

## **Order of Presentation of Appeals By Category: June 9, 2006**

### **QCP- On Record with the County or State Appeals**

1. 060042- Country Lane Seniors
2. 060244- Waco River Park

### **QCP- Boundary Appeals**

3. 060224-Notting Hill Gate

### **QCP – Resident Council Appeals**

4. 060143- Sun Valley Homes
5. 060144- Centerpoint Home Ownership
6. 060147- Orchard Valley Homes
7. 060117- Mesquite Terrace
8. 060118- Sunset Haven

### **QCP- Property Owners Association Appeals**

9. 060110- Evergreen at Farmer's Branch
- 10.060170- Orchard Park at Willowbrook

### **Scoring Appeal**

- 11.060219- Providence Estates
- 12.060138- Residences at Eastland

### **Termination Appeal**

- 13.060234- Alamito Place
- 14.060242- Pear Orchard
- 15.060088- Red Oak II

**060042**

**Country Lane Seniors**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Country Lane Seniors- Waxahachie Community- 060042**

By April 3, 2006, the Department received a letter from the Bullard Heights Neighborhood Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) which outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and the application was awarded a score of 12. Note that scores range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On April 13, 2006 the Department issued a deficiency notice to the contact for the Bullard Heights Neighborhood Association requesting proof that the organization was on record with the county or state as of March 1, 2006 as required by §2306.5710, Texas Government Code. The association was unable to provide the evidence and instead submitted a certification that a request to TDHCA to become on record with the state was made on February 24, 2006. The Department did receive the letter dated February 24, 2006 requesting to be on record with the Department, but not until March 30, 2006, as part of the QCP package. The Department has spoken with the contact for this organization numerous times and she has confirmed that there is no possible proof of delivery. She has also confirmed that the organization is not on record with the county or state in any other way. The statutory requirement for county or state registration has not been met.

The applicant is appealing the eligibility of the letter based on three assertions. (1) The applicant asserts that the requirement that the neighborhood organization be on record as of March 1, 2006 is a requirement of the QAP, not of Section 2306.6710. The applicant asserts that Section 2306.6710 does not specify a filing deadline by which the neighborhood organization must request to become on record with the state or county, therefore the March 1, 2006 QAP filing deadline is not supported by statute. (2) The applicant asserts that proof of delivery of the request to become on record is not required by the QAP or the Quantifiable Community Participation Packet for Neighborhood Organizations. (3) The applicant asserts that the development is in line with the City of Waxahachie's goals as evidenced by the City Council's decision to locate a proposed senior citizens center near the proposed development.

The applicant appealed the eligibility of the letter by asserting that because the requirement that the neighborhood organization be on record as of March 1, 2006 is not a requirement of §2306.6710, the letter should be eligible. It is also asserted that proof of delivery of the request to become on record is not required by the QAP or the QCP Packet for Neighborhood Organizations.

QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the QAP because the neighborhood organization was not on record by March 1, 2006. The required proof of delivery was merely a deficiency request which provided the neighborhood organization the opportunity to prove that they did indeed meet the requirement.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

While staff understands that the development is in line with the City of Waxahachie's goals as evidenced by the City Council's decision to locate a proposed senior citizens center near the proposed development, this QCP letter does not meet the requirements of §50.9(i)(2)(A)(v) of the QAP and is therefore ineligible.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Two Country Lane - Waxahachie, Ltd.
Site Location:	425 ft. from the E. side of U.S. Hwy. 77, south of downtown, and east of Exit 399 on I-35E
City/County:	Waxahachie/ Ellis County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Elderly
Region:	3

Type of Development: New Construction  
Units: 102  
Credits Requested: \$954,136

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

## Boundaries and Deadlines

### §50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;

(iv) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents). "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."

(v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. ... If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"... the organization will not be considered on record with the state... As an option to be considered on record with the state... must be received by the Department no later than March 1, 2006...

(vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).

(vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...

(viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.

(ix) The boundaries in effect for the organization on March 1, 2006. Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...

(x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.

(ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

- (iii) In general, letters that meet the requirements of this paragraph and
  - (I) establish three or more reasons for support...(+24 points) or opposition (zero);
  - (II) establish two reasons...+18 points for support...
  - (III) establish one reason for support ... +13 points for support...;
  - (IV) that do not establish a reason...neutral (+12 points).

(iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.

# Board Appeal

KENNETH H. MITCHELL, P.C.  
CERTIFIED PUBLIC ACCOUNTANT  
1005 SHADY RIVER COURT NORTH  
BENBROOK, TEXAS 76126-2915

(817) 249-6886

FAX (817) 249-1010

May 29, 2006

Board Members  
Texas Department of Housing and Community Affairs  
Attention: Ms. Jennifer Joyce  
Multifamily Program Administrator  
P.O. Box 13941  
Austin, TX 78711-3941

RECEIVED  
MAY 30 2006  
LHHC

Dear Board Members:

The purpose of this letter is to appeal the score as stated in the Final Scoring Notice dated May 15, 2006 for Country Lane Seniors-Waxahachie Community (#060042) in accordance with Section 50.17(b) of the 2006 QAP.

This is an unusual appeal because I agree that the TDHCA staff does not have the authority in the QAP to approve the first appeal filed with the Department. I appreciate the time that the staff has given to address this situation and work with the neighborhood association.

Country Lane Seniors-Waxahachie Community (the "Development") is located within the boundaries of the Bullard Heights Neighborhood Association ("Bullard Heights") in Waxahachie, and is supported by this neighborhood association. Bullard Heights sent a letter dated February 24, 2006 to the Department to be placed "on record" with the state.

In a letter dated May 15<sup>th</sup> to Bullard Heights, the Department stated that the "on record" letter dated February 24<sup>th</sup> was not received by the Department by March 1<sup>st</sup> and therefore Bullard Heights was not considered on record with the state. Unfortunately, we believe that the on record letter for Bullard Heights was lost in the mail.

I discussed this situation with Ms. Sandra Wilkinson, the chairwoman of Bullard Heights. She stated that she followed the instructions in the Department's Neighborhood Association Packet in preparing and transmitting the on record letter. The Neighborhood Packet contains a sample of the on record letter. See Exhibit "A". The sample letter states that an approved method for transmitting the on record letter is "For Regular Mail Delivery" by giving the regular mail delivery address for the Department. Ms. Wilkinson sent the on record letter on February 24<sup>th</sup> by regular mail.

In the letter to Ms. Wilkinson dated May 15<sup>th</sup> (Exhibit "B"), the Department requested evidence of "proof of delivery." It is impossible for Ms. Wilkinson to produce "proof of delivery" since no one receives "proof of delivery" using regular mail. If you follow the Department's instructions of using regular mail, you will not receive proof of delivery. In addition, Ms. Wilkinson stated that she did not see any requirement in the Neighborhood Association Packet where "proof of delivery" was required. If this requirement had been stated in the Neighborhood Packet, Ms. Wilkinson would have sent the letter in a manner to receive proof of delivery.

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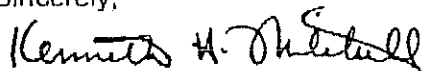
Attached as Exhibit "C" is a copy of the on record letter submitted by Bullard Heights that was lost in the mail.

The on record letter was submitted again as an attachment to the supporting letter (Exhibit "D") and was received by the Department on March 30<sup>th</sup>, although past the March 1<sup>st</sup> deadline in the QAP. However, since Ms. Wilkinson followed the instructions in the Neighborhood Packet, we request that the Board accept the Bullard Heights on record letter, although 29 days late, and count the supporting letter in the score of the project.

If the supporting letter from Bullard Heights is counted in the score of the Development, this project should have the second highest score in Region 3. Without the points for the supporting letter from Bullard Heights, the Development may have a score that is too low for approval.

Waxahachie has never had an affordable senior citizens project in previous years. In the event that I am not successful in obtaining an allocation this year, I would like to file again next year. Thank you for your consideration of this project.

Sincerely,



Kenneth H. Mitchell  
Applicant

KHM/khm  
Enclosure

cc: Ms. Sandra Wilkinson, Bullard Heights Neighborhood Association

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**SAMPLE OPTIONAL TEMPLATE FOR NEIGHBORHOOD ORGANIZATIONS TO  
BECOME ON RECORD WITH TDHCA**

(Use Your Organization's Letterhead if Available)

(All blanks - shown in parentheses and underlined - should be accurately filled in and all referenced attachments submitted)

( [For Regular Mail Delivery] ) ←

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
P.O. Box 13941 (MC 332-10)  
Austin TX 78711-3941

[OR For Overnight or Courier Delivery]

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin TX 78701-2410

Re: Recording of Neighborhood Organization

I am writing to request that my neighborhood organization, (Provide neighborhood organization's name here) (the organization), be registered with the Texas Department of Housing and Community Affairs for the purposes of Quantifiable Community Participation, §50.9(i)(2), Texas Administrative Code.

As required, following is a list of the names and positions for each of the organization's officers.

(Position of Officer In Organization: Name of Individual in the Position)

(Position of Officer In Organization: Name of Individual in the Position)

[Repeat as necessary to identify all officers]

The boundaries of this organization are (state the boundaries of the organization). Enclosed is documentation that establishes the organization's boundaries. Enclosed is a map with the geographic boundaries for the organization clearly marked.

Sincerely,

(Contact Name)

(Contact's Mailing Address)

(Contact's Phone Number)

(Contact's Email Address or Facsimile Number)

Attachments:

(List all Attachments Provided - Below is Just a Sample of Documents to be Provided)

Map of Organization's Boundaries

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**EXHIBIT "B"**  
Appeal #060042



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 15, 2006

Sande Wilkinson  
Chairman of the Board  
Bullard Heights Neighborhood Association  
701 South Rogers  
Waxahachie, Texas 75165  
Fax: (972) 923-2767  
Email: sandewilkinson@sbcglobal.net cpatterson75208@yahoo.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Country Lane Seniors - Waxahachie Community, # 060042

Dear Sande Wilkinson:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On April 13, 2006 the Department issued a deficiency notice to the contact for the Bullard Heights Neighborhood Association requesting proof that the organization was on record with the county or state as of March 1, 2006 as required by §2306.5710, Texas Government Code. The association was unable to provide the evidence and instead submitted a certification that a request to TDHCA to become on record with the state was made on February 24, 2006. The Department did receive the letter dated February 24, 2006 requesting to be on record with the Department, but not until March 30, 2006. The Department has spoken with the contact for this organization numerous times and she has confirmed that there is no possible proof of delivery. She has also confirmed that the organization is not on record with the county or state in any other way. The statutory requirement for county or state registration has not been met.



Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

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Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

EXHIBIT "C"

Appeal #060042

Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188

BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION

February 24, 2006

Letter lost in Mail

Due March 1st

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Recording of Neighborhood Organization

I am writing to request that my neighborhood organization, *Bullard Heights Neighborhood Association* (the organization), be registered with the Texas Department of Housing and Community Affairs for the purposes of Quantifiable Community Participation, §50.9(i)(2), Texas Administrative Code.

As required, following is a list of the names and positions for each of the organization's officers.

- Chairman Sandra Wilkinson,
- Vice-Chairman Hugh Lane Chambers,
- Secretary Sue Hall

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is a map with the geographic boundaries for the organization clearly marked.

Sincerely,

Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188  
(972)923-2767-Fax

Attachments: *Map of Organization's Boundaries*

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*Bullard Heights Neighborhood Association**Chairman, Sande Wilkinson 972-938-3188**Secretary, Hugh Hall 972-935-9850**Vice chair, Hugh Lane Chambers 972-937-8614**Co-secretary, Vicki Sigler 972-937-4966*

March 29, 2006

Letter of Support

Ms. Edwina Carrington  
Executive Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

Re: Quantifiable Community Participation  
Development #: 060042  
Development: Country Lane Seniors-Waxahachie Community  
Development Location: East side of U.S. Highway 77, Waxahachie, Texas

As the chairman of the board of Bullard Heights Neighborhood Association, I am writing to provide the organization's support for the above-referenced development which is located on the east side of U.S. Highway 77, Waxahachie, Ellis County, Texas. Bullard Heights is a qualified Neighborhood Organization as further described below.

As the signer of this letter, I am providing the following required information:

Sande Wilkinson  
701 S. Rogers, Waxahachie, TX 75165  
972-938-3188  
[SandeWilkinson@sbcglobal.net](mailto:SandeWilkinson@sbcglobal.net) 972-923-2767 FAX

I am also providing the following information for one additional contact, Hugh Lane Chambers, for our organization:

Hugh Lane Chambers  
711 South College St., Waxahachie, TX 75165  
972-937-8614

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is documentation that establishes the organization's boundaries. The proposed development is within those boundaries. Enclosed is a map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries.

## *Bullard Heights Neighborhood Association*

*Chairman, Sande Wilkinson 972-933-3158*  
*Secretary, Hugh Heall 972-935-9850*

*Vice chair, Hugh Lane Chambers 972-937-8614*  
*Co-secretary, Vicki Sigler 972-937-4966*

This organization is an organization of persons living near one another within the organization's defined boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are our bylaws created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization. The organization has fifty members and four officers. The organization reached its decision to support the proposed development by a neighborhood organization meeting on February 7, 2006. The developer provided a full presentation of his proposed Senior Citizen Community. The members later decided to support the project.

This organization is:

On record, as of March 1, 2006, with the Texas Department of Housing and Community Affairs as permitted by the Qualified Allocation Plan and Rules.

This organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round. The organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA" Information Packet for Neighborhoods' to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance). The Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter).

The organization supports the proposed development for the following reasons:

1. Affordable housing is needed for senior citizens in the neighborhood.
2. There is a possibility that the new senior citizens center to be constructed in Waxahachie could be located by the development.
3. Developer has a successful track record of development.
4. At least 7% of the units are designed for residents with disabilities.
5. The developer has worked closely with our organization in developing this development.
6. The supportive services and senior oriented programs available at no additional cost to the residents allow the seniors to grow and remain independent as long as possible.

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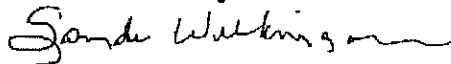
# Bullard Heights Neighborhood Association

Chairman, Sande Wilkinson 972-938-3188  
Secretary, Hugh Hall 972-935-9850

Vice Chair, Hugh Lantz Chambers 972-937-8614  
Co-secretary, Vicky Sigler 972-937-4966

- 7. Affordable rents will help seniors in a time of rising doctor bills, utility costs, and prescription drug costs.
- 8. The developer contacted our organization and included our ideas and input in the development of this development.
- 9. The development is a mixed income development and provides housing for senior citizens at all levels of income.
- 10. The development will provide new jobs for local residents.
- 11. The development will pay real property taxes and therefore contribute funds for the school system.

Sincerely,



Sande Wilkinson  
Chairman of the Board

Attachments:

*Map of Organization's Boundaries showing Development Site  
Documentation for Being on Record with the County or State  
Bylaws*

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*Sandra Wilkinson*  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

February 24, 2006

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Recording of Neighborhood Organization

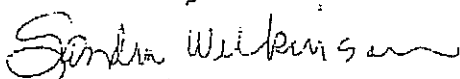
I am writing to request that my neighborhood organization, *Bullard Heights Neighborhood Association* (the organization), be registered with the Texas Department of Housing and Community Affairs for the purposes of Quantifiable Community Participation, §50.9(i)(2), Texas Administrative Code.

As required, following is a list of the names and positions for each of the organization's officers.

- Chairman                      Sandra Wilkinson,
- Vice-Chairman              Hugh Lane Chambers,
- Secretary                     Sue Hall

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is a map with the geographic boundaries for the organization clearly marked.

Sincerely,



Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188  
(972)923-2767-Fax

Attachments: *Map of Organization's Boundaries*

10.  
B

# **Executive Director Appeal**

KENNETH H. MITCHELL, P.C.  
CERTIFIED PUBLIC ACCOUNTANT  
1005 SHADY RIVER COURT NORTH  
BENBROOK, TEXAS 76126-2915

(817) 249-6886

FAX (817) 249-1010

May 17, 2006

Ms. Jennifer Joyce  
Multifamily Program Administrator  
Texas Department Of Housing and Community Affairs  
P.O. Box 13941  
Austin, TX 78711-3941

RECEIVED  
MAY 18 2006  
LEHTC

Dear Ms. Joyce:

The purpose of this letter is to appeal the score as stated in the Final Scoring Notice dated May 15, 2006 for Country Lane Seniors-Waxahachie Community (#060042) in accordance with Section 50.17(b) of the 2006 QAP.

Issue In Dispute:

Country Lane Seniors-Waxahachie Community (the "Development") is located within the boundaries of the Bullard Heights Neighborhood Association ("Bullard Heights") in Waxahachie, and is supported by this neighborhood association. Bullard Heights issued two letters to the Department regarding this development—the first letter dated February 24, 2006 was to be placed "on record" with the state, and the second letter dated March 29<sup>th</sup> was a letter in support of the Development. The supporting letter also included a copy of the "on record" letter as an attachment, so the "on record" letter was submitted twice by Bullard Heights.

