construction or rehabilitation, I think it is reasonable to conclude that a "new Development" for purposes of § 50.5(a)(8) means more than new construction or rehabilitation. It must mean generally a project consisting primarily or substantially of new units. The Project is not primarily or substantially comprised of new units, but instead complies with only 17.5% of new units.

Ms. Delores Croneck
July 2, 2004
Page 4

For these reasons I respectfully submit that § 50.5(a)(8) of the QAP is inapplicable and should not cause the termination of Applicant's application.

Very truly yours,


John C. Shackelford

JCS/sd

cc: Mr. Amay Inamdar

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Executive Director's Response

07180



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July 2, 2004

RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

Amay Inamdar
Creative Choice Texas I, Ltd.
8210 Bauman
Houston, Texas 77022
Telephone: (713) 992-2583
Telecopier: (713) 695-9223

Re: Ambassador North Apartments, TDHCA# 04188

Dear Mr. Inamdar:

Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that we received on June 18, 2004 on the above-referenced development, regarding the eligibility of your application.

The application you submitted is a combination of acquisition, rehabilitation and new construction; the application indicates you are constructing 20 new units. Therefore, since your development involves new construction, this ineligibility standard applies to your proposal. Unfortunately, in your application, you indicated that 53% of the total units would be two bedroom units, which exceeds the permissible limit. In the Deficiency Notice that was provided to you on May 26, 2004, you were informed of this violation, however, you did not choose to remedy this in your deficiency response.

Appeal Determination

Because of the above mentioned reason, the appeal is denied. The application remains terminated.

It should also be noted that this proposed development is located within one mile of a development that has received an allocation of Housing Tax Credits for new construction during the three-year period preceding the date the application round began. Therefore, pursuant to §50.5(a)(8) of the QAP, if the application is reinstated in a future appeal it should be noted that in order to be eligible you may be asked to provide evidence that:

- (i) the Development is using federal HOPE VI funds received from the United States Department of Housing and Urban Development, locally approved funds received from a public improvement district or a tax

Mr. John O. Boyd
July 2, 2004

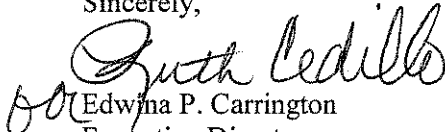
increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act; or funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974; or

(ii) the local government where the Development is to be located has by vote specifically allowed the construction of the Development.

Section 50.18(b)(4) of the 2004 QAP states that if you are not satisfied with this response to your appeal, you may appeal directly in writing to the Board of the Texas Department of Housing and Community Affairs. Please note that an appeal filed with the Board must be received by the Board before the third day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made. To have an appeal considered by the Board at the July 8 Board meeting, the appeal must be received by Delores Groneck, Board Secretary, no later than today. You will be eligible to file an appeal with the Board for the July 28, 2004 Board meeting. To have an appeal considered by the Board at the July 28 Board meeting, the appeal must be received by Delores Groneck, Board Secretary, no later than July 20, although it is strongly encouraged to have the appeal submitted by July 14, 2004.

If you have questions or comments, please call (512) 475-3340.

Sincerely,


Edwina P. Carrington
Executive Director

EPC/BLB/MFMU

 *** TX REPORT ***

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July 2, 2004

.....
 RICK PERRY
 Governor

EDWINA P. CARRINGTON
 Executive Director

BOARD MEMBERS
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 C. Kent Conine
 Vidal Gonzalez
 Patrick R. Gordon
 Norberto Salinas

Amay Inamdar
 Creative Choice Texas I, Ltd.

8210 Bauman
 Houston, Texas 77022
 Telephone: (713) 992-2583
 Telecopier: (713) 695-9223

Re: **Ambassador North Apartments, TDHCA# 04188**

Dear Mr. Inamdar:

Appeal Review

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Appeal Determination

Because of the above mentioned reason, the appeal is denied. The application remains terminated.

Executive Director's Appeal



**SHACKELFORD
MELTON & MCKINLEY**
ATTORNEYS AND COUNSELORS

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

10100 N. CENTRAL EXPRESSWAY, SUITE 600
DALLAS, TEXAS 75231
TEL (972) 490-1400
FAX (972) 490-1650

June 18, 2004

FACSIMILE TRANSMISSION

TO: Ms. Edwina Carrington
FAX NUMBER: (512) 475-0764
FROM: John C. Shackelford
RE: Application Termination Appeal; TDHCA No. 04188, Ambassador North Apartments (the "Project")
CLIENT NO.: 73022.1
NO. OF PAGES: (including cover page) 6

Message:

Please see attached.