The Department staff confirmed that the "on record" letter dated February 24<sup>th</sup> was never received by the Department, and therefore Bullard Heights was not considered on record by March 1<sup>st</sup>. The Department staff confirmed that the supporting letter from Bullard Heights was received before the due date of April 1<sup>st</sup>. Therefore, the issue in this appeal is the "on record" letter, and not the supporting letter.

The basis for the appeal is as follows:

1. The Department's letter dated May 15<sup>th</sup> to Bullard Heights in response to the Quantifiable Community Participation letter states in paragraph 3. the following:

*"On April 13, 2006 the Department issued a deficiency notice to the contact for the Bullard Heights Neighborhood Association requesting proof that the organization was on record with the county or state as of March 1, 2006 as required by section 2306.5710, Texas Government Code."*

This statement is not completely correct. It is true that Section 2306.6710 of the Texas Government Code requires the neighborhood organization to be on record with the state

or county. However, it does not require the neighborhood organization to be on record by March 1<sup>st</sup>. The March 1<sup>st</sup> date is a date in the QAP, and is not a date established by statute. Even though the on record letter was received after March 1<sup>st</sup>, the on record letter does not conflict with Section 2306.6710 of the Texas Government Code because this law does not establish a specific filing deadline. Attached is a copy of Section 2306.6710 of the Texas Government Code as Exhibit "A", and please note that the March 1<sup>st</sup> date is not included in this law.

2. The Department's response to the Quantifiable Community Participation letter states in paragraph 3. the following:

*"The Department has spoken with the contact for this organization numerous times and she has confirmed that there is no possible proof of the delivery (referring to the on record letter dated February 24<sup>th</sup>)."*

The QAP does not require the neighborhood organization to retain a receipt to evidence proof of delivery of the letter to the Department. Bullard Heights went by the Department's Quantifiable Community Participation Packet for Neighborhood Organizations without the help of the Developer. If this Packet had stated that a receipt was required, the members of the neighborhood association would have known to send the letter in a manner to receive proof of delivery. The Department's instructions in the Packet must be very clear for the neighborhood organization to follow because the developer can't help in preparing and filing any of the letters. This year the Packet did not tell the members of Bullard Heights that a delivery receipt was a requirement. This is necessary disclosure for people who have never filed documents with the Department.

3. The neighborhood association used reasonable methods to submit the "on record" letter to the Department prior to the due date of March 1<sup>st</sup>. Although the letter should have been sent by Federal Express and a receipt of delivery retained, it is not the normal practice for a neighborhood organization to be Federal Expressing documents. Bullard Heights does not have a Federal Express account. Their normal course of business is to mail correspondence and other information. They mailed the on record letter on February 24<sup>th</sup>, and the Department should have received the letter on February 27<sup>th</sup> which is prior to the March 1<sup>st</sup> deadline. As of today, no one knows where that letter is.

In addition to the above reasons, the Development serves a well-supported public purpose in the City of Waxahachie. The senior citizens in Waxahachie are in the process of building a new senior citizens center. The land search committee voted to locate the new seniors center on Highway 77 by the Development so that seniors citizens will be able to have affordable housing within walking distance to the seniors center. The Development will help the new seniors center by making infrastructure available to the site. And, on May 1, 2006 the Waxahachie City Council voted unanimously to locate the new seniors center by the Development. Attached is the Agenda from the City Council meeting as Exhibit "B".

Also attached are the following:

- a. Copy of letter dated February 24<sup>th</sup> from Bullard Heights to place the neighborhood organization "on record" with the state, Exhibit "C".
- b. Copy of letter dated March 29<sup>th</sup> from Bullard Heights to offer favorable support for the Development, Exhibit "D".
- c. Copy of letter dated May 15<sup>th</sup> from the Department to confirm that points were not awarded for the Bullard Heights supporting letter, Exhibit "E".
- d. Copy of final scoring notice dated May 15<sup>th</sup> from the Department, Exhibit "F".

Please note that the final scoring notice awards the Development 183 points. Without the 12 additional points for neighborhood support, this score ranks the Development approximately in 8<sup>th</sup> place, well out of approval and funding this year. If the Development had received the additional 12 points for neighborhood support, it would score 195 points and would probably be the highest scoring project submitted in Region 3 this year. It does not seem fair and equitable that this high scoring project will not be funded solely because a letter mailed by the neighborhood association on February 24<sup>th</sup> was not received, and no receipt was retained.

Waxahachie has never been awarded a senior citizens development in previous years. With the high scores that housing authorities in large cities are able to achieve on their applications, it appears that it is unlikely that the Development could be approved, even if filed again next year. It is hard for a development in Waxahachie to compete with developments supported by housing authorities in large cities.

I greatly appreciate your consideration of this appeal, and hopefully you will award the additional 12 points to the Waxahachie Seniors Project for neighborhood support in accordance with the supporting letter that Bullard Heights submitted. Also, I appreciate all of the time that the Department staff spent trying to work this situation out with the neighborhood association. It could not be worked out favorably, but I realize that the staff tried.

Sincerely,



Kenneth H. Mitchell  
Applicant

KHM/khm  
Enclosure

cc: Ms. Sande Wilkinson, Bullard Heights Neighborhood Association

§ 2306.6710. EVALUATION AND UNDERWRITING OF APPLICATIONS. (a) In evaluating an application, the department shall determine whether the application satisfies the threshold criteria required by the board in the qualified allocation plan. The department shall reject and return to the applicant any application that fails to satisfy the threshold criteria.

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the commitment of development funding by local political subdivisions;

(F) the level of community support for the application, evaluated on the basis of written statements from state elected officials;

(G) the rent levels of the units;

(H) the cost of the development by square foot;

and

(I) the services to be provided to tenants of the development; and

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement.

(c) The department shall publish in the qualified allocation plan details of the scoring system used by the department to score applications.

(d) The department shall underwrite the applications ranked under Subsection (b) beginning with the applications with the highest scores in each region described by Section 2306.111(d) and in each set-aside category described in the qualified allocation plan. Based on application rankings, the department shall continue

# A G E N D A

A regular meeting of the Mayor and City Council of the City  
the Council Chamber at City Hall, 401 S. Rogers on Monday

Council Members: Jay Barksdale, Mayor  
Ron Ansell, Mayor Pro  
Chuck Beatty, Councilm  
Joe Jenkins, Councilman  
Ron Wilkinson, Councilm

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Consent Agenda

All matters listed under Item 4, Consent Agenda, are considered by the Council and will be enacted by one motion. There will be no discussion of these items. Approval of the Consent Agenda authorizes the Council to execute all matters necessary to implement each item. Any item on the Consent Agenda for separate discussion and consideration must be placed on the Council.

- a. Minutes of regular City Council meeting of April 17, 2006
  - b. Minutes of Planning & Zoning Commission Worksession meeting of April 26, 2006
  - c. Minutes of Park Board meeting of April 18, 2006
  - d. Building Report for February and March 2006
  - e. Report from Nicholas P. Sims Library for March 2006
  - f. Statement of Revenue for March 2006
5. Consider Proclamation proclaiming Sunday, June 4, 2006 through Sunday, June 11, 2006 as "Crape Myrtle Month"
  6. Consider Proclamation proclaiming the month of May 2006 as "Preservation Month"
  7. Hear report from John Hamilton, Chairman of Senior Citizens Committee, and take any necessary action
  8. Public Hearing on Zoning Amendment Request No. 2006-11: Request to change the zoning on 1.0381 acres in the E.W. Rogers Survey (L1-1) Zoning District to General Retail (GR) Zoning District to conform with the home at 305 Matthew Street, located between Matthew Street and Lakeshore Drive (ZA2006-11)
  9. Consider proposed Ordinance approving Zoning Amendment Request No. 2006-12
  10. Public Hearing on a request received from Lonell Wilson for a replat of Block 1, being 1.98 acres in Lakeland Addition for residential use, located on Lakeshore Drive. (RP2006-16)
  11. Consider Replat of Lots 6, 8, and 9, Block 1, being 1.98 acres in Lakeview Addition for residential use, located on Lakeshore Drive – Owner: Lonell Wilson (R2006-17)
  12. Consider Preliminary Plat of Black Champ Country Estates, being 15.0 acres, D.S. Gentry Survey, located on the West side of Black Champ Road, North of U.S. Highway 77 – Owner: T.F. Baker Properties, L.L.C.(PLM2006-10)
  13. Consider Final Plat of Lots 1-A, 2-A, 3-A, Block A, Lots 1-B and 2-B, Block B, Revco Subdivision being 30.520 acres located on the South side of U.S. Highway 77 North and Tyler Drive – Applicant: Wier and Associates (FP2006-17)

14. Consider request by Jay Hayes dba Hayes Construction for alternative material on the exterior of a new home located at 1118 West Main Street instead of 75% masonry as required by Section 34.2(A-2) of the Zoning Ordinance
15. Consider approval of Interlocal Purchasing Agreement with the City of Midlothian
16. Consider approving Resolution authorizing Grant Application with TxDOT for Police Department Selective Traffic Enforcement Program for seatbelts
17. Discussion on Council/Staff Retreat
18. Citizens' Petitions and Requests
19. Comments by Mayor, City Council, City Attorney and City Manager
20. Adjourn

**The City Council reserves the right to go into Executive Session on any posted item.**

This meeting location is wheelchair-accessible. Parking for mobility impaired persons is available. Any request for sign interpretive services must be made forty-eight hours ahead of the meeting. To make arrangements, call the City Secretary at 972/937-7330 or (TDD) 1-800-RELAY TX





**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

**Appeal Election Form: 060042, Country Lane Seniors - Waxahachie Community**

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

**If my appeal is denied by the Executive Director, I:**

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed Kenneth H. Mitchell  
 Title Member and Manager of General Partner  
 Date May 17, 2006

Please fax or email to the attention of Jennifer Joyce: (fax)  
 512.475.0764 or 512.475.1895  
 (email) jennifer.joyce@tdhca.state.tx.us

*Sandra Wilkinson*  
*701 S. Rogers St.*  
*Waxahachie, Texas 75165*  
*(972)938-3188*

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

February 24, 2006

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Recording of Neighborhood Organization

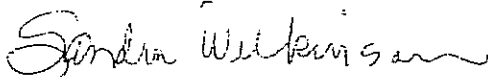
I am writing to request that my neighborhood organization, *Bullard Heights Neighborhood Association* (the organization), be registered with the Texas Department of Housing and Community Affairs for the purposes of Quantifiable Community Participation, §50.9(i)(2), Texas Administrative Code.

As required, following is a list of the names and positions for each of the organization's officers.

- Chairman Sandra Wilkinson,
- Vice-Chairman Hugh Lane Chambers,
- Secretary Sue Hall

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is a map with the geographic boundaries for the organization clearly marked.

Sincerely,

  
Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188  
(972)923-2767-Fax

Attachments: *Map of Organization's Boundaries*

*Bullard Heights Neighborhood Association*

*Chairman, Sande Wilkinson 972-938-3188*  
*Secretary, Hugh Hall 972-935-9850*

*Vice chair, Hugh Lane Chambers 972-937-8614*  
*Co-secretary, Vicki Sigler 972-937-4966*

March 29, 2006

Ms. Edwina Carrington  
Executive Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

Re: Quantifiable Community Participation  
Development #: 060042  
Development: Country Lane Seniors-Waxahachie Community  
Development Location: East side of U.S. Highway 77, Waxahachie, Texas

As the chairman of the board of Bullard Heights Neighborhood Association, I am writing to provide the organization's support for the above-referenced development which is located on the east side of U.S. Highway 77, Waxahachie, Ellis County, Texas. Bullard Heights is a qualified Neighborhood Organization as further described below.

As the signer of this letter, I am providing the following required information:

Sande Wilkinson  
701 S. Rogers, Waxahachie, TX 75165  
972-938-3188  
SandeWilkinson@sbcglobal.net 972-923-2767 FAX

I am also providing the following information for one additional contact, Hugh Lane Chambers, for our organization:

Hugh Lane Chambers  
711 South College St., Waxahachie, TX 75165  
972-937-8614

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is documentation that establishes the organization's boundaries. The proposed development is within those boundaries. Enclosed is a map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries.

# *Bullard Heights Neighborhood Association*

*Chairman, Sande Wilkinson 972-938-3188*  
*Secretary, Hugh Hall 972-935-9850*

*Vice chair, Hugh Lane Chambers 972-937-8614*  
*Co-secretary, Vicky Sigler 972-937-4966*

This organization is an organization of persons living near one another within the organization's defined boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are our bylaws created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization. The organization has fifty members and four officers. The organization reached its decision to support the proposed development by a neighborhood organization meeting on February 7, 2006. The developer provided a full presentation of his proposed Senior Citizen Community. The members later decided to support the project.

This organization is:

On record, as of March 1, 2006, with the Texas Department of Housing and Community Affairs as permitted by the Qualified Allocation Plan and Rules.

This organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round. The organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA" Information Packet for Neighborhoods' to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance). The Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter).

The organization supports the proposed development for the following reasons:

1. Affordable housing is needed for senior citizens in the neighborhood.
2. There is a possibility that the new senior citizens center to be constructed in Waxahachie could be located by the development.
3. Developer has a successful track record of development.
4. At least 7% of the units are designed for residents with disabilities.
5. The developer has worked closely with our organization in developing this development.
6. The supportive services and senior oriented programs available at no additional cost to the residents allow the seniors to grow and remain independent as long as possible.

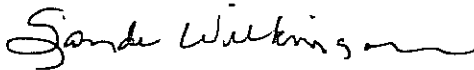
# *Bullard Heights Neighborhood Association*

*Chairman, Sande Wilkinson 972-938-3188*  
*Secretary, Hugh Hall 972-935-9850*

*Vice chair, Hugh Lane Chambers 972-937-8614*  
*Co-secretary, Vicky Sigler 972-937-4966*

7. Affordable rents will help seniors in a time of rising doctor bills, utility costs, and prescription drug costs.
8. The developer contacted our organization and included our ideas and input in the development of this development.
9. The development is a mixed income development and provides housing for senior citizens at all levels of income.
10. The development will provide new jobs for local residents.
11. The development will pay real property taxes and therefore contribute funds for the school system.

Sincerely,



Sande Wilkinson  
Chairman of the Board

Attachments:

*Map of Organization's Boundaries showing Development Site*  
*Documentation for Being on Record with the County or State*  
*Bylaws*



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

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May 15, 2006

Sande Wilkinson  
Chairman of the Board  
Bullard Heights Neighborhood Association  
701 South Rogers  
Waxahachie, Texas 75165  
Fax: (972) 923-2767  
Email: sandewilkinson@sbcglobal.net cpatterson75208@yahoo.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Country Lane Seniors - Waxahachie Community, # 060042

Dear Sande Wilkinson:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On April 13, 2006 the Department issued a deficiency notice to the contact for the Bullard Heights Neighborhood Association requesting proof that the organization was on record with the county or state as of March 1, 2006 as required by §2306.5710, Texas Government Code. The association was unable to provide the evidence and instead submitted a certification that a request to TDHCA to become on record with the state was made on February 24, 2006. The Department did receive the letter dated February 24, 2006 requesting to be on record with the Department, but not until March 30, 2006. The Department has spoken with the contact for this organization numerous times and she has confirmed that there is no possible proof of delivery. She has also confirmed that the organization is not on record with the county or state in any other way. The statutory requirement for county or state registration has not been met.

Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

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Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice - 9% HTC Competitive Application

EXHIBIT "F"  
Appeal #060042

Two Country Lane - Waxahachie, Ltd.  
Kenneth Mitchell  
1005 Shady River Court North  
Benbrook, TX 76126  
Phone #: (817) 249-6886  
Fax #: (817) 249-1010

Date Issued: 05/15/06

THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA  
FACSIMILE

RE: 2006 9% Housing Tax Credit (HTC) Competitive Application for Country Lane Seniors -  
Waxahachie Community  
TDCHA Number: 060042

Attention: Kenneth Mitchell

The Texas Department of Housing and Community Affairs (the Department) has completed its Eligibility and Selection Criteria Review of the above-referenced application as further described in §50.9(d)(1) of the 2006 Qualified Allocation Plan and Rules (QAP). Below, a summary is provided of the score requested, as calculated by the Applicant, followed by the score requested, as calculated by the Department. The two numbers differ if the Applicant's calculation was incorrect. The next score shown is the score awarded to the application by the Department, followed by the difference between the score requested (as calculated by the Department) and the score awarded. An explanation of the reason(s) for any differences, including points denied, is provided at the top of the second page of this notice. The next scoring items show the number of points awarded for each of the three categories for which points could not be requested by the applicant: Quantifiable Community Participation (QCP) from neighborhood organizations, letters of support or opposition from state senators and letters of support or opposition from state representatives. This is followed, in bold, by the final cumulative number of points awarded by the Department to the above-referenced Application.

Please note that if you were awarded points under §50.9(i)(5), this notice only provides an explanation of any point deductions for that item. A separate addendum is attached, "Addendum A" which details which sources qualified for the score under this section. It is important to note this addendum because should this application receive an award of tax credits, at the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the local political subdivision for the sufficient local funding to the Department. Only eligible sources identified in the addendum may be submitted and may not be substituted with any source not listed pursuant to §50.9(i)(5).

To the extent that a threshold review is not yet completed for this application, pursuant Section 50.9(d)(3), the final score may still change, in which case you will be notified.

Allocation  Urban/Exurban Set Asides:  USDA  Non Profit  At Risk

Score Requested by Applicant (Does not include QCP and Elected Official Points):	157
Score Requested as Calculated by Department (Does not include QCP and Elected Official Points):	157
Score Awarded by Department (Does not include QCP and Elected Official Points):	157
Difference between Requested and Awarded (Does not include QCP and Elected Official Points):	0
Points Awarded for Quantifiable Community Participation:	12
Points Awarded for Input from State Senator:	7
Points Awarded for Input from State Representative:	7
<b>Final Score Awarded to Application by Department:</b>	<b>183</b>





MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- 9% HTC Competitive Application

Page 2 of Final Scoring Notice: 060042, Country Lane Seniors - Waxahachie Community

**Explanation for Difference between Points Requested and Points Awarded by the Department (explanation does not include QCP and Elected Official Points):**

No Variance In Score From Final Self Score to Final Awarded Score

A formal Appeals Policy exists for the HTC Program. If you wish to appeal this scoring notice (including set-aside eligibility), you must file your appeal with the Department no later than 5:00 p.m., Monday, May 22, 2006. If an appeal is denied by the Executive Director, an applicant may appeal to the Board. THE DEPARTMENT STRONGLY SUGGESTS that you submit your appeal to the Executive Director no later than Thursday, May 18 by 5:00 p.m. in order to allow any denied appeals to be added to the June 9, 2006 Board agenda. The restrictions and requirements relating to the Appeals Policy can be found in Section 50.17(b) of the 2006 QAP.

In an effort to increase the likelihood that Board appeals related to scoring and set-asides are heard at the June 9 Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director the form requests that the applicant automatically be added to the Board agenda. Note that the completion of the form will add the applicant to the agenda, but that an actual appeal to the Board must be received by the Department by 5:00 p.m. Wednesday, May 31, 2006. All appeals should be submitted to the attention of Jennifer Joyce.

A posting of all completed final application scores will be publicized on the Department's website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) by Friday, May 19 at 5:00 p.m. A list of those developments being recommended at the June 26 Board meeting will also be available on the website no later than June 19, 2006. If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Jennifer Joyce by facsimile (512.475.0764 or 512.475.1895) or email to [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us).

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production Division



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- 9% HTC Competitive Application

Appeal Election Form: 060042, Country Lane Seniors - Waxahachie Community

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

If my appeal is denied by the Executive Director, I:

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed Kenneth H. Mitchell  
Kenneth H. Mitchell  
Title Member and Manager of the General Partner  
Date May 17, 2006

Please fax or email to the attention of Jennifer Joyce: (fax)  
512.475.0764 or 512.475.1895  
(email) jennifer.joyce@tdhca.state.tx.us

# Executive Director Response



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
Executive Director

Mr. Kenneth Mitchell  
Two Country Lane - Waxahachie, Ltd.  
1005 Shady River Court North  
Benbrook, TX 76126  
Telephone: (817) 249-6886  
Telecopier: (817) 249-1010

**Re: Appeal Received for Country Lane Seniors - Waxahachie Community-060042**

Dear Mr. Mitchell:

### Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 18, 2006 regarding the eligibility of a letter from the Bullard Heights Neighborhood Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because the neighborhood organization was unable to submit evidence that it was on record with the county or state as required by §2306.6710, Texas Government Code by March 1, 2006 as required by the §50.9(i)(2)(A)(v) of the 2006 Qualified Allocation Plan and Rules (QAP).

This determination was made based on the fact that on April 13, 2006 the Department issued a deficiency notice to the contact for the Bullard Heights Neighborhood Association requesting proof that the organization was on record with the county or state as of March 1, 2006. The association was unable to provide the evidence and instead submitted a certification that a request to TDHCA to become on record with the state was made on February 24, 2006. The Department did receive the letter dated February 24, 2006 requesting to be on record with the Department, but not until March 30, 2006. The Department has spoken with the contact for this organization numerous times and she has confirmed that there is no possible proof of delivery. She has also confirmed that the organization is not on record with the county or state in any other way. The statutory requirement for county or state registration has not been met.

WWW.TDHCA.STATE.TX.US

221 EAST 11<sup>th</sup> ▪ P.O. BOX 13941 ▪ AUSTIN, TEXAS 78711-3941 ▪ (800) 525-0657 ▪ (512) 475-3800

Printed on recycled paper

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Mr. Mitchell  
June 1, 2006  
Page 2

You appealed the eligibility of the letter by asserting that because the requirement that the neighborhood organization be on record as of March 1, 2006 is not a requirement of §2306.6710, the letter should be eligible. You also assert that proof of delivery of the request to become on record is not required by the QAP or the QCP Packet for Neighborhood Organizations.

QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the QAP because the neighborhood organization was not on record by March 1, 2006. The required proof of delivery was merely a deficiency request which provided the neighborhood organization the opportunity to prove that they did indeed meet the requirement.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

While I understand that the development is in line with the City of Waxahachie's goals as evidenced by the City Council's decision to locate a proposed senior citizens center near the proposed development, this QCP letter does not meet the requirements of §50.9(i)(2)(A)(v) of the QAP and is therefore ineligible.

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting. All appeal documentation submitted by 5:00 p.m. Tuesday, May 31, 2006 will be placed on the June 9, 2006 Board book.

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

Sincerely,



Michael Gerber  
Executive Director

# QCP Documentation



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

---

May 15, 2006

Sande Wilkinson  
Chairman of the Board  
Bullard Heights Neighborhood Association  
701 South Rogers  
Waxahachie, Texas 75165  
Fax: (972) 923-2767  
Email: sandewilkinson@sbcglobal.net cpatterson75208@yahoo.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Country Lane Seniors - Waxahachie Community, # 060042

Dear Sande Wilkinson:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On April 13, 2006 the Department issued a deficiency notice to the contact for the Bullard Heights Neighborhood Association requesting proof that the organization was on record with the county or state as of March 1, 2006 as required by §2306.5710, Texas Government Code. The association was unable to provide the evidence and instead submitted a certification that a request to TDHCA to become on record with the state was made on February 24, 2006. The Department did receive the letter dated February 24, 2006 requesting to be on record with the Department, but not until March 30, 2006. The Department has spoken with the contact for this organization numerous times and she has confirmed that there is no possible proof of delivery. She has also confirmed that the organization is not on record with the county or state in any other way. The statutory requirement for county or state registration has not been met.

Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.



**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

---

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production



ACTIVITY REPORT

TIME : 05/15/2006 16:15  
 NAME :  
 FAX :  
 TEL :  
 SER.# : BROJ4J114092

NO.	DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
	05/12	15:13	8307570763	34	03	OK	RXX ECM
	05/12	15:54	361+570+6192	01:05	07	OK	RXX ECM
	05/13	06:49		01:00	01	OK	RXX
	05/13	23:27		47	01	OK	RXX ECM
#025	05/15	08:13	5124732946	03:04	08	OK	RXX ECM
#026	05/15	11:17	92800526	21	02	OK	RXX ECM
	05/15	11:50	92800526	20	03	OK	RXX ECM
	05/15	13:32		40	02	OK	RXX ECM
	05/15	14:15		20	01	OK	RXX ECM
#027	05/15	14:41	92800526	25	02	OK	RXX ECM
#028	05/15	15:13	98173324830	51	04	OK	RXX ECM
#029	05/15	15:15	94585565	01:20	04	OK	RXX ECM
#030	05/15	15:17	95279337	01:08	04	OK	RXX ECM
#031	05/15	15:19	97137856004	47	04	OK	RXX ECM
#032	05/15	15:20	97137856004	42	04	OK	RXX ECM
#033	05/15	15:22	92496660	01:13	04	OK	RXX ECM
#034	05/15	15:23	92104776043	01:22	04	OK	RXX ECM
#036	05/15	15:26	97134320120	45	04	OK	RXX ECM
#037	05/15	15:27	93615729946	01:22	04	OK	RXX ECM
#038	05/15	15:29	94174594727	02:00	05	OK	RXX ECM
#039	05/15	15:32	99092911401	43	04	OK	RXX ECM
#040	05/15	15:33	99155940434	01:21	04	OK	RXX ECM
#041	05/15	15:35	99155940434	01:21	04	OK	RXX ECM
#042	05/15	15:37	99155940434	01:22	04	OK	RXX ECM
#043	05/15	15:39	95127569885	01:28	04	OK	RXX
#044	05/15	15:41	95127569885	01:27	04	OK	RXX
#046	05/15	15:44	92143421409	59	04	OK	RXX ECM
#047	05/15	15:45	92496660	01:08	04	OK	RXX ECM
#048	05/15	15:47	99729232767	02:26	02	OK	RXX
#050	05/15	15:51	92105279620	42	02	OK	RXX ECM
#051	05/15	15:53	99035922851	00	00	BUSY	RXX
#052	05/15	15:54	99565486134	26	02	OK	RXX ECM
#054	05/15	15:56	99565802919	34	02	OK	RXX ECM
#057	05/15	15:58	97139560166	50	04	OK	RXX ECM
#058	05/15	16:00	95127569885	01:27	04	OK	RXX
#059	05/15	16:02	95127569885	01:28	04	OK	RXX
#060	05/15	16:04	92148271340	57	04	OK	RXX
#061	05/15	16:05	92143421409	59	04	OK	RXX ECM
#035	05/15	16:07	97139560166	01:21	04	OK	RXX ECM
#045	05/15	16:09	92148271340	01:21	04	OK	RXX ECM
#055	05/15	16:13	99565656005	00	00	BUSY	RXX

BUSY: BUSY/NO RESPONSE  
 NG : POOR LINE CONDITION / OUT OF MEMORY  
 CV : COVERPAGE  
 POL : POLLING  
 RET : RETRIEVAL  
 PC : PC-FAX

Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
Telephone (972) 938-3188

060042

**FACSIMILE COVER SHEET**

Date: April 24, 2006

Time: 3:41

To: Sharon Gamble Firm: TDHCA

From: Sandra Wilkinson

Fax Number: 1-800-733-5120

This transmission consists of 13 pages, including the cover page.  
In the event you do not receive all of the pages, please contact the sender at:  
(972)351-9200.

COMMENTS: Bullard Heights Neighborhood Association

CONFIDENTIALITY NOTICE

The document(s) accompanying this facsimile transmission contains information from the law firm of RONALD L. WILKINSON which is confidential or privileged information. The information is intended only for use of the individual or entity named on this transmissions sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this facsimile is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we may arrange for the retrieval of the original document at no cost to you.

*Sandra Wilkinson*  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

April 24, 2006

Ms. Sharon Gamble, Multifamily Housing Specialist  
Texas Department of Housing and Community Affairs  
Multifamily Finance Production  
P.O. Box 13941  
Austin, Texas 78711-3941

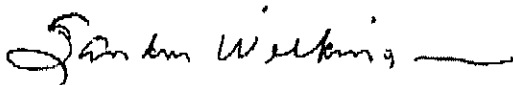
Re: Bullard Heights Neighborhood Association

Dear Ms. Gamble:

Enclosed please find the Certification of mailing of the Bullard Heights Neighborhood Association By-Laws. I do not understand why they were not received until April 3, 2006. Also enclosed are the following:

- Email Address of Sue Hall, c/o Ronald L. Wilkinson, [cpatterson75208@yahoo.com](mailto:cpatterson75208@yahoo.com)
- The Certification of the Acceptance of the By-Laws

Sincerely,



Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188  
(972)923-2767-Fax

**CERTIFICATION**

The By-Laws of the Neighborhood Association were accepted and approved at a meeting of the Bullard Heights Neighborhood Association held on February 7, 2006.

**SUBSCRIBED AND SWORN TO BEFORE ME BY SANDRA WILKINSON** to certify which witness my hand and seal of office on this the 24th day of April, 2006.

  
\_\_\_\_\_  
SANDRA WILKINSON

(S E A L)



  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

*Sandra Wilkinson*  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

February 24, 2006

*Received  
3/30/06*

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Recording of Neighborhood Organization

I am writing to request that my neighborhood organization, ***Bullard Heights Neighborhood Association*** (the organization), be registered with the Texas Department of Housing and Community Affairs for the purposes of Quantifiable Community Participation, §50.9(i)(2), Texas Administrative Code.

As required, following is a list of the names and positions for each of the organization's officers.

- Chairman Sandra Wilkinson,
- Vice-Chairman Hugh Lane Chambers,
- Secretary Sue Hall

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is a map with the geographic boundaries for the organization clearly marked.

Sincerely,

*Sandra Wilkinson*  
Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188  
(972)923-2767-Fax

Attachments: *Map of Organization's Boundaries*

**BYLAWS OF THE  
NEIGHBORHOOD ASSOCIATION**

**ARTICLE 1 – NAME**

The name of this organization is the

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

**ARTICLE 11 – PURPOSE**

The purpose of the Bullard Heights Neighborhood Association is to:

- 1 – Discuss and evaluate the needs and improve the quality of life within the neighborhood.
- 2 – Promote a strong sense of cooperation in our neighborhood and among businesses.
- 3 – Assist and encourage the restoration, preservation, and improvement of this neighborhood.

**ARTICLE 111 – BOUNDARIES**

The area has the following boundaries within the City of Waxahachie, Texas:  
Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning, the center line of each street being the actual boundary. (See attached Map as Exhibit "A")

**ARTICLE IV – MEMBERSHIP**

SECTION 1 The Association shall be governed by a Board of Directors

SECTION 2 Any individual who is interested in promoting the purposes of the Association is eligible for membership.

SECTION 3 Voting shall be available to anyone who is a member

- a – owns or occupies a home,
- b – owns or operates a business,
- c – is involved in an organization within the boundaries of the Associations area,
- d – pays his/her dues for the current year
- e – businesses and organizations will be entitled to one vote by an individual designated by the business or organization.

SECTION 4 - Membership in the Association shall be for one year. Each membership year shall be from January 1 to December 31.

## ARTICLE V - DUES

Annual Membership dues shall be:

Individual Membership	\$1.00
Business/Organization Membership	\$5.00

This fee shall be payable at such time as the Board of Directors may determine, subject to approval by the members, and shall be subject to change as reviewed by the Board of Directors.

EXCEPTION: A waiver of dues is available upon application and approval by the Board of Directors.

## ARTICLE VI - PRIVILEGES AND DUTIES

SECTION 1 - Each member shall be entitled to voice and vote on all matters submitted at any official meeting of this association provided the subject which has been presented has been done according to the orderly process.

SECTION 2 - To be eligible to run for an office, an individual must have been a member in good standing for 6 months prior to the election. A member in good standing shall be defined as an individual who has paid his/her dues for the current year and who is an active participant in the association.

SECTION 3 - No member of the Association may use the name of this Neighborhood Association, for other than the purpose of the organization, nor solicit funds for any association purpose without permission of the Board of Directors.

## ARTICLE VII - MEETINGS

SECTION 1 - Regular meetings of the Association shall be held quarterly. The Annual Meeting shall be the first quarterly meeting of the year. Special meetings may be called by the Board of Directors or at the written request of 20 percent of the voting membership of the Association. The Secretary shall give written notice to all members 7 days prior to a specially called meeting. Such notice shall be posted at

SECTION 2 - Twenty-five percent (25%) of the members shall constitute a quorum for the transaction of business at any duly called meeting for which seven days written notice has been given by the Secretary. Any resolution presented at such a meeting shall be adopted by a simple majority vote of the members present and voting, unless otherwise provided in the By-Laws. No proxy voting will be permitted.

SECTION 3 - Officers and members of the Board of Directors will be elected by secret ballot by the voting members.

SECTION 4 - Re-ordering of the agenda. Any person wishing to address a non-agenda subject shall be limited to 2 minutes each at the President's discretion.

## ARTICLE VIII - BOARD OF DIRECTORS

SECTION 1 - POWERS AND DUTIES: The direction and management of the affairs of the Association and the control of its business shall be vested in the Board of Directors, and be subject to any restrictions imposed by law, the Articles of Incorporation, the By-Laws, or by vote of the members.