IF THIS TRANSMISSION IS INCOMPLETE, PLEASE CALL 972/490-1400

THIS DOCUMENT IS INTENDED ONLY FOR THE ADDRESSEE(S) NAMED ABOVE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. ANY USE, DISSEMINATION OR COPYING OF THIS COMMUNICATION OTHER THAN BY THE ADDRESSEE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT) TO ARRANGE THE RETURN OF THE ORIGINAL FACSIMILE TO US BY MAIL AT OUR EXPENSE. THANK YOU.

June 18, 2004

VIA FACSIMILE: (512) 475-0764

Ms. Edwina Carrington
Executive Director
507 Sabine
Suite 300
Austin, Texas 78701

Re: Application Termination Appeal; TDHCA No. 04188, Ambassador North
Apartments (the "Project"); Our File No. 73022.1

Dear Ms. Carrington:

This letter constitutes an appeal under § 50.18(b) of the 2004 Qualified Action Plan ("QAP") of the decision of the Department to terminate the Application of Creative Choice Texas I, Ltd. ("Applicant") for the Project.

Applicant appeals the Application termination decision on the basis that the Department incorrectly determined that Applicant must comply with the provisions of § 50.3(47)(G) of the QAP regarding the maximum percentage of two bedroom units in the Project.

The Department claims that the Project may not have more than 45% of the total units be two bedroom units due to the Project having "new construction". I respectfully submit to you that the use of the words "new construction" in this section is ambiguous at best. This language does not differentiate between a rehabilitation project or a new project. Under the Department's interpretation, the use of the words "new construction" would therefore mean any project, including a rehabilitation project in which none of the units are being remodeled with respect to the number of bedrooms each unit contains would violate § 50.3(47)(G) of the QAP. To what end does this interpretation extend? Is new construction a new clubhouse or new maintenance facility which is added to an existing project being rehabilitated? By this interpretation, a developer in this state could not do a rehabilitation project unless the building(s) currently complies with the bedroom mix percentages of § 50.3(47)(G) of the QAP, or unless it is economically feasible for the developer to change the bedroom mix percentages to comply with § 50.3(47)(G). Moreover, any construction is new construction when it is first done, whether it

Ms. Edwina Carrington

June 18, 2004

Page 2

is with respect to a new building or an existing building. Does the QAP then require every developer of every project, new or rehabilitation, to comply with the provisions of § 50.3(47)(G) of the QAP? I do not think that was intended by the Department and that what was intended was for only developments comprised primarily or substantially of new units to comply with § 50.3(47)(G) of the QAP. It is important to advise you that all twenty (20) of the new units will be one-bedroom units, which improves the current bedroom mix percentages of the Project. This Project helps revitalize the neighborhood, and puts back in service existing units. It has been a concern of the Board and the Department that too many developments are new projects adding units to areas in the State where too many units already exist. This Project is the exception. This Project addresses the Board's and the Department's concerns.

It is also noteworthy to point out that the Project has considerable support from not only the local legislators but also the community. Enclosed herewith please find letters from State Representative Kevin Bailey and State Senator Mario Gallegos, Jr. evidencing their support for the Project. I would argue that in a situation like this where a project is subject to language in the QAP that is ambiguous, it is good public policy for the Department to resolve the ambiguity in favor of the developer having support for the project from both local politicians and the community. As you well know, it is becoming increasingly more difficult for developers to find projects that enjoy support from the community and local governmental officials. It would be unfortunate in this instance for a project that does enjoy such support not to obtain an allocation on the basis of a narrow interpretation of what I believe is ambiguity in the wording of certain provisions of the QAP.

Based upon the foregoing, Applicant respectfully requests the Executive Director to reverse the decision of the Department and reinstate the Application.

Notwithstanding the foregoing if the Department deems it absolutely certain that the Project is subject to the provisions of Section § 50.3(47)(G), the Applicant requests an opportunity to adjust the unit mix to 51 two-bedroom and 63 one-bedroom units, by further converting 9 existing two-bedroom units to one-bedroom units." Although Applicant thinks its position is justified with respect to the ambiguity of "new construction," Applicant believes strongly in the Project and is willing to make whatever accommodations are required by the Department not to terminate the Application.