SECTION 2- MEMBERSHIP OF THE BOARD: The Board of Directors shall be composed of

Elected Officers - 3  
Sector Representatives - 1  
Immediate Past President - 1

- a Each Board member shall serve for a one year term concurrent with the membership year. A Board member may be re-elected, but may not serve for more than two consecutive terms, unless no other member is willing to serve.
- b The President, Vice-President, Secretary, Treasurer, Parliamentarian, and Chaplain shall be elected, each year.
- c The Immediate Past President shall serve as a full voting member of the Board so long as he/she remains a member in good standing of the Board and the Association. If this condition should not be fulfilled, the Immediate Past President shall remain eligible to meet with the Board for the remainder of the one year term, but shall do so in a non-voting, ex-officio capacity.
- d A vacancy shall be declared in a seat on the Board of Directors upon the death, removal or resignation of a Board member. A Board member shall be removed and his/her seat shall be declared vacant upon failure to pay membership dues or upon failure to attend any three consecutive Board meetings without an excuse acceptable to the Board, or for poor conduct. Vacancies on the Board shall be filled by a majority vote of all members of the Board.

SECTION 3 - CONDUCT: Misrepresenting the Association or speaking in behalf of the Association without Board of Directors approval shall be considered poor conduct.

SECTION 4 - MEETINGS OF THE BOARD: (a) The Board of Directors shall meet at least monthly at a time and place to be designated by the Board. A Special meeting of the Board may be called at any time by two-thirds (2/3) of the Board members upon request to the President.



Each member of the Board must be notified at least three days prior to any special Board meetings. All meetings of the Board are open to the public.

(b) At least one-half of the Directors must be present in order for business to be transacted at any meeting. Any action shall be accepted by a majority of the Directors present at a Board meeting where a quorum is present. No proxy voting will be permitted.

**SECTION 5 - ANNUAL REPORT:** The Board will present an Annual Report of the affairs of the Association for the year to the members at the annual meeting. A copy of the Report shall be available for inspection by the members at any regular meeting of the Association.

**SECTION 6 - AUDIT:** An audit of the financial records may occur at any time at the direction of the Board of Directors and regularly before the annual meeting of the Association. The President shall appoint an auditing committee at least two (2) weeks before the Annual Meeting.

## **ARTICLE IX - OFFICERS**

**1 - TITLES, TERMS AND ELECTION:** (a) The officers of the Association shall be President, Vice President, Secretary, Treasurer, Parliamentarian and Chaplain. Term: See Article VIII, Section 2 - (a).

(b) Officers will be elected for the coming membership year at the fourth quarterly meeting of the Association. A candidate must receive a majority of the votes cast for that office in order to be elected.

(c) Vacancies may be created by death, resignation, or by an officers' loss of standing of his/her seat on the Board of Directors. If the office of President becomes vacant, the Vice President will become President. Any vacancies within the Board of Directors shall be filled by appointment by the President, subject to the approval of the Board.

### **SECTION 2 - DUTIES AND POWERS:**

(A) **PRESIDENT:** The President will preside at all meetings of the Association and of the Board of Directors. The President will appoint all committee chairpersons, subject to the approval of the majority of the Board, and shall serve as ex-officio member of all committees. He/She will exercise general supervision over the affairs of the Association, and will ensure that all decisions and resolutions of the Board of Directors and the Members are executed. Subject to the approval of the Board, the President shall have the power to execute contracts and other authorized instruments in the name of the Association except as provided in these Bylaws.

(B) **VICE PRESIDENT:** The Vice President shall assist the President in the planning, arranging and coordinating of programs for meetings of the Association and for Special Events approved by the Board of Directors. The Vice President shall represent the Association in case of the absence or disability of the President, and shall exercise the powers of that office.

(C) **SECRETARY:** The Secretary will keep minutes of all meeting of the Association and the Board of Directors. These minutes will be available to any member of the Association at any regular membership meeting or as requested by a Board Member. The Secretary will be responsible for giving the notice of meetings as provided by these Bylaws. The Secretary will be responsible for the correspondence and records of the Association as directed by the Board.

(D) **TREASURER:** The Treasurer will have charge of the funds of the Association, and shall secure their deposit as directed by the Board. The Treasurer will keep records of the Association's finances, and these records shall be available for inspection at any regular membership meeting. All funds solicited for the Association shall be directed to the Treasurer. All checks, orders for payment of money and notes, or other evidence of indebtedness issued in the name of the Association must be signed by the Treasurer and the President, or Vice President, or Secretary. No expenditure over \$25.00 may be executed without the consent of the Board of Directors.

(E) **PARLIAMENTARIAN:** Shall advise and control the business that it may be conducted orderly and follow the agenda of the day. The current Roberts Rules of Order shall be the guide for all parliamentary procedures used at the discretion of the parliamentarian.

(F) **CHAPLAIN:** The Chaplain shall perform all duties related to the office of chaplain and such other responsibilities as may be assigned to him/her or by the President or by the Board.

## ARTICLE X - COMMITTEES

**SECTION 1 - STANDING COMMITTEES:** The following standing committees shall be authorized as stated in the Bylaws:

(a) **FINANCE AND BUSINESS COMMITTEE:** The Finance and Business Committee shall advise and inform the Board on all matters relating to the finances of the Association. The Treasurer shall be a member to the Finance and Business Committee.

(b) **PUBLIC RELATIONS COMMITTEE:** The Public Relations Committee shall be responsible for the promotion of the activities and the communication of the Association's purposes including the recruitment and maintenance of the membership records of the Association. The Secretary shall be a member of this committee.

(c) **NEIGHBORHOOD IMPROVEMENT AND RENOVATION COMMITTEE:**

1. shall coordinate the development and implementation of activities designed to improve and maintain a good environment in the neighborhood area.

2. shall assist and advise residents in the neighborhood who desire to improve the housing condition of the neighborhood area including rehabilitation and renovation.

3. shall work with officials and staff of the City of Waxahachie to implement activities designed to improve the environment of the Bullard Heights Neighborhood Association area.

(d) **NEIGHBORHOOD SECURITY COMMITTEE:** The Neighborhood Security Committee shall offer educational programs to area residents in all aspects of home security and neighborhood crime prevention.

(e) **YOUTH COMMITTEE:** The Youth Committee shall be responsible

1. for programs that involve youths in the Association's purposes and goals,
2. for directing the youth to a better understanding of civic affairs and law enforcement,
3. for enhancing the value of education and the understanding of its impact in developing the youth as strong leaders in the school and neighborhood organizations.

(f) **NOMINATING COMMITTEE:** The Nominating Committee shall be responsible for developing the list of officers and sector representatives to be submitted as candidates for election. Both the Nominating Committee and those making nominations from the floor should consider the following characteristics for members of the Board:

1. be able to provide leadership and motivation,
2. be able to invest time in the organization,
3. be accessible to the members,
4. be community oriented,
5. be open minded and cooperative.

Any member presenting a name for nomination from the floor should have consent of that person before submitting his/her name.

**SECTION 2 - STANDING COMMITTEES:** Chairpersons of all Standing Committees listed in Section 1 shall be appointed from the membership of the Association with approval of the Board. The Standing Committee chairpersons will appoint the members of respective committees subject to the approval of the Board. The number of committee members will be determined by the committee chairperson.

**SECTION 3 - APPOINTED COMMITTEES:** The President may establish additional committees as he/she deems necessary for the effective operation of the Association. Any special committee shall have such power and authority as assigned to it by the Board of Directors and the members.

## ARTICLE XI - PARLIAMENTARY RULES

SECTION 1 - RULES OF ORDER: The current edition of ROBERT'S RULES OF ORDER shall be the procedures on all questions not specifically stated in the Bylaws of the Association.

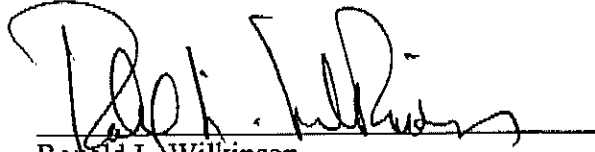
## ARTICLE XII - AMENDMENTS

SECTION 1 - AMENDMENTS: These Bylaws may be amended by the affirmative vote of two-thirds of the members of the Association present and voting at a duly called meeting, provided that written notice of the proposed amendment shall have been given in writing to the membership of the Association in accordance with Article VII, Section 1 of the Bylaws.

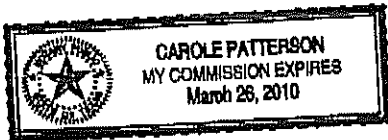
**CERTIFICATION**

I certify that the By-Laws of the Bullard Heights Neighborhood Association were put in the United States Regular Mail to Texas Department of Housing and Community Affairs on February 24, 2006.

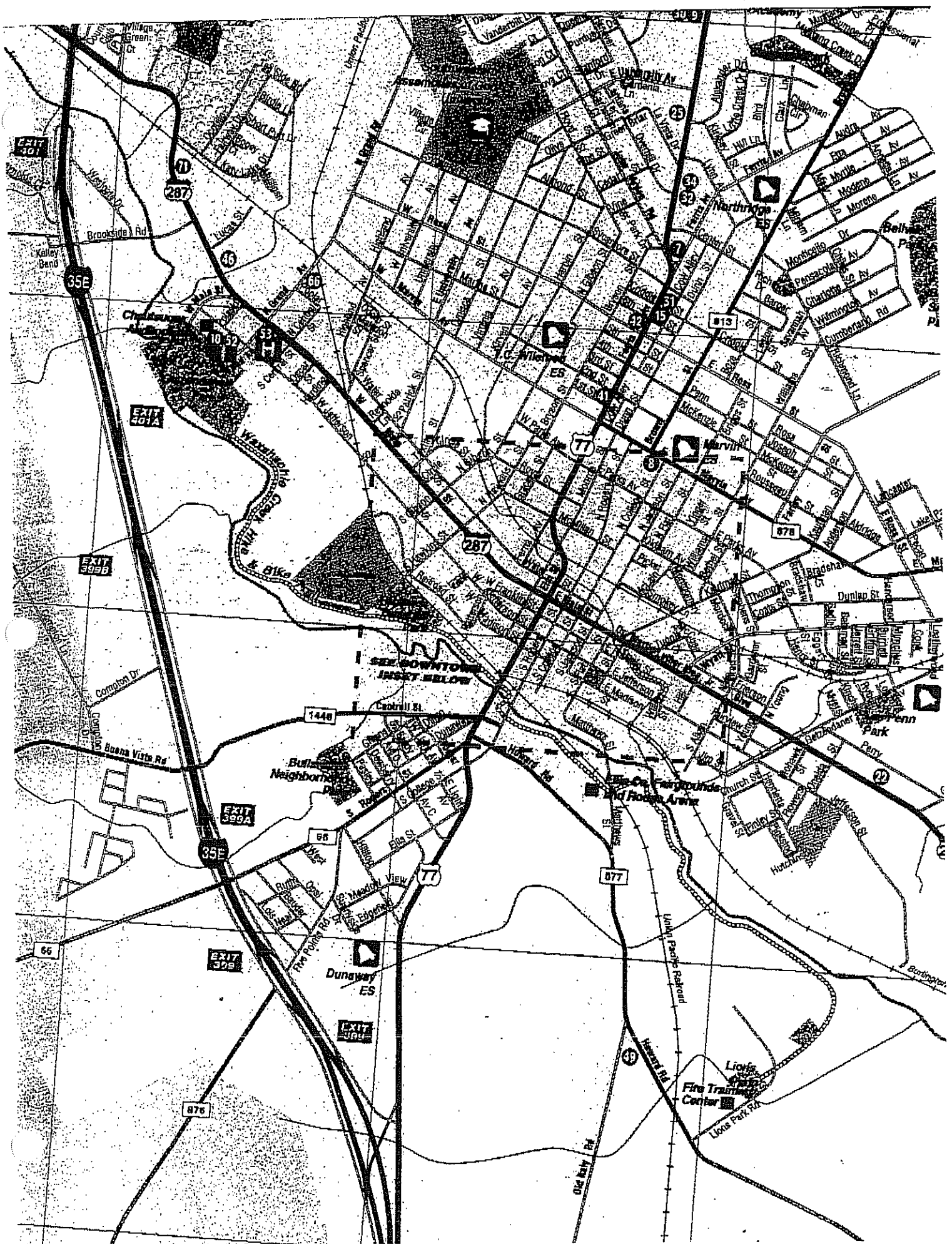
**SUBSCRIBED AND SWORN TO BEFORE ME BY RONALD L. WILKINSON** to certify which witness my hand and seal of office on this the 24th day of April, 2006.

  
\_\_\_\_\_  
Ronald L. Wilkinson

(SEAL)



  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS





[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

### FIND ENTITY NAME SEARCH

This search was performed on with the following search parameter:

ENTITY NAME : bullard heights neighborhood association

**There are no records which match your inquiry.**

[Return to Order](#)

[New Search](#)

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#### Instructions:

- To view additional information pertaining to a particular filing select the number associated with the name.
- To place an order for additional information about a filing select the radial button listed under 'Mark' that is associated with the entity and press the 'Order' button.



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 13, 2006  
Sande Wilkinson  
Chairman of the Board  
Bullard Heights Neighborhood Association  
701 South Rogers  
Waxahachie, Texas 75165

Not eligible  
*[Signature]*

*5/4-SE spoke w/ Sandra w/ more info. Sandra who can not prove up that received by TDHCA by 3/1/06. No business register. 5/10/06*  
*5/2/06 - called Sandra Wilkinson to see if there is any other way the dec came on record w/ county or state by Mark / or can prove up mailing. Thank you! -Jan*

Organization Fax: (972) 923-2767      Organization Email: sandewilkinson@sbcglobal.net

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Country Lane Seniors - Waxahachie Community, # 060042

Dear Sande Wilkinson:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

*We received 3/30/06  
They certify  
it was marked*

The QCP letter you submitted for development #060042 is from a neighborhood organization that was not registered with TDHCA on or before March 1, 2006. In accordance with §50.9(i)(2)(v) of the QAP, provide evidence that, on or before March 1, 2006, the organization was registered with the Secretary of State or the county in which the development is to be located. This evidence may not be in the form of a certification.

✓ The QCP letter you submitted did not contain an email address and/or fax number for the second contact person for your organization. Per §50.9(i)(2)(A)(ii) of the QAP, submit an email address and/or fax number for an additional contact.

*certification  
okay*

The bylaws you submitted do not establish that the bylaws were created on or before March 1, 2006. According to §50.9(i)(2)(viii) of the QAP, your submission must "include the organization's articles of





**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006,..."  
Submit evidence of an organizational document that was created on or before March 1, 2006.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by April 24.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

TRANSMISSION VERIFICATION REPORT

TIME : 04/13/2006 15:49  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	04/13 15:46
FAX NO./NAME	99729232767
DURATION	00:02:14
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 13, 2006

Sande Wilkinson  
Chairman of the Board  
Bullard Heights Neighborhood Association  
701 South Rogers  
Waxahachie, Texas 75165

Organization Fax: (972) 923-2767      Organization Email: sandewilkinson@sbcglobal.net

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Country Lane Seniors - Waxahachie Community, # 060042

Dear Sande Wilkinson:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization

**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: COUNTY LAKE SENIORS - WYANDACHE

Dev. Number: 060042

Organization Name: BULLARD HTS NA

Date Letter Received: 3/30/06

Reviewer Name: S. GAMBLE

Date Reviewed: 4/7/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries</u> ?  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization <u>of persons living near one another</u> within the organization's defined boundaries that contain the proposed Development site and that has a <u>primary purpose of working to maintain or improve the general welfare of the neighborhood</u>. More specifically:</p> <p>"Neighborhood organizations" DO include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" DO NOT include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006 <i>— No proof of submission</i></p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete?

Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

NA NOT ON RECORD ; NO DATE ON BYLAWS

Date deficiency letter issued: 4/13/06

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): 4/24/06

Date deficiencies received: 4/24/06

Were all deficiencies resolved? Enter staff initials: SB

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: SB

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
<b>FINAL SCORE (Enter from box checked above):</b>		

*Not eligible*

Has this been entered in the 2006 Database?

Yes  No

Bullard Hts NA  
060042 Country Lane Srs

The QCP letter you submitted for development #060042 is from a neighborhood organization that was not registered with TDHCA on or before March 1, 2006. In accordance with §50.9(i)(2)(v) of the QAP, provide evidence that, on or before March 1, 2006, the organization was registered with the Secretary of State or the county in which the development is to be located. *Evidence cannot be in form of cert.*

The QCP letter you submitted did not contain an email address and/or fax number for the second contact person for your organization. Per §50.9(i)(2)(A)(ii) of the QAP, submit an email address and/or fax number for an additional contact.

The bylaws you submitted do not establish that the bylaws were created on or before March 1, 2006. According to §50.9(i)(2)(viii) of the QAP, your submission must include "include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006,..." Submit evidence of an organizational document that was created on or before March 1, 2006.



WWW.TDHCA.STATE.TX.US

April 13, 2006

.....  
RICK PERRY  
Governor

Sandra Wilkinson  
Chairman  
Bullard Heights Neighborhood Association  
701 S. Rogers Street  
Waxahachie, Texas 75165

BOARD MEMBERS  
Elizabeth Anderson, Chair  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Mayor Alberto Salinas

Dear Ms. Wilkinson:

Please be advised that I am in receipt of your letter indicating your interest in recording the Bullard Heights Neighborhood Association with the Texas Department of Housing and Community Affairs (the Department) for purposes of commenting on one or more Housing Tax Credit Program applications.

WILLIAM DALLY  
Acting Executive Director


I am writing to let you know that your letter did not contain all of the necessary items for recording as required under §50.9(i)(2) of the Qualified Allocation Plan and Rules, which is the rule that governs the Housing Tax Credit Program. Below is a list of the items that were not addressed in your letter:

- Your letter was received by the Department after the March 1, 2006 deadline. As a result, your association is not registered with the Department and is not eligible to submit a letter for Quantifiable Community Participation for any 2006 Housing Tax Credit development. Your letter will be counted as public comment in support of the development. If you have documentation that this deficiency is incorrect or that your organization was on record with either the county or the Secretary of State's office as of March 1, 2006, please submit that documentation.

All of the above noted documents must be received by the Department **no later than Monday, April 24, 2006**. Please submit the above requested documentation to the attention of Sharon D. Gamble, via email at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us), or via fax at 512-475.0764, or via toll free fax at 800-733-5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon D. Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941.

Note that this letter does not address deficiencies that may exist for any Quantifiable Community Participation letter(s) your organization may have submitted; this letter refers only to the request for recording of your organization. I look forward to your prompt response so that we can ensure that your organization is properly recorded with the Department.

Sincerely,

  
Sharon D. Gamble  
Multifamily Housing Specialist  
512-475-4610

221 EAST 11<sup>th</sup> ■ P.O. BOX 13941 ■ AUSTIN, TEXAS 78711-3941 ■ (800) 525-0657 ■ (512) 475-3800

TRANSMISSION VERIFICATION REPORT

TIME : 04/13/2006 10:22  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BR0G4J729978

DATE, TIME	04/13 10:20
FAX NO./NAME	99729232767
DURATION	00:01:42
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM



WWW.TDHCA.STATE.TX.US

April 13, 2006

RICK PERRY  
Governor

Sandra Wilkinson  
Chairman  
Bullard Heights Neighborhood Association  
701 S. Rogers Street  
Waxahachie, Texas 75165

BOARD MEMBERS  
Elizabeth Anderson, Chair  
Shadrick Bogany  
C. Kent Conine  
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Vidal Gonzalez  
Mayor Alberto Salinas

Dear Ms. Wilkinson:

WILLIAM DALLY  
Acting Executive Director

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- Your letter was received by the Department after the March 1, 2006 deadline. As a result, your association is not registered with the Department and is not eligible to submit a letter for Quantifiable Community Participation for any 2006 Housing Tax Credit development. Your letter will be counted as public comment in support of the development. If you have documentation that this deficiency is incorrect or that your organization was on record with either the county or the Secretary of State's office as of March 1, 2006, please submit that documentation.



*Sandra Wilkinson*  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188

3/30 REC'D

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

February 24, 2006

COPY

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Recording of Neighborhood Organization

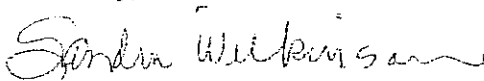
I am writing to request that my neighborhood organization, *Bullard Heights Neighborhood Association* (the organization), be registered with the Texas Department of Housing and Community Affairs for the purposes of Quantifiable Community Participation, §50.9(i)(2), Texas Administrative Code.

As required, following is a list of the names and positions for each of the organization's officers.

- Chairman                      Sandra Wilkinson,
- Vice-Chairman              Hugh Lane Chambers,
- Secretary                     Sue Hall

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is a map with the geographic boundaries for the organization clearly marked.

Sincerely,



Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188  
(972)923-2767-Fax

Attachments: *Map of Organization's Boundaries*

**BYLAWS OF THE  
NEIGHBORHOOD ASSOCIATION**

**ARTICLE 1 – NAME**

The name of this organization is the

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

**ARTICLE 11 – PURPOSE**

The purpose of the Bullard Heights Neighborhood Association is to:

- 1 – Discuss and evaluate the needs and improve the quality of life within the neighborhood.
- 2 – Promote a strong sense of cooperation in our neighborhood and among businesses.
- 3 – Assist and encourage the restoration, preservation, and improvement of this neighborhood.

**ARTICLE 111 – BOUNDARIES**

The area has the following boundaries within the City of Waxahachie, Texas:  
Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning, the center line of each street being the actual boundary. (See attached Map as Exhibit "A")

**ARTICLE IV – MEMBERSHIP**

SECTION 1 The Association shall be governed by a Board of Directors

SECTION 2 Any individual who is interested in promoting the purposes of the Association is eligible for membership.

SECTION 3 Voting shall be available to anyone who is a member

- a – owns or occupies a home,
- b – owns or operates a business,
- c – is involved in an organization within the boundaries of the Associations area,
- d – pays his/her dues for the current year
- e – businesses and organizations will be entitled to one vote by an individual designated by the business or organization.

SECTION 4 - Membership in the Association shall be for one year. Each membership year shall be from January 1 to December 31.

## ARTICLE V - DUES

Annual Membership dues shall be:

Individual Membership	\$1.00
Business/Organization Membership	\$5.00

This fee shall be payable at such time as the Board of Directors may determine, subject to approval by the members, and shall be subject to change as reviewed by the Board of Directors.

EXCEPTION: A waiver of dues is available upon application and approval by the Board of Directors.

## ARTICLE VI - PRIVILEGES AND DUTIES

SECTION 1 - Each member shall be entitled to voice and vote on all matters submitted at any official meeting of this association provided the subject which has been presented has been done according to the orderly process.

SECTION 2 - To be eligible to run for an office, an individual must have been a member in good standing for 6 months prior to the election. A member in good standing shall be defined as an individual who has paid his/her dues for the current year and who is an active participant in the association.

SECTION 3 - No member of the Association may use the name of this Neighborhood Association, for other than the purpose of the organization, nor solicit funds for any association purpose without permission of the Board of Directors.

## ARTICLE VII - MEETINGS

SECTION 1 - Regular meetings of the Association shall be held quarterly. The Annual Meeting shall be the first quarterly meeting of the year. Special meetings may be called by the Board of Directors or at the written request of 20 percent of the voting membership of the Association. The Secretary shall give written notice to all members 7 days prior to a specially called meeting. Such notice shall be posted at

SECTION 2 - Twenty-five percent (25%) of the members shall constitute a quorum for the transaction of business at any duly called meeting for which seven days written notice has been given by the Secretary. Any resolution presented at such a meeting shall be adopted by a simple majority vote of the members present and voting, unless otherwise provided in the By-Laws. No proxy voting will be permitted.

SECTION 3 - Officers and members of the Board of Directors will be elected by secret ballot by the voting members.

SECTION 4 - Re-ordering of the agenda. Any person wishing to address a non-agenda subject shall be limited to 2 minutes each at the President's discretion.

## ARTICLE VIII - BOARD OF DIRECTORS

SECTION 1 - POWERS AND DUTIES: The direction and management of the affairs of the Association and the control of its business shall be vested in the Board of Directors, and be subject to any restrictions imposed by law, the Articles of Incorporation, the By-Laws, or by vote of the members.

SECTION 2 - MEMBERSHIP OF THE BOARD: The Board of Directors shall be composed of

Elected Officers - 3  
Sector Representatives - 1  
Immediate Past President - 1

- a Each Board member shall serve for a one year term concurrent with the membership year. A Board member may be re-elected, but may not serve for more than two consecutive terms, unless no other member is willing to serve.
- b The President, Vice-President, Secretary, Treasurer, Parliamentarian, and Chaplain shall be elected, each year.
- c The Immediate Past President shall serve as a full voting member of the Board so long as he/she remains a member in good standing of the Board and the Association. If this condition should not be fulfilled, the Immediate Past President shall remain eligible to meet with the Board for the remainder of the one year term, but shall do so in a non-voting, ex-officio capacity.
- d A vacancy shall be declared in a seat on the Board of Directors upon the death, removal or resignation of a Board member. A Board member shall be removed and his/her seat shall be declared vacant upon failure to pay membership dues or upon failure to attend any three consecutive Board meetings without an excuse acceptable to the Board, or for poor conduct. Vacancies on the Board shall be filled by a majority vote of all members of the Board.

SECTION 3 - CONDUCT: Misrepresenting the Association or speaking in behalf of the Association without Board of Directors approval shall be considered poor conduct.

SECTION 4 - MEETINGS OF THE BOARD: (a) The Board of Directors shall meet at least monthly at a time and place to be designated by the Board. A Special meeting of the Board may be called at any time by two-thirds (2/3) of the Board members upon request to the President.

Each member of the Board must be notified at least three days prior to any special Board meetings. All meetings of the Board are open to the public.

(b) At least one-half of the Directors must be present in order for business to be transacted at any meeting. Any action shall be accepted by a majority of the Directors present at a Board meeting where a quorum is present. No proxy voting will be permitted.

**SECTION 5 - ANNUAL REPORT:** The Board will present an Annual Report of the affairs of the Association for the year to the members at the annual meeting. A copy of the Report shall be available for inspection by the members at any regular meeting of the Association.

**SECTION 6 - AUDIT:** An audit of the financial records may occur at any time at the direction of the Board of Directors and regularly before the annual meeting of the Association. The President shall appoint an auditing committee at least two (2) weeks before the Annual Meeting.

## ARTICLE IX - OFFICERS

**1 - TITLES, TERMS AND ELECTION:** (a) The officers of the Association shall be President, Vice President, Secretary, Treasurer, Parliamentarian and Chaplain. Term: See Article VIII, Section 2 - (a).

(b) Officers will be elected for the coming membership year at the fourth quarterly meeting of the Association. A candidate must receive a majority of the votes cast for that office in order to be elected.

(c) Vacancies may be created by death, resignation, or by an officers' loss of standing of his/her seat on the Board of Directors. If the office of President becomes vacant, the Vice President will become President. Any vacancies within the Board of Directors shall be filled by appointment by the President, subject to the approval of the Board.

### SECTION 2 - DUTIES AND POWERS:

(A) **PRESIDENT:** The President will preside at all meetings of the Association and of the Board of Directors. The President will appoint all committee chairpersons, subject to the approval of the majority of the Board, and shall serve as ex-officio member of all committees. He/She will exercise general supervision over the affairs of the Association, and will ensure that all decisions and resolutions of the Board of Directors and the Members are executed. Subject to the approval of the Board, the President shall have the power to execute contracts and other authorized instruments in the name of the Association except as provided in these Bylaws.

(B) **VICE PRESIDENT:** The Vice President shall assist the President in the planning, arranging and coordinating of programs for meetings of the Association and for Special Events approved by the Board of Directors. The Vice President shall represent the Association in case of the absence or disability of the President, and shall exercise the powers of that office.

(C) SECRETARY: The Secretary will keep minutes of all meeting of the Association and the Board of Directors. These minutes will be available to any member of the Association at any regular membership meeting or as requested by a Board Member. The Secretary will be responsible for giving the notice of meetings as provided by these Bylaws. The Secretary will be responsible for the correspondence and records of the Association as directed by the Board.

(D) TREASURER: The Treasurer will have charge of the funds of the Association, and shall secure their deposit as directed by the Board. The Treasurer will keep records of the Association's finances, and these records shall be available for inspection at any regular membership meeting. All funds solicited for the Association shall be directed to the Treasurer. All checks, orders for payment of money and notes, or other evidence of indebtedness issued in the name of the Association must be signed by the Treasurer and the President, or Vice President, or Secretary. No expenditure over \$25.00 may be executed without the consent of the Board of Directors.

(E) PARLIAMENTARIAN: Shall advise and control the business that it may be conducted orderly and follow the agenda of the day. The current Roberts Rules of Order shall be the guide for all parliamentary procedures used at the discretion of the parliamentarian.

(F) CHAPLAIN: The Chaplain shall perform all duties related to the office of chaplain and such other responsibilities as may be assigned to him/her or by the President or by the Board.

## ARTICLE X - COMMITTEES

SECTION 1 - STANDING COMMITTEES: The following standing committees shall be authorized as stated in the Bylaws:

(a) FINANCE AND BUSINESS COMMITTEE: The Finance and Business Committee shall advise and inform the Board on all matters relating to the finances of the Association. The Treasurer shall be a member to the Finance and Business Committee.

(b) PUBLIC RELATIONS COMMITTEE: The Public Relations Committee shall be responsible for the promotion of the activities and the communication of the Association's purposes including the recruitment and maintenance of the membership records of the Association. The Secretary shall be a member of this committee.

(c) NEIGHBORHOOD IMPROVEMENT AND RENOVATION COMMITTEE:

1. shall coordinate the development and implementation of activities designed to improve and maintain a good environment in the neighborhood area.

2. shall assist and advise residents in the neighborhood who desire to improve the housing condition of the neighborhood area including rehabilitation and renovation.
3. shall work with officials and staff of the City of Waxahachie to implement activities designed to improve the environment of the Bullard Heights Neighborhood Association area.

(d) **NEIGHBORHOOD SECURITY COMMITTEE:** The Neighborhood Security Committee shall offer educational programs to area residents in all aspects of home security and neighborhood crime prevention.

(e) **YOUTH COMMITTEE:** The Youth Committee shall be responsible

1. for programs that involve youths in the Association's purposes and goals,
2. for directing the youth to a better understanding of civic affairs and law enforcement,
3. for enhancing the value of education and the understanding of its impact in developing the youth as strong leaders in the school and neighborhood organizations.

(f) **NOMINATING COMMITTEE:** The Nominating Committee shall be responsible for developing the list of officers and sector representatives to be submitted as candidates for election. Both the Nominating Committee and those making nominations from the floor should consider the following characteristics for members of the Board:

1. be able to provide leadership and motivation,
2. be able to invest time in the organization,
3. be accessible to the members,
4. be community oriented,
5. be open minded and cooperative.

Any member presenting a name for nomination from the floor should have consent of that person before submitting his/her name.

**SECTION 2 - STANDING COMMITTEES:** Chairpersons of all Standing Committees listed in Section 1 shall be appointed from the membership of the Association with approval of the Board. The Standing Committee chairpersons will appoint the members of respective committees subject to the approval of the Board. The number of committee members will be determined by the committee chairperson.

**SECTION 3 - APPOINTED COMMITTEES:** The President may establish additional committees as he/she deems necessary for the effective operation of the Association. Any special committee shall have such power and authority as assigned to it by the Board of Directors and the members.