Ms. Edwina Carrington
June 18, 2004
Page 3

If you have any questions regarding this letter, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "John C. Shackelford/sd". The signature is written in black ink and is positioned above the typed name.

John C. Shackelford

JCS/sd

Enclosures

cc: Mr. Amay Inamdar

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P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0924
512-475-2387/FAX

REPRESENTATIVE
Kevin Bailey



507 N. SAM HOUSTON PARKWAY EAST,
#310
HOUSTON, TEXAS 77060
281-847-9000
281-869-8374/FAX

COMMITTEES:
Chairman,
GENERAL INVESTIGATING
STATE CULTURAL AND
RECREATIONAL RESOURCES
URBAN AFFAIRS

May 21, 2004

Brooke Boston, Director
Multifamily Finance Production Division
P. O. Box 13941
Austin, TX 78711-3491

Re: Application for Housing Tax Credits for Ambassador North Apartments

Dear Director Boston:

I am writing in support of an application for housing tax credits by Creative Choice Texas for rehabilitation of the Ambassador North Apartment complex at 8210 Bauman in Houston.

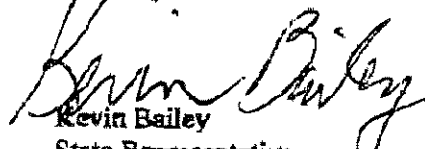
Rehabilitation of existing housing stock in older neighborhoods, rather than new construction, is a priority of the City of Houston as addressed in the City's Annual Consolidated Plan and should be supported by awarding Housing Tax Credits to projects that are consistent with that goal.

The applicant engaged the Northline community early in the planning process. A healthy exchange of ideas took place with the applicant making changes to address concerns of the community. The community now anticipates a positive impact on future economic development by using Housing Tax Credits as a tool in the revitalization of the neighborhood.

The intent of public participation is to create a dialogue with the public, and the community involvement displayed by this developer has contributed significantly to the public image of the Housing Tax Credit program.

Certainly this proposal has the potential of being an example of "Quantifiable Community Participation" at work to produce the best results for everyone.

Sincerely,


Kevin Bailey
State Representative
District 140



PRINTED ON RECYCLED PAPER

TEXAS SENATE

STATE CAPITOL, ROOM E1.804
P.O. Box 12068
AUSTIN, TEXAS 78711
(512) 463-0106
FAX (512) 463-0346
DIAL 711 FOR RELAY CALLS

2205 CLAYTON DRIVE
P.O. BOX 41
GALLERIA PARK, TEXAS 77347
(713) 678-8600
FAX (713) 678-7080



MARIO GALLEGOS, JR.

January 30, 2004

Edwina Carrington
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711

Dear Ms. Carrington:

I would like to voice my whole hearted support for the Ambassador North Apartments tax credit application, located at 8210 Bauman, Houston, in Harris County. The development is located in Senate District 6, the district that I represent, which is in dire need of quality low income housing.

We receive many letters asking us for support to build complexes, but the unique aspect of this project that sets it apart from many others is that it is a rehabilitation of a neglected property. A renovation is good for everyone and does not infringe on a neighborhood, civic club, or community, but instead helps in beautifying the surrounding area.

Creative Choice Homes is expanding the apartment to add 14 more apartments and adding a community center that will offer literacy, GED training, healthcare, and various other resident community activities. Creative Choice Homes is proposing to invest \$15,000 per unit in rehabilitation costs for the apartment complex. There will be a swimming pool, a club house with a rental office, computer room, coin laundry, and library. The apartments will also have large kitchens with appliances and ample storage areas, closets, and bathrooms.

The rehabilitation of a neglected property is not only beneficial for the beautification of an area, but helps in creating temporary jobs through on-site and subcontracted personnel. It will also provide affordable and comfortable residences at nominal rents for working families from various income groups.

This project has my strong support and if you have any questions please feel free to contact my office.

Sincerely,

Mario Gallegos, Jr.