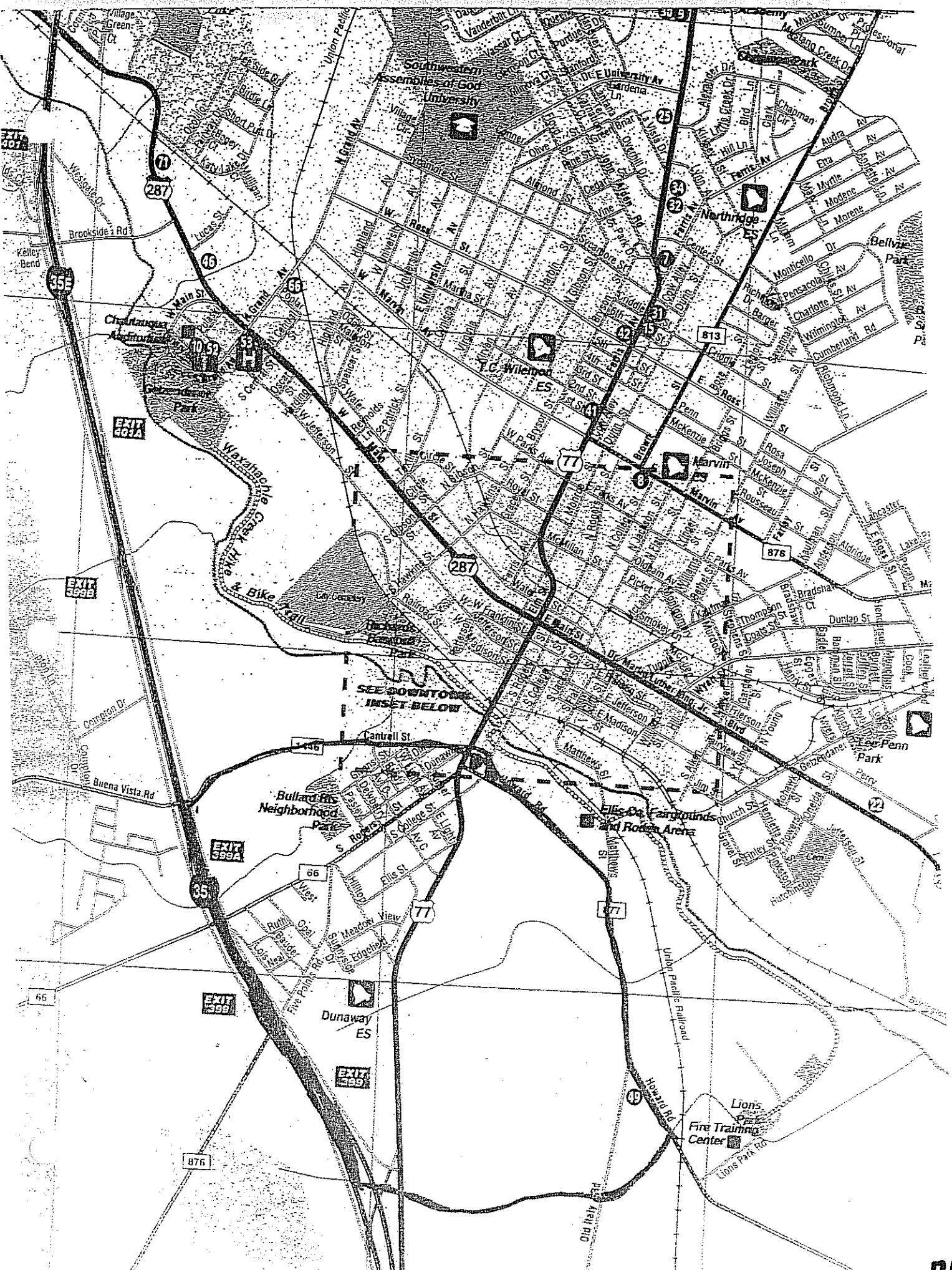
## ARTICLE XI - PARLIAMENTARY RULES

SECTION 1 - RULES OF ORDER: The current edition of ROBERT'S RULES OF ORDER shall be the procedures on all questions not specifically stated in the Bylaws of the Association.

## ARTICLE XII - AMENDMENTS

SECTION 1 - AMENDMENTS: These Bylaws may be amended by the affirmative vote of two-thirds of the members of the Association present and voting at a duly called meeting, provided that written notice of the proposed amendment shall have been given in writing to the membership of the Association in accordance with Article VII, Section 1 of the Bylaws.





SEE DOWNTOWN  
INSET BELOW

# Bullard Heights Neighborhood Association

Chairman, Sande Wilkinson 972-938-3188  
Secretary, Hugh Hall 972-935-9850

Vice chair, Hugh Lane Chambers 972-937-8614  
Co-secretary, Vicki Sigler 972-937-4966

RECEIVED  
MAR 30 2006  
LIHTC

March 29, 2006

Ms. Edwina Carrington  
Executive Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

RECEIVED  
MAR 30 2006  
EXECUTIVE

Re: Quantifiable Community Participation  
Development #: 060042  
Development: Country Lane Seniors-Waxahachie Community  
Development Location: East side of U.S. Highway 77, Waxahachie, Texas

As the chairman of the board of Bullard Heights Neighborhood Association, I am writing to provide the organization's support for the above-referenced development which is located on the east side of U.S. Highway 77, Waxahachie, Ellis County, Texas. Bullard Heights is a qualified Neighborhood Organization as further described below.

As the signer of this letter, I am providing the following required information:

Sande Wilkinson  
701 S. Rogers, Waxahachie, TX 75165  
972-938-3188  
[SandeWilkinson@sbcglobal.net](mailto:SandeWilkinson@sbcglobal.net) 972-923-2767 FAX

I am also providing the following information for one additional contact, Hugh Lane Chambers, for our organization:

Hugh Lane Chambers  
711 South College St., Waxahachie, TX 75165  
972-937-8614

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is documentation that establishes the organization's boundaries. The proposed development is within those boundaries. Enclosed is a map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries.

# *Bullard Heights Neighborhood Association*

*Chairman, Sande Wilkinson 972-938-3188*  
*Secretary, Hugh Hall 972-935-9850*

*Vice chair, Hugh Lane Chambers 972-937-8614*  
*Co-secretary, Vicki Sigler 972-937-4966*

This organization is an organization of persons living near one another within the organization's defined boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are our bylaws created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization. The organization has fifty members and four officers. The organization reached its decision to support the proposed development by a neighborhood organization meeting on February 7, 2006. The developer provided a full presentation of his proposed Senior Citizen Community. The members later decided to support the project.

This organization is:

On record, as of March 1, 2006, with the Texas Department of Housing and Community Affairs as permitted by the Qualified Allocation Plan and Rules.

This organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round. The organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA" Information Packet for Neighborhoods' to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance). The Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter).

The organization supports the proposed development for the following reasons:

1. Affordable housing is needed for senior citizens in the neighborhood.
2. There is a possibility that the new senior citizens center to be constructed in Waxahachie could be located by the development.
3. Developer has a successful track record of development.
4. At least 7% of the units are designed for residents with disabilities.
5. The developer has worked closely with our organization in developing this development.
6. The supportive services and senior oriented programs available at no additional cost to the residents allow the seniors to grow and remain independent as long as possible.

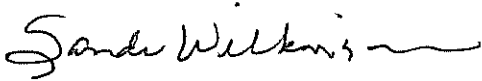
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*Secretary, Hugh Hall 972-935-9850*

*Vice chair, Hugh Lane Chambers 972-937-8614*  
*Co-secretary, Vicky Sigler 972-937-4966*

7. Affordable rents will help seniors in a time of rising doctor bills, utility costs, and prescription drug costs.
8. The developer contacted our organization and included our ideas and input in the development of this development.
9. The development is a mixed income development and provides housing for senior citizens at all levels of income.
10. The development will provide new jobs for local residents.
11. The development will pay real property taxes and therefore contribute funds for the school system.

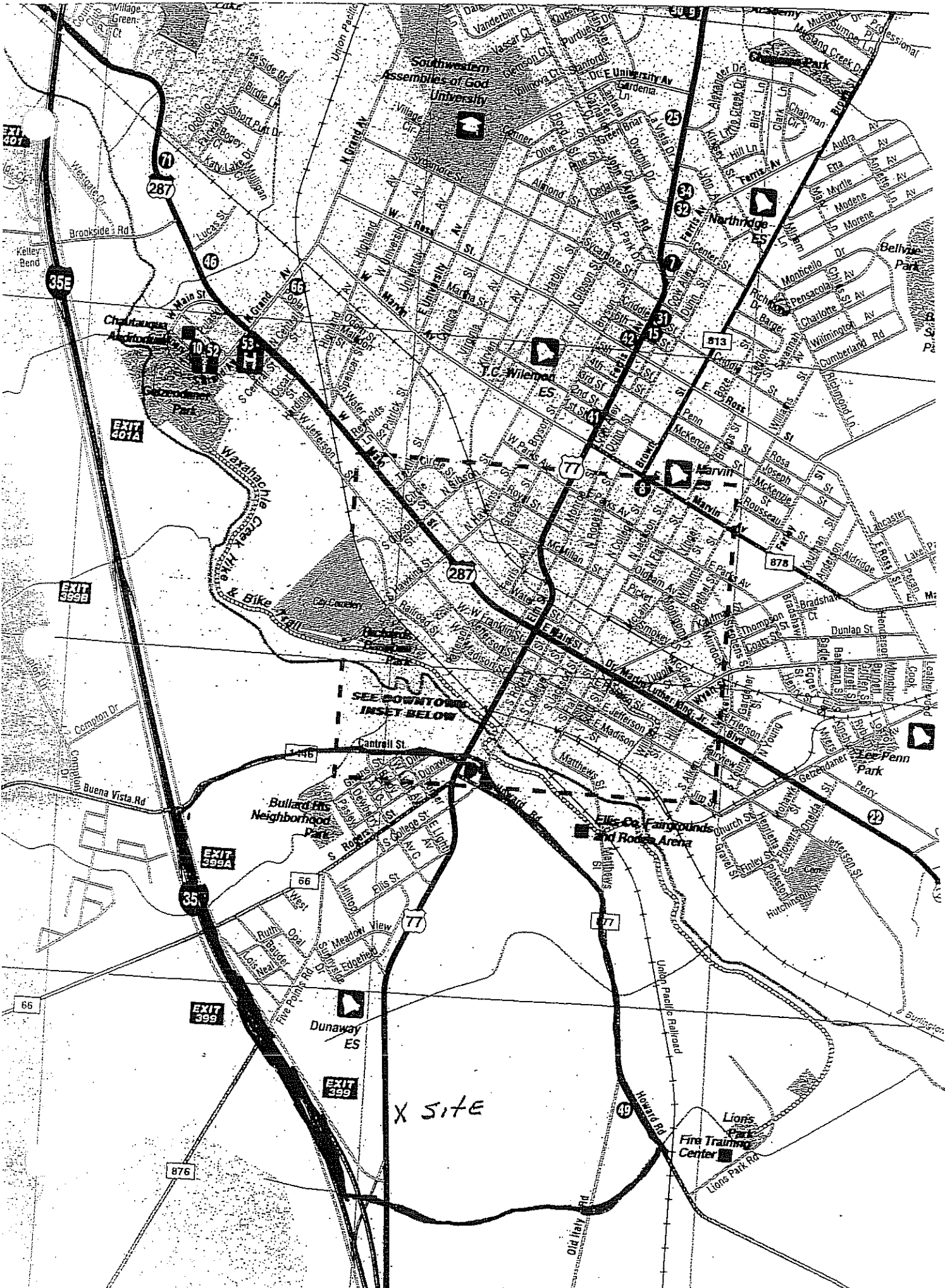
Sincerely,



Sande Wilkinson  
Chairman of the Board

Attachments:

*Map of Organization's Boundaries showing Development Site*  
*Documentation for Being on Record with the County or State*  
*Bylaws*



RECEIVED

APR 04 2006

EXECUTIVE

*Sandra Wilkinson*  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

060042

February 24, 2006

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

RECEIVED  
APR 04 2006  
LIHTC

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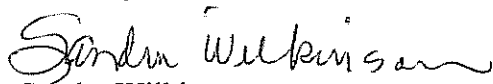
I am writing to request that my neighborhood organization, ***Bullard Heights Neighborhood Association*** (the organization), be registered with the Texas Department of Housing and Community Affairs for the purposes of Quantifiable Community Participation, §50.9(i)(2), Texas Administrative Code.

As required, following is a list of the names and positions for each of the organization's officers.

- Chairman Sandra Wilkinson,
- Vice-Chairman Hugh Lane Chambers,
- Secretary Sue Hall

The boundaries of this organization are: Starting at Interstate 35-E at Cantrell St., Cantrell St. East to U.S. Highway 77; U.S. Highway 77 South to Howard Rd.; Howard Rd. to a tributary stream of Waxahachie Creek which crosses Howard Rd. and crosses U.S. Highway 77 to Interstate 35-E, then North on Interstate 35-E to Cantrell St., the place of beginning. Enclosed is a map with the geographic boundaries for the organization clearly marked.

Sincerely,

  
Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188  
(972)923-2767-Fax

Attachments: *Map of Organization's Boundaries*

**BYLAWS OF THE  
NEIGHBORHOOD ASSOCIATION**

**ARTICLE 1 – NAME**

The name of this organization is the

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

**ARTICLE 11 – PURPOSE**

The purpose of the Bullard Heights Neighborhood Association is to:

- 1 – Discuss and evaluate the needs and improve the quality of life within the neighborhood.
- 2 – Promote a strong sense of cooperation in our neighborhood and among businesses.
- 3 – Assist and encourage the restoration, preservation, and improvement of this neighborhood.

**ARTICLE 111 – BOUNDARIES**

The area has the following boundaries within the City of Waxahachie, Texas:  
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SECTION 2 Any individual who is interested in promoting the purposes of the Association is eligible for membership.

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- a – owns or occupies a home,
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- d – pays his/her dues for the current year
- e – businesses and organizations will be entitled to one vote by an individual designated by the business or organization.

SECTION 4 - Membership in the Association shall be for one year. Each membership year shall be from January 1 to December 31.

## ARTICLE V - DUES

Annual Membership dues shall be:

Individual Membership	\$1.00
Business/Organization Membership	\$5.00

This fee shall be payable at such time as the Board of Directors may determine, subject to approval by the members, and shall be subject to change as reviewed by the Board of Directors.

~~EXCEPTION:~~ A waiver of dues is available upon application and approval by the Board of Directors.

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SECTION 1 - Each member shall be entitled to voice and vote on all matters submitted at any official meeting of this association provided the subject which has been presented has been done according to the orderly process.

SECTION 2 - To be eligible to run for an office, an individual must have been a member in good standing for 6 months prior to the election. A member in good standing shall be defined as an individual who has paid his/her dues for the current year and who is an active participant in the association.

SECTION 3 - No member of the Association may use the name of this Neighborhood Association, for other than the purpose of the organization, nor solicit funds for any association purpose without permission of the Board of Directors.

## ARTICLE VII - MEETINGS

SECTION 1 - Regular meetings of the Association shall be held quarterly. The Annual Meeting shall be the first quarterly meeting of the year. Special meetings may be called by the Board of Directors or at the written request of 20 percent of the voting membership of the Association. The Secretary shall give written notice to all members 7 days prior to a specially called meeting. Such notice shall be posted at

SECTION 2 - Twenty-five percent (25%) of the members shall constitute a quorum for the transaction of business at any duly called meeting for which seven days written notice has been given by the Secretary. Any resolution presented at such a meeting shall be adopted by a simple majority vote of the members present and voting, unless otherwise provided in the By-Laws. No proxy voting will be permitted.



SECTION 3 - Officers and members of the Board of Directors will be elected by secret ballot by the voting members.

SECTION 4 - Re-ordering of the agenda. Any person wishing to address a non-agenda subject shall be limited to 2 minutes each at the President's discretion.

## ARTICLE VIII - BOARD OF DIRECTORS

SECTION 1 - POWERS AND DUTIES: The direction and management of the affairs of the Association and the control of its business shall be vested in the Board of Directors, and be subject to any restrictions imposed by law, the Articles of Incorporation, the By-Laws, or by vote of the members.

SECTION 2- MEMBERSHIP OF THE BOARD: The Board of Directors shall be composed of:

Elected Officers - 3  
Sector Representatives - 1  
Immediate Past President - 1

- a Each Board member shall serve for a one year term concurrent with the membership year. A Board member may be re-elected, but may not serve for more than two consecutive terms, unless no other member is willing to serve.
- b The President, Vice-President, Secretary, Treasurer, Parliamentarian, and Chaplain shall be elected, each year.
- c The Immediate Past President shall serve as a full voting member of the Board so long as he/she remains a member in good standing of the Board and the Association. If this condition should not be fulfilled, the Immediate Past President shall remain eligible to meet with the Board for the remainder of the one year term, but shall do so in a non-voting, ex-officio capacity.
- d A vacancy shall be declared in a seat on the Board of Directors upon the death, removal or resignation of a Board member. A Board member shall be removed and his/her seat shall be declared vacant upon failure to pay membership dues or upon failure to attend any three consecutive Board meetings without an excuse acceptable to the Board, or for poor conduct. Vacancies on the Board shall be filled by a majority vote of all members of the Board.

SECTION 3 - CONDUCT: Misrepresenting the Association or speaking in behalf of the Association without Board of Directors approval shall be considered poor conduct.

SECTION 4 - MEETINGS OF THE BOARD: (a) The Board of Directors shall meet at least monthly at a time and place to be designated by the Board. A Special meeting of the Board may be called at any time by two-thirds (2/3) of the Board members upon request to the President.

Each member of the Board must be notified at least three days prior to any special Board meetings. All meetings of the Board are open to the public.

(b) At least one-half of the Directors must be present in order for business to be transacted at any meeting. Any action shall be accepted by a majority of the Directors present at a Board meeting where a quorum is present. No proxy voting will be permitted.

**SECTION 5 - ANNUAL REPORT:** The Board will present an Annual Report of the affairs of the Association for the year to the members at the annual meeting. A copy of the Report shall be available for inspection by the members at any regular meeting of the Association.

**SECTION 6 - AUDIT:** An audit of the financial records may occur at any time at the direction of the Board of Directors and regularly before the annual meeting of the Association. The President shall appoint an auditing committee at least two (2) weeks before the Annual Meeting.

## **ARTICLE IX - OFFICERS**

**1 - TITLES, TERMS AND ELECTION:** (a) The officers of the Association shall be President, Vice President, Secretary, Treasurer, Parliamentarian and Chaplain. Term: See Article VIII, Section 2 - (a).

(b) Officers will be elected for the coming membership year at the fourth quarterly meeting of the Association. A candidate must receive a majority of the votes cast for that office in order to be elected.

(c) Vacancies may be created by death, resignation, or by an officers' loss of standing of his/her seat on the Board of Directors. If the office of President becomes vacant, the Vice President will become President. Any vacancies within the Board of Directors shall be filled by appointment by the President, subject to the approval of the Board.

### **SECTION 2 - DUTIES AND POWERS:**

(A) **PRESIDENT:** The President will preside at all meetings of the Association and of the Board of Directors. The President will appoint all committee chairpersons, subject to the approval of the majority of the Board, and shall serve as ex-officio member of all committees. He/She will exercise general supervision over the affairs of the Association, and will ensure that all decisions and resolutions of the Board of Directors and the Members are executed. Subject to the approval of the Board, the President shall have the power to execute contracts and other authorized instruments in the name of the Association except as provided in these Bylaws.

(B) **VICE PRESIDENT:** The Vice President shall assist the President in the planning, arranging and coordinating of programs for meetings of the Association and for Special Events approved by the Board of Directors. The Vice President shall represent the Association in case of the absence or disability of the President, and shall exercise the powers of that office.

(C) SECRETARY: The Secretary will keep minutes of all meeting of the Association and the Board of Directors. These minutes will be available to any member of the Association at any regular membership meeting or as requested by a Board Member. The Secretary will be responsible for giving the notice of meetings as provided by these Bylaws. The Secretary will be responsible for the correspondence and records of the Association as directed by the Board.

(D) TREASURER: The Treasurer will have charge of the funds of the Association, and shall secure their deposit as directed by the Board. The Treasurer will keep records of the Association's finances, and these records shall be available for inspection at any regular membership meeting. All funds solicited for the Association shall be directed to the Treasurer. All checks, orders for payment of money and notes, or other evidence of indebtedness issued in the name of the Association must be signed by the Treasurer and the President, or Vice President, or Secretary. No expenditure over \$25.00 may be executed without the consent of the Board of Directors.

(E) PARLIAMENTARIAN: Shall advise and control the business that it may be conducted orderly and follow the agenda of the day. The current Roberts Rules of Order shall be the guide for all parliamentary procedures used at the discretion of the parliamentarian.

(F) CHAPLAIN: The Chaplain shall perform all duties related to the office of chaplain and such other responsibilities as may be assigned to him/her or by the President or by the Board.

## ARTICLE X - COMMITTEES

SECTION 1 - STANDING COMMITTEES: The following standing committees shall be authorized as stated in the Bylaws:

(a) FINANCE AND BUSINESS COMMITTEE: The Finance and Business Committee shall advise and inform the Board on all matters relating to the finances of the Association. The Treasurer shall be a member to the Finance and Business Committee.

(b) PUBLIC RELATIONS COMMITTEE: The Public Relations Committee shall be responsible for the promotion of the activities and the communication of the Association's purposes including the recruitment and maintenance of the membership records of the Association. The Secretary shall be a member of this committee.

(c) NEIGHBORHOOD IMPROVEMENT AND RENOVATION COMMITTEE:

1. shall coordinate the development and implementation of activities designed to improve and maintain a good environment in the neighborhood area.

2. shall assist and advise residents in the neighborhood who desire to improve the housing condition of the neighborhood area including rehabilitation and renovation.

3. shall work with officials and staff of the City of Waxahachie to implement activities designed to improve the environment of the Bullard Heights Neighborhood Association area.

(d) **NEIGHBORHOOD SECURITY COMMITTEE:** The Neighborhood Security Committee shall offer educational programs to area residents in all aspects of home security and neighborhood crime prevention.

(e) **YOUTH COMMITTEE:** The Youth Committee shall be responsible

1. for programs that involve youths in the Association's purposes and goals,
2. for directing the youth to a better understanding of civic affairs and law enforcement,
3. for enhancing the value of education and the understanding of its impact in developing the youth as strong leaders in the school and neighborhood organizations.

(f) **NOMINATING COMMITTEE:** The Nominating Committee shall be responsible for developing the list of officers and sector representatives to be submitted as candidates for election. Both the Nominating Committee and those making nominations from the floor should consider the following characteristics for members of the Board:

1. be able to provide leadership and motivation,
2. be able to invest time in the organization,
3. be accessible to the members,
4. be community oriented,
5. be open minded and cooperative.

Any member presenting a name for nomination from the floor should have consent of that person before submitting his/her name.

**SECTION 2 - STANDING COMMITTEES:** Chairpersons of all Standing Committees listed in Section 1 shall be appointed from the membership of the Association with approval of the Board. The Standing Committee chairpersons will appoint the members of respective committees subject to the approval of the Board. The number of committee members will be determined by the committee chairperson.

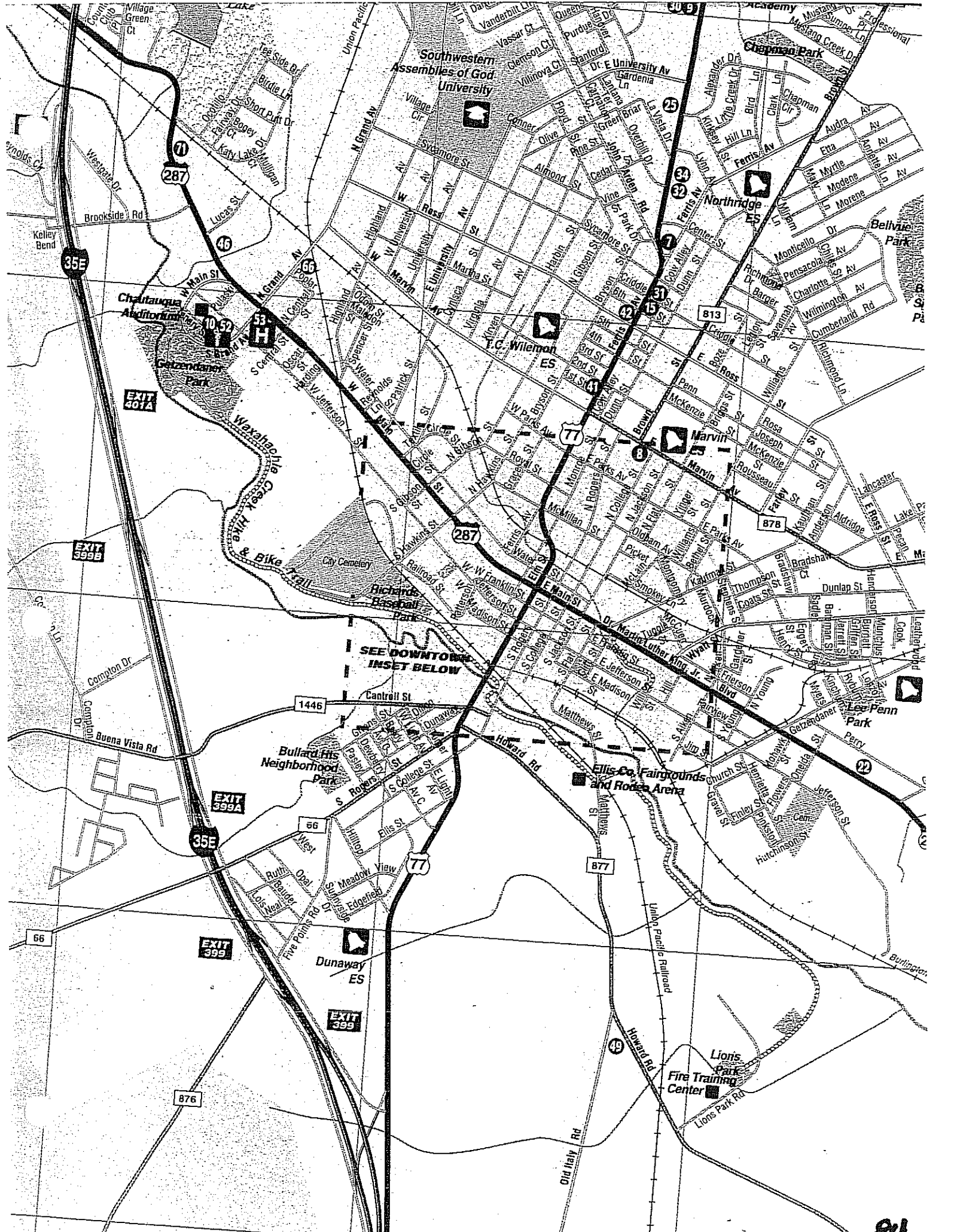
**SECTION 3 - APPOINTED COMMITTEES:** The President may establish additional committees as he/she deems necessary for the effective operation of the Association. Any special committee shall have such power and authority as assigned to it by the Board of Directors and the members.

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SECTION 1 - RULES OF ORDER: The current edition of ROBERT'S RULES OF ORDER shall be the procedures on all questions not specifically stated in the Bylaws of the Association.

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SECTION 1 - AMENDMENTS: These Bylaws may be amended by the affirmative vote of two-thirds of the members of the Association present and voting at a duly called meeting, provided that written notice of the proposed amendment shall have been given in writing to the membership of the Association in accordance with Article VII, Section 1 of the Bylaws.



SEE DOWNTOWN  
INSET BELOW

**2006 HTC APPLICATION CYCLE  
NEIGHBORHOOD REGISTRATION WITH TDCHA CHECKLIST  
§50.9(i)(2) OF THE 2006 QAP**

---

Organization Name: BULLARD HTS NA Date Letter Received: 4/4/06

Reviewer Name: S. GAMBLE Date Reviewed: 4/7/06

---

1. Is the received date on or before March 1, 2006: Yes  No

**If no, do not proceed. This letter is ineligible. If yes, proceed.**

2. Includes Contact Name: Yes  No

3. Includes Mailing Address: Yes  No

4. Includes Phone Number: Yes  No

5. Includes Names and Positions of Officers: Yes  No

6. Includes Written Description of Geographic Boundaries: Yes  No

7. Includes Map of Geographic Boundaries: Yes  No

8. The map matches the written description for boundaries: Yes  No

---

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency briefly:

---

---

---

Were all items complete? Yes  No

If no, date deficiency letter issued: \_\_\_\_\_

Date deficiencies received: \_\_\_\_\_

Were all deficiencies resolved? Yes  No

---

Has this been entered in the 2006 Database? Yes  No

*Sandra Wilkinson*  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188

RECEIVED

APR 14 2006

EX-107

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

February 24, 2006

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Recording of Neighborhood Organization

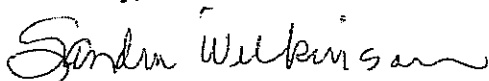
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Sincerely,



Sandra Wilkinson  
701 S. Rogers St.  
Waxahachie, Texas 75165  
(972)938-3188  
(972)923-2767-Fax

Attachments: *Map of Organization's Boundaries*



**BYLAWS OF THE  
NEIGHBORHOOD ASSOCIATION**

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The name of this organization is the

**BULLARD HEIGHTS NEIGHBORHOOD ASSOCIATION**

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Each member of the Board must be notified at least three days prior to any special Board meetings. All meetings of the Board are open to the public.

(b) At least one-half of the Directors must be present in order for business to be transacted at any meeting. Any action shall be accepted by a majority of the Directors present at a Board meeting where a quorum is present. No proxy voting will be permitted.

**SECTION 5 - ANNUAL REPORT:** The Board will present an Annual Report of the affairs of the Association for the year to the members at the annual meeting. A copy of the Report shall be available for inspection by the members at any regular meeting of the Association.

**SECTION 6 - AUDIT:** An audit of the financial records may occur at any time at the direction of the Board of Directors and regularly before the annual meeting of the Association. The President shall appoint an auditing committee at least two (2) weeks before the Annual Meeting.

## **ARTICLE IX - OFFICERS**

**1 - TITLES, TERMS AND ELECTION:** (a) The officers of the Association shall be President, Vice President, Secretary, Treasurer, Parliamentarian and Chaplain. Term: See Article VIII, Section 2 - (a).

(b) Officers will be elected for the coming membership year at the fourth quarterly meeting of the Association. A candidate must receive a majority of the votes cast for that office in order to be elected.

(c) Vacancies may be created by death, resignation, or by an officers' loss of standing of his/her seat on the Board of Directors. If the office of President becomes vacant, the Vice President will become President. Any vacancies within the Board of Directors shall be filled by appointment by the President, subject to the approval of the Board.

### **SECTION 2 - DUTIES AND POWERS:**

(A) **PRESIDENT:** The President will preside at all meetings of the Association and of the Board of Directors. The President will appoint all committee chairpersons, subject to the approval of the majority of the Board, and shall serve as ex-officio member of all committees. He/She will exercise general supervision over the affairs of the Association, and will ensure that all decisions and resolutions of the Board of Directors and the Members are executed. Subject to the approval of the Board, the President shall have the power to execute contracts and other authorized instruments in the name of the Association except as provided in these Bylaws.

(B) **VICE PRESIDENT:** The Vice President shall assist the President in the planning arranging and coordinating of programs for meetings of the Association and for Special Events approved by the Board of Directors. The Vice President shall represent the Association in case of the absence or disability of the President, and shall exercise the powers of that office.

(C) SECRETARY: The Secretary will keep minutes of all meeting of the Association and the Board of Directors. These minutes will be available to any member of the Association at any regular membership meeting or as requested by a Board Member. The Secretary will be responsible for giving the notice of meetings as provided by these Bylaws. The Secretary will be responsible for the correspondence and records of the Association as directed by the Board.

(D) TREASURER: The Treasurer will have charge of the funds of the Association, and shall secure their deposit as directed by the Board. The Treasurer will keep records of the Association's finances, and these records shall be available for inspection at any regular membership meeting. All funds solicited for the Association shall be directed to the Treasurer. All checks, orders for payment of money and notes, or other evidence of indebtedness issued in the name of the Association must be signed by the Treasurer and the President, or Vice President, or Secretary. No expenditure over \$25.00 may be executed without the consent of the Board of Directors.

(E) PARLIAMENTARIAN: Shall advise and control the business that it may be conducted orderly and follow the agenda of the day. The current Roberts Rules of Order shall be the guide for all parliamentary procedures used at the discretion of the parliamentarian.

(F) CHAPLAIN: The Chaplain shall perform all duties related to the office of chaplain and such other responsibilities as may be assigned to him/her or by the President or by the Board.

## ARTICLE X - COMMITTEES

SECTION 1 - STANDING COMMITTEES: The following standing committees shall be authorized as stated in the Bylaws:

(a) FINANCE AND BUSINESS COMMITTEE: The Finance and Business Committee shall advise and inform the Board on all matters relating to the finances of the Association. The Treasurer shall be a member to the Finance and Business Committee.

(b) PUBLIC RELATIONS COMMITTEE: The Public Relations Committee shall be responsible for the promotion of the activities and the communication of the Association's purposes including the recruitment and maintenance of the membership records of the Association. The Secretary shall be a member of this committee.

(c) NEIGHBORHOOD IMPROVEMENT AND RENOVATION COMMITTEE:

1. shall coordinate the development and implementation of activities designed to improve and maintain a good environment in the neighborhood area.

2. shall assist and advise residents in the neighborhood who desire to improve the housing condition of the neighborhood area including rehabilitation and renovation.
3. shall work with officials and staff of the City of Waxahachie to implement activities designed to improve the environment of the Bullard Heights Neighborhood Association area.

(d) **NEIGHBORHOOD SECURITY COMMITTEE:** The Neighborhood Security Committee shall offer educational programs to area residents in all aspects of home security and neighborhood crime prevention.

- (e) **YOUTH COMMITTEE:** The Youth Committee shall be responsible
1. for programs that involve youths in the Association's purposes and goals,
  2. for directing the youth to a better understanding of civic affairs and law enforcement,
  3. for enhancing the value of education and the understanding of its impact in developing the youth as strong leaders in the school and neighborhood organizations.

(f) **NOMINATING COMMITTEE:** The Nominating Committee shall be responsible for developing the list of officers and sector representatives to be submitted as candidates for election. Both the Nominating Committee and those making nominations from the floor should consider the following characteristics for members of the Board:

1. be able to provide leadership and motivation,
2. be able to invest time in the organization,
3. be accessible to the members,
4. be community oriented,
5. be open minded and cooperative.

Any member presenting a name for nomination from the floor should have consent of that person before submitting his/her name.

**SECTION 2 - STANDING COMMITTEES:** Chairpersons of all Standing Committees listed in Section 1 shall be appointed from the membership of the Association with approval of the Board. The Standing Committee chairpersons will appoint the members of respective committees subject to the approval of the Board. The number of committee members will be determined by the committee chairperson.