COMMITTEE VICE CHAIR OF JURISPRUDENCE * INTERGOVERNMENTAL RELATIONS * HEALTH & HUMAN SERVICES
DISTRICT 6

P.O. BOX 2910
AUSTIN, TEXAS 78766-2910
512-463-0924
512-475-2387/FAX

REPRESENTATIVE
Kevin Bailey



507 N. SAM HOUSTON PARKWAY EAST.
#310
HOUSTON, TEXAS 77060
281-847-9000
281-999-8374/FAX

Texas House of Representatives

COMMITTEES:
Chairman,
GENERAL INVESTIGATING
STATE CULTURAL AND
RECREATIONAL RESOURCES
URBAN AFFAIRS

June 15, 2004

Edwina Carrington, Executive Director
Texas Dept. of Housing & Community Affairs
P. O. Box 13941
Austin, TX 78711-3941

Re: Application for Housing Tax Credits for Ambassador North Apartments

Dear Ms. Carrington:

I am writing in regard to the application for housing tax credits by Creative Choice Texas for rehabilitation of the Ambassador North Apartment complex at 8210 Bauman in Houston.

Rehabilitation of aging apartment complexes is rare. Yet if we are going to reverse blight in my district and have a coherent plan for sustainable economic development we must have rehabilitation of existing aging complexes. If continual new construction of HTC properties are allowed without consideration of stimulating rehabilitation of existing units, we will have a growing list of deteriorating slums.

This applicant moved aggressively to reduce crime at the complex and stabilize the deteriorating structures. They reached out to the community and elected officials with a positive vision of promise for restoration of an old deteriorating property. This is rare in my district.

The plan for an economic rebirth captured the imagination of the community. Long time residents seeing the obvious changes brought about by Creative Choice in addressing criminal activity at the complex have begun to believe that a new day is at hand. They are optimistic that there will be a return to the prosperous days of years ago in this now blighted community.

It would be a shame to lose this opportunity to stimulate economic renewal in our community.

Therefore, I ask that you consider the detailed response provided by John Shackelford, attorney for Creative Choice, that addresses the issue of eligibility of the complex as a rehabilitation project. I urge you to consider it good public policy for the department to encourage rehabilitation projects in aging communities and resolve the issue in a manner that is favorable to the developer.

Sincerely,

Kevin Bailey

Kevin Bailey
State Representative
District 140



PRINTED ON RECYCLED PAPER



Kevin Bailey
Texas House of Representatives :
District 140 • Fax (512) 475-2387

Facsimile Cover Sheet

To: Ms. Brooke Boston

Phone Number: 512-475-3800

Fax Number: 512-475-0764

From: Bob Cash

Sender's Phone: 512-463-0924

Pages to Follow (including cover sheet):

Message:



Amay 12:45PM 0121107

**Texas Department of Housing and Community Affairs
Housing Tax Credit Program
2004 Application Deficiency Notice**

Deficiency Notice Date: 6/17/2004

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA FACSIMILE**

Appeal 7

Amay Inamdar
8210 Bauman
Houston, Texas 77022
Phone: (713) 992-2583 Fax: (713) 695-9223

*Will talk to
BROOKE about
appeal*

Due Tuesday, June 29th

Regarding: TDCHA Number 04188, Ambassador North Apartments

In the course of the Department's review of the above referenced application, an Administrative Deficiency, as defined in §50.3(1) of the 2004 Qualified Allocation Plan and Rules, has been identified. Per §50.3(1), an Administrative Deficiency is defined as: "The absence of information or a document from the Application which is important to a review and scoring of the Application and is required under §§50.8(d) and 50.9(e),(f) and (g) of this title." By this notice, the Department is requesting documentation to correct the following deficiency or deficiencies:

I. The following Administrative Deficiencies were found in your Threshold Criteria documentation. Threshold Administrative Deficiencies will be handled as described in Section III below.

Issue 1 Threshold: The proposed development is located within one mile of a development that has received an allocation of Housing Tax Credits for new construction during the three-year period preceding the date the application round began. Therefore, in order to be eligible you must provide evidence that:

- (i) the Development is using federal HOPE VI funds received from the United States Department of Housing and Urban Development, locally approved funds received from a public improvement district or a tax increment financing district; funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act; or funds provided to the state and participating jurisdictions under the Housing and Community Development Act of 1974; or
- (ii) the local government where the Development is located where the Development is to be located has by vote specifically allowed the construction of the Development.

II. The following Administrative Deficiencies were found in your Selection Criteria documentation. Selection Administrative Deficiencies will be handled as described in Section III below.

Issue 1 Selection:

III. Per §50.9(d)(3), "If an Application contains deficiencies which, in the determination of the Department staff, require clarification or correction of information submitted at the time of the Application, the Department staff may request clarification or correction of such Administrative Deficiencies. The Department staff may request clarification or correction in a deficiency notice in the form of a facsimile and a telephone call to the Applicant advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within eight business days of the deficiency notice date, then five points shall be deducted from the Selection Criteria score for each additional day the deficiency remains unresolved. If deficiencies are not clarified or corrected within ten business days from the deficiency notice date, then the Application shall be terminated. The time period for responding to a deficiency notice begins at the start of the business day following the deficiency notice date. Deficiency notices may be sent to an Applicant prior to or after the end of the Application Acceptance Period." Unless otherwise noted within this deficiency, the Department must receive the requested documentation by 5:00 p.m. CST or the documentation will be deemed to have been received the following day.



**Texas Department of Housing and Community Affairs
Housing Tax Credit Program
2004 Application Deficiency Notice**

All documentation should be sent to the attention of the staff member issuing this notice at:

TDHCA HTC Program

Via U.S. Mail: P.O. Box 13941, Austin, Texas 78711-3941.

Via express delivery/private courier: 507 Sabine, Suite 300, Austin, TX 78701.

Only documents less than 10 pages in length may be faxed to: 512.475.0764.

Sincerely,

A handwritten signature in cursive script that reads "Emily Price".

Emily Price

Phone Number: (512) 475-3061

*** TX REPORT ***

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**Texas Department of Housing and Community Affairs
Housing Tax Credit Program
2004 Application Deficiency Notice**

Deficiency Notice Date: 6/17/2004

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA FACSIMILE**

Amay Inamdar
8210 Bauman
Houston, Texas 77022
Phone: (713) 992-2583 Fax: (713) 695-9223

Regarding: TDCHA Number 04188, Ambassador North Apartments

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Issue 1 Selection:

**EXECUTIVE DIRECTOR'S
ACTION ITEM**

DATE: July 2, 2004

(please highlight if applicable)

RUSH

ITEM: Appeal Response #04188

Staff to Contact: Brooke Boston

Phone No: 5-3296

BACKGROUND: An appeal was received June 18, 2004. In accordance with the Appeals Policy in the QAP, a response from the Executive Director must be provided by today at 5:00 pm.

PROPOSAL: Please review the attached appeal response letter.

ACTION REQUESTED: Please sign this action item and the appeal response letter.

ATTACHMENTS:

- Appeal letter for signature.
- Copy of appeal

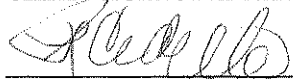
APPROVED BY:

N/A

DIVISION DIRECTOR

N/A

CHIEF - AGENCY ADMINISTRATION



DEPUTY EXECUTIVE
DIRECTOR - PROGRAMS

N/A

DIRECTOR OF HOUSING
CENTER

COMMENTS:



REVIEWING ATTORNEY

7/2

GENERAL COUNSEL



EXECUTIVE DIRECTOR

7/2/04

DATE APPROVED

Board Appeal

DIANA MCIVER & ASSOCIATES, INC.

5121 BEE CAVES ROAD, STE 201 AUSTIN, TEXAS 78746 TEL 512.328.3232 FAX 512.328.4584

DMA
RECEIVED

JUL 5 2004

EXECUTIVE

VIA FACSIMILE AND REGULAR MAIL

July 2, 2004

Beth Anderson, Chair
Texas Department of Housing and Community Affairs
507 Sabine Street, Suite 600
Austin, Texas 78711-3941

Re: Las Villas De Magnolia
TDHCA #04214

Dear Ms. Anderson:

The applicant, AAMA Community Development Corporation, received a call from Eric Clemens of TDHCA today, indicating that the appeal submitted on June 23, 2004 was denied by Edwina Carrington.


By way of history, the appeal concerned the summary of score issued by TDHCA on June 17, 2004, which indicated that the application received 118 total points after 8 points were deducted because the evidence of funding from the City of Houston Housing & Community Development Department indicated that the loan must be repaid. Due to this 8 points deduction, the application lost an additional 7 points because the final score varied by more than 5% from the pre-application score.

Pursuant to Section 50.18(b)(1)(B) and on behalf of our client, AAMA Community Development Corporation, we respectfully appeal this matter to the Board of Directors. It is our position TDHCA should not have deducted eight points because the loan commitment from the City of Houston's Housing & Community Affairs Department is, in fact, for a forgivable loan. Daisy Steiner, Director the City of Houston's Housing & Community Affairs Department, sent a letter to TDHCA on June 17th further explaining that the City's intent was for these loans to be forgivable, and offering further clarification that the commitments allow for both principal and interest to be forgiven in the event of insufficient cash flow. Ms. Steiner specifically asked that these points be restored to all seven applications that relied on the original City of Houston's commitment for funding, including this application submitted by AAMA Community Development Corporation.

Based on the foregoing, we respectfully request that the score be revised to reinstate these eight points. Additionally, we request reinstatement of the seven additional points lost because this application's final score varied more than 5% from its pre-application score. Should this appeal, as well as our other appeal for six points dated June 30, 2004, be granted, the final score of this application should be a 138.

Sincerely,

DIANA MCIVER & ASSOCIATES, INC.


Janine Sisak

Associate General Counsel

Cc: Rogelio Santos, AAMA Community Development Corporation

Executive Director's Response

07/21/04



WWW.TDHCA.STATE.TX.US

July 2, 2004

RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

Rogelio Santos
Las Villas De Magnolia, L.P.
4600 Gulf Freeway, Suite M-170
Houston, TX 77023
Telephone: (713) 923-5433
Fax: (713) 923-5394

**Re: Response to appeal received June 18, 2004
Las Villas de Magnolia TDHCA Project No. 04214**

Dear Mr. Santos:

Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that we received from Daisy A. Stiner on June 18, 2004 on the above-referenced development, regarding the eligibility of your application to receive points under §50.9(g)(13) of the 2004 Qualified Allocation Plan (QAP), Low Income Targeting, for leveraging funds from the City of Houston.

The simple language and intent of the leveraging scoring criteria and low income targeting scoring criteria states that the funding must be in the form of a grant or forgivable loan. The cash flow loans as proposed require repayment of the loan if cash flow is available. The projections by the applicant included significant cash flow potential which would include some ability to repay the loans.

Appeal Determination

Because of the above-mentioned reason, the appeal is denied.


Section 50.18(b)(4) of the 2004 QAP states that if you are not satisfied with this response to your appeal, you may appeal directly in writing to the Board of the Texas Department of Housing and Community Affairs. Please note that an appeal filed with the Board must be received by the Board before the third day preceding the date of the Board meeting at which the relevant commitment decision is expected to be made. To have an appeal considered by the Board at the July 8 Board meeting, the appeal must be received by Delores Groneck, Board Secretary, no later than today. You will be eligible to file an appeal with the Board for the July 28, 2004 Board meeting. To have an appeal considered by the Board at the July 28 Board meeting, the appeal must be

Mr. Santos
July 2, 2004

received by Delores Groneck, Board Secretary, no later than July 20, although it is strongly encouraged to have the appeal submitted by July 14, 2004.

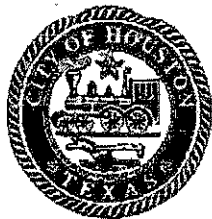
If you have questions or comments, please call (512) 475-3340.

Sincerely,


for Edwina P. Carrington
Executive Director

EPC/BLB/MFMU

Executive Director's Appeal



CITY OF HOUSTON

Housing & Community Development
Department

Bill White

Mayor

Dasy A. Stiner
Director
Housing & Community
Development Department
601 Sawyer Street, 4th Floor
Houston, Texas 77007

T. 713.868.8305
F. 713.865.4135
www.cityofhouston.gov

June 17, 2004

Ms. Edwina Carrington, Executive Director
Texas Department of Housing and Community Affairs (TDHCA)
P. O. Box 13941
Austin, Texas 78711

Re: 2004 Housing Tax Credit Applications
City of Houston Commitment Letters for Subsidy for TDHCA Number(s): 04024;
04041; 04085; 04214; 04224; ~~04267~~; 04268

Dear Ms. Carrington:

The City of Houston Housing and Community Development Department ("the City") has been apprised that TDHCA has denied scoring points to applications for which the City has issued commitment letters for subsidy funding. The denial was based on some confusion as to whether the City's commitment letters to the above referenced seven (7) applicants were in the form of a grant or forgivable loan pursuant to TDHCA's Qualified Allocation Plan (QAP).

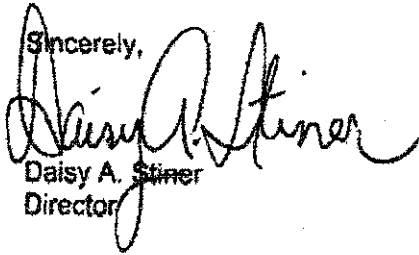
The City's intent was for these loans to be forgivable. The City's loan commitments allow for both principal and interest to be forgivable, and deem the loan paid if there is insufficient net cash flow. We regret that the language in the City's commitment letters confused the reviewers; however the City is committed to providing the subsidy as stated in its commitment letters.

We hope that this clarification is sufficient for your purposes, and that the points will be restored to the referenced applications from the City of Houston. I regret that we did not have an opportunity to address this point beforehand; however, the City stands ready to issue any additional clarifying language that TDHCA might still require beyond this letter.

The City of Houston has an incredible need for affordable housing and therefore welcomed the opportunity to participate in these seven (7) projects. Our subsidy could potentially leverage these 700+ units of affordable housing for Houston's low-income citizens, including units for tenants at 30% of AMGI which would be lost if these points are denied. We look forward to continuing to be a partner with the state in the development of quality affordable housing in Houston.

Thank you for your favorable consideration of this clarification. Please call me at 713-868-8305 to discuss anything that you might require to further validate the City's intent regarding these transactions.

Sincerely,



Daisy A. Stiner
Director

:ds

- cc: Mayor Bill White, Mayor, City of Houston
- TDHCA Board of Directors
- John Barineau, III
- Sally Gaskin
- Rick Deyoe
- Rogelio Santos
- Deepak Sulakhe
- Angie Stahl
- Margie Bingham

**EXECUTIVE DIRECTOR'S
ACTION ITEM**

DATE: July 2, 2004

(please highlight if applicable)

RUSH

ITEM: Appeal Response #04214

Staff to Contact: Brooke Boston

Phone No: 5-3296

BACKGROUND: An appeal was received June 18, 2004. In accordance with the Appeals Policy in the QAP, a response from the Executive Director must be provided by today at 5:00 pm.

PROPOSAL: Please review the attached appeal response letter.

ACTION REQUESTED: Please sign this action item and the appeal response letter.


ATTACHMENTS:

- Appeal letter for signature.
- Copy of appeal

APPROVED BY:

N/A
DIVISION DIRECTOR

N/A
CHIEF - AGENCY ADMINISTRATION


DEPUTY EXECUTIVE
DIRECTOR - PROGRAMS

N/A
DIRECTOR OF HOUSING
CENTER

7
REVIEWING ATTORNEY

 7/2
GENERAL COUNSEL


EXECUTIVE DIRECTOR

7/2/04
DATE APPROVED

COMMENTS:

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2326
CONNECTION TEL 97139235394
CONNECTION ID
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WWW.TDHCA.STATE.TX.US

July 2, 2004

.....
RICK PERRY
Governor

Rogelio Santos
Las Villas De Magnolia, L.P.
4600 Gulf Freeway, Suite M-170
Houston, TX 77023
Telephone: (713) 923-5433
Fax: (713) 923-5394

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
C. Kent Corine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

**Re: Response to appeal received June 18, 2004
Las Villas de Magnolia TDHCA Project No. 04214**

Dear Mr. Santos:

Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that we received from Daisy A. Stiner on June 18, 2004 on the above-referenced development, regarding the eligibility of your application to receive points under §50.9(g)(13) of the 2004 Qualified Allocation Plan (QAP), Low Income Targeting, for leveraging funds from the City of Houston.

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Appeal Determination

Because of the above-mentioned reason, the appeal is denied.

Project # 04224

Commons of Grace Senior

Board Appeal

TX Commons of Grace Housing, L.P.

July 2, 2004

Ms. Brooke Boston
Director, Multi-Family Finance Production Division
Texas Department of Housing and Community Affairs
507 Sabine, 4th Floor
Austin, Texas

RE: 2004 HTC Application for Commons of Grace Senior,
TDHCA #04224

Dear Ms. Boston:

As per my conversation this afternoon with Jennifer Joyce, it has been brought to my attention that the appeal for the nine points for *Subsidy Requirements* for the above mentioned application has been denied.

We have respectfully requested that the nine points be reinstated for the *Subsidy Requirement*. In addition, we have also requested that the seven points deducted for varying by more than 5% from the pre-application be reinstated, as this variance in points is only due to the aforementioned deduction of nine points.

Please let this letter serve as our notice of intent to appeal to the Board at the July 8, 2004, TDHCA meeting.

Thank you for your consideration, and if you have any questions, please feel free to contact me at 214.891.7839.

Sincerely,

David Krukiel

ES: //David Krukiel//
Development Associate

(//: Electronically Signed)

Executive Director's Response

07/11/04



WWW.TDHCA.STATE.TX.US

July 2, 2004

.....
RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
Elizabeth Anderson, Chair
Shadrick Bogany
C. Kent Conine
Vidal Gonzalez
Patrick R. Gordon
Norberto Salinas

Deepak Sulakhe
Commons of Grace Housing, L.L.P.
5910 North Central Expressway, Ste. 1145
Dallas, TX 75206
Telephone: (214) 891-1402
Fax: (214) 987-4032

**Re: Response to appeal received June 18, 2004
Commons of Grace TDHCA Project No. 04224**

Dear Mr. Sulakhe:

Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that we received from Daisy A. Stiner on June 18, 2004 on the above-referenced development, regarding the eligibility of your application to receive points under §50.9(g)(13) of the 2004 Qualified Allocation Plan (QAP), Low Income Targeting, for leveraging funds from the City of Houston.

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Mr. Deepak Sulakhe
July 2, 2004

received by Delores Groneck, Board Secretary, no later than July 20, although it is strongly encouraged to have the appeal submitted by July 14, 2004.

If you have questions or comments, please call (512) 475-3340.

Sincerely,


for Edwina P. Carrington
Executive Director

EPC/BLB/MFMU

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2329
CONNECTION TEL 92149874032
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WWW.TDHCA.STATE.TX.US

July 2, 2004

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RICK PERRY
Governor

EDWINA P. CARRINGTON
Executive Director

BOARD MEMBERS
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Vidal Gonzalez
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Deepak Sulakhe
Commons of Grace Housing, L.L.P.
5910 North Central Expressway, Ste. 1145
Dallas, TX 75206
Telephone: (214) 891-1402
Fax: (214) 987-4032

Re: Response to appeal received June 18, 2004
Commons of Grace TDHCA Project No. 04224

Dear Mr. Sulakhe:

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Executive Director's Appeal

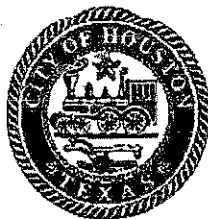
Housing & Community Development
Department
661 Sawyer - 4th Floor
Houston, Texas 77007

Office: (713) 868-8305
Fax: (713) 865-4135

facsimile transmittal

To:	Delores Groeneck	Fax:	(512) 472-8526
From:	Daisy A. Stiner	Date:	6/18/04
Re:	2004 Tax Credit Application City of Houston Commitment Letters for Subsidy	Pages:	3
CC:			
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle			

RECEIVED
JUN 18 2004
EXECUTIVE



CITY OF HOUSTON

Housing & Community Development
Department

Bill White

Mayor

Daisy A. Striner
Director
Housing & Community
Development Department
601 Sawyer Street, 4th Floor
Houston, Texas 77007

T. 713.868.8305
F. 713.865.6135
www.cityofhouston.gov

June 17, 2004

Ms. Edwina Carrington, Executive Director
Texas Department of Housing and Community Affairs (TDHCA)
P. O. Box 13941
Austin, Texas 78711

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City of Houston Commitment Letters for Subsidy for TDHCA Number(s): 04024;
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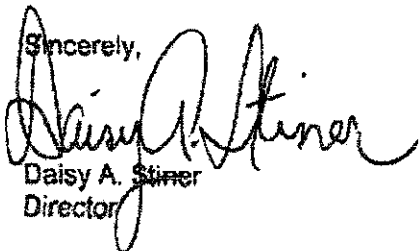
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Sincerely,



Daisy A. Stiner
Director

:ds

cc: Mayor Bill White, Mayor, City of Houston
TDHCA Board of Directors
John Barineau, III
Sally Gaskin
Rick Deyoe
Rogelio Santos
Deepak Sulakhe
Angie Stahl
Margie Bingham