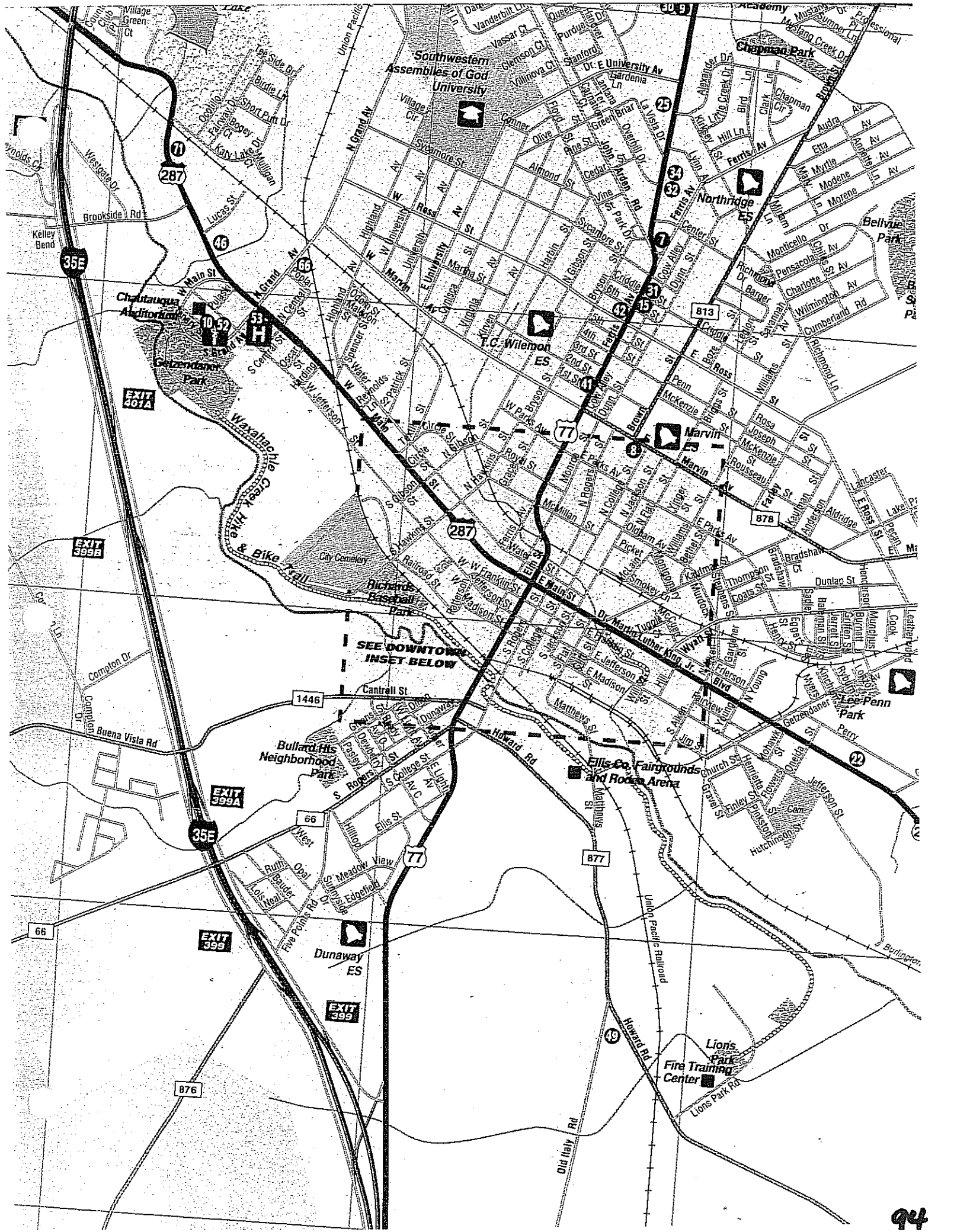
**SECTION 3 - APPOINTED COMMITTEES:** The President may establish additional committees as he/she deems necessary for the effective operation of the Association. Any special committee shall have such power and authority as assigned to it by the Board of Directors and the members.

## ARTICLE XI - PARLIAMENTARY RULES

SECTION 1 - RULES OF ORDER: The current edition of ROBERT'S RULES OF ORDER shall be the procedures on all questions not specifically stated in the Bylaws of the Association.

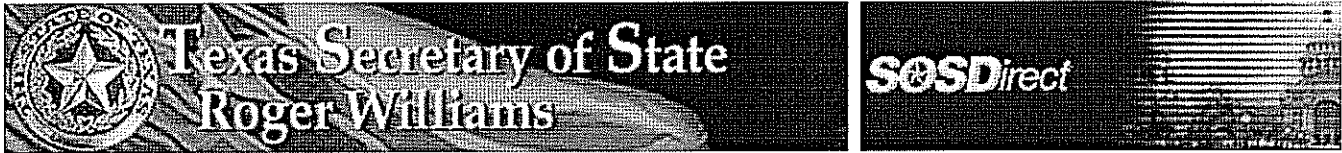
## ARTICLE XII - AMENDMENTS

SECTION 1 - AMENDMENTS: These Bylaws may be amended by the affirmative vote of two-thirds of the members of the Association present and voting at a duly called meeting, provided that written notice of the proposed amendment shall have been given in writing to the membership of the Association in accordance with Article VII, Section 1 of the Bylaws.



SEE DOWNTOWN  
INSET BELOW





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**FIND ENTITY NAME SEARCH**

This search was performed on with the following search parameter:

**ENTITY NAME** : bullard heights

**There are no records which match your inquiry.**

[Return to Order](#)

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Instructions:

- To view additional information pertaining to a particular filing select the number associated with the name.
- To place an order for additional information about a filing select the radial button listed under 'Mark' that is associated with the entity and press the 'Order' button.



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- 9% HTC Competitive Application

RECEIVED

MAY 17 2006

LHTC

Appeal Election Form: 060042, Country Lane Seniors - Waxahachie Community

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

If my appeal is denied by the Executive Director, I:

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed Kenneth H. Mitchell  
Title Member and Manager of General Partner  
Date May 17, 2006

Please fax or email to the attention of Jennifer Joyce: (fax)  
512.475.0764 or 512.475.1895  
(email) jennifer.joyce@tdhca.state.tx.us

**060244**

**Waco River Park**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Waco River Park Apartments- 060244**

By April 3, 2006, the Department received a letter from the Carver Neighborhood Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) which outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

A deficiency letter was issued to the neighborhood organization on April 27, 2006. The response was due May 8, 2006. One of the items required to be submitted was evidence that the organization was on record with the state or county in which the development is to be located as required by §2306.6710, Texas Government Code for all eligible QCP letters. In a response letter dated May 5, 2006, the association stated that the organization was not registered with the state or county, but with the city. The Department also confirmed that the organization's status with the Secretary of State was "forfeited". The statutory requirement for county or state registration was not satisfied.

The applicant is appealing the eligibility of the letter based on the applicant's assertion that the neighborhood organization met legislative intent for QCP, which the applicant asserts is to make sure neighborhoods are made aware of proposed developments within their boundaries and are given the opportunity to voice their opinion regarding said developments.

The requirement to be on record with the state or county, statutorily required under §2306.6710 Texas Government Code, is described in §50.9(i)(2)(A)(v) of the 2006 Qualified Allocation Plan and Rules (QAP) which states, "If an organization's status with the Secretary of State is shown as "forfeited," "dissolved," or any similar status in the documentation provided by the organization, the organization will not be considered on record with the state...It is insufficient to show that the organization is on record with a city."

This QCP letter does not meet the requirements of §2306.6710 Texas Government Code or §50.9(i)(2)(A)(v) of the QAP, and is therefore ineligible.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	River Park Apartment Homes, L.P.
Site Location:	1300 Martin Luther King Drive
City/County:	Waco/ McLennanCounty
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Elderly
Region:	8
Type of Development:	New Construction
Units:	124
Credits Requested:	\$1,161,002

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

## Boundaries and Deadlines

### §50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;

(iv) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents). "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."

(v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. If an organization's status with the Secretary of State is shown as "forfeited," "dissolved," the organization will not be considered on record with the state. As an option to be considered on record with the state, must be received by the Department no later than March 1, 2006.

(vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).

(vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...

(viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.

(ix) The boundaries in effect for the organization on March 1, 2006. Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization.

(x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.

(ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) In general, letters that meet the requirements of this paragraph and

(I) establish three or more reasons for support...(+24 points) or opposition (zero);

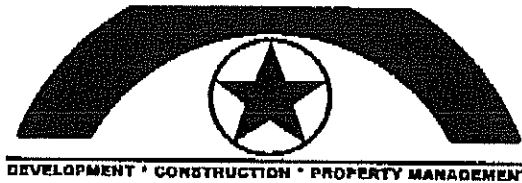
(II) establish two reasons...+18 points for support...

(III) establish one reason for support ... +13 points for support...;

(IV) that do not establish a reason...neutral (+12 points).

(iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.

# **Board Appeal/ Executive Director Appeal**



RECEIVED  
MAY 18 2006  
LINTL

# Fax

<b>To:</b>	Jennifer Joyce	<b>From:</b>	Michael Lankford
<b>CC:</b>		<b>CC:</b>	
<b>Fax:</b>	512-475-0764	<b>Pages:</b>	5
<b>Phone:</b>	512-475-3995	<b>Date:</b>	May 18, 2006
<b>Re:</b>	HTC-060244	<b>CC:</b>	

Urgent     For Your Review     Please Reply

• **Comments:**

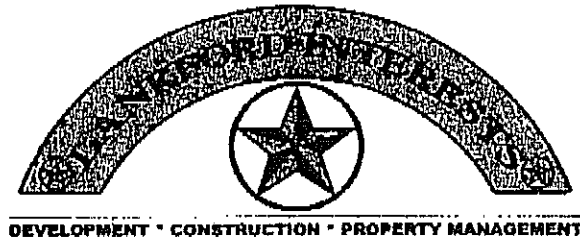
Jennifer,

Please note I have attached a letter addressed to Michael Gerber as an initial appeal for TDHCA # 060244 Waco River Park Apartment Homes along with the TDHCA appeal form. At this time, it is unclear why the application was denied the full 24 points under Section 50.9(i)(2), unfortunately, I will be out of the office thru May 23 next week and therefore I cannot specifically address (nor attach) the grounds for my appeal. I do however intend to submit full Board appeal documentation on or before 5:00 PM Tuesday May 31, 2006

Sincerely

  
Michael Lankford





May 18, 2006

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

Re: Waco River Park Apartment Homes  
TDHCA Number 060244

Dear Mike,

First of all I want to congratulate you on your new position. However Mike, as I told Edwina when she was applying for the ED position "Be careful what you wish for!" Seriously though, as a founding board member and past president of TAAHP, I look forward to continuing the close working relationship TAAHP and TDHCA have established.

Mike, when I first began working in the Tax Credit business in 1996-1997, the executive director at that time, Larry Paul Manley told me "Mike, the board doesn't really want to hear from developers on their specific deal(s), we know each developer believes he or she has a good deal or they would not be submitting it." I have more or less followed that philosophy over the years and have let the applications speak for themselves. However, Mike I feel very strongly and passionate regarding the above referenced 2006 application.

I would respectfully request that the full 24 points be awarded under Section 50.9 (i) (2) Quantifiable Community Participation (QCP). To fully appreciate and consider my request I think it is important to understand the location of the proposed development and the past history of the site.

The site is located in Waco, Texas along Martin Luther King Blvd., which runs along the Brazos River. The site lies just on the out skirts of the CBD of Waco, is in a city revitalization zone and is within the boundaries of an older, predominately minority neighborhood which accounts for the fact that it is also in a Qualified Census Tract.

4900 Woodway Drive, Suite 750 \* Houston, TX 77056 \* 713-626-9655

After 10 years of being in the Tax Credit industry and the submittal of probably 30 or more applications, this is the best location for a tax credit development I have ever been associated with. Now a brief history of the site, because of the excellent location several tax credit developers in the past have approached the owner and the neighborhood about submitting an application on the site. Each time the request has been rejected by the Carver Neighborhood Association and consequently the city due to lack of neighborhood support for a number of reasons, i.e. the family set-aside rather than the currently proposed elderly set-aside, the 2-3 story garden apartment design versus the current one-story design, etc.

I was made aware of this site by the owner, who owns a contracting company that did the site, utility and paving for TDHCA # 04018 Terrace Pines Apartment Homes in College Station, Texas. As he became involved with Terrace Pines and saw the overall development and design, he told me he had a "perfect" tract of land in Waco for this type of (Terrace Pines) development, and that in his opinion it would be well received and supported by both the neighborhood and the city.

I was introduced to the Mayor of Waco and the city councilman in whose district the site was located and showed them what I envisioned for the site. I was told the city would not support any development that was not first supported by the neighborhood.

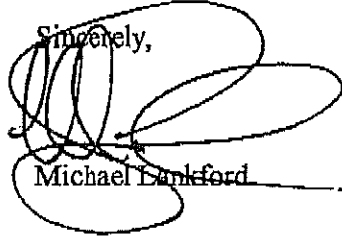
Consequently, the officers of the Carver Neighborhood Association were contacted by the city councilman and visits were scheduled for two of my elderly developments in Killeen TDHCA # 99053 The Veranda at Twin Creek and TDHCA # 03068 Stone Ranch Apartment Homes. During their visit I answered all their questions and provided them with the Quantifiable Community Participation Packet from TDHCA. Several days later, I received a copy of the package Mr. Lee Seals (President of the Neighborhood Association) sent to TDHCA including a strong letter of support, a map outlining the (city designated) neighborhood association's boundaries clearly showing the site within the boundaries and later the organizational documents/by-laws file stamped by the Secretary of State of Texas in 1996. In addition, Mr. Seals appeared at the Region 8 Public Hearing in Waco, Texas expressing the strong support of the neighborhood.

In conclusion, Mike while being perfectly candid, I am probably somewhat philosophically opposed to the original legislation imposing/requiring the scoring for the Quantifiable Community Participation (I actually was the only for-profit developer invited by Edwina to serve on a panel to meet with neighborhood advocacy groups way back when, to discuss the implementation of the legislation), I felt then and still do today the basic legislative intent was to make sure the neighborhoods were made aware of proposed developments within their boundaries and was given the opportunity to voice their opinion (i.e. support or opposition) regarding the development. I also understand the intent of TDHCA in requesting/requiring all the additional documentation under Section 50.9(i)(2) in an attempt to prevent scoring abuses. But I feel that in many cases the additional required documentation is superfluous and many times places an undue burden on the Neighborhoods especially in the case of associations consisting of more elderly, less sophisticated homeowners most of whom do not have internet, e-mails or even fax machines.

As I mentioned above I feel very strongly that the Carver Neighborhood Association has met that legislative intent for Quantifiable Community Participation in their firm and obvious support of TDHCA # 060244 River Park Apartment Homes and would request the full 24 points available under Section 50.9 (i)(2) be awarded to the application.

If you should any question please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to be "Michael Lankford", written over a horizontal line. The signature is somewhat stylized and overlaps the line.

Michael Lankford



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice - 9% HTC Competitive Application**

**Appeal Election Form: 060244, Waco River Park Apartment Homes**

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

**If my appeal is denied by the Executive Director, I:**

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signature [Handwritten Signature]

Title MANAGER, G.P.

Date 5-18-06

Please fax or email to the attention of Jennifer Joyce: (fax)  
512.475.0764 or 512.475.1895  
(email) jennifer.joyce@tdhca.state.tx.us

**Tammy Maret**

---

**From:** System Administrator [postmaster@tdhca.state.tx.us]  
**Sent:** Thursday, May 18, 2006 3:17 PM  
**To:** tmaret@lankfordinterests.com  
**Subject:** Delivered: Waco-060244-response

**Importance:** High



Waco-060244-resp  
onse (459 byte... <<Waco-060244-response>> Your message

To: jenniferjoyce@tdhca.state.tx.us  
Subject: Waco-060244-response  
Sent: Thu, 18 May 2006 15:13:38 -0500

was delivered to the following recipient(s):

Jennifer Joyce on Thu, 18 May 2006 15:16:55 -0500

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY

Governor

BOARD MEMBERS

Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
*Executive Director*

Mr. Michael Lankford  
River Park Apartment Homes, L.P.  
4900 Woodway, Ste. 750  
Houston, TX 77056  
Telephone: (713) 626-9655  
Telecopier: (713) 621-4947

**Re: Appeal Received for Waco River Park Apartment Homes - 060244**

Dear Mr. Lankford:

**Appeal Review**

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 18, 2006 regarding the eligibility of a letter from the Carver Neighborhood Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because the neighborhood organization was unable to submit evidence that it was on record with the county or state as required by §2306.6710, Texas Government Code by March 1, 2006 as required by the §50.9(i)(2)(A)(v) of the Qualified Allocation Plan and Rules (QAP).

This determination was made based on the fact that a deficiency letter was issued to the neighborhood organization on April 27, 2006. The response was due May 8, 2006. One of the items required to be submitted was evidence that the organization was on record with the state or county in which the development is to be located as required by §2306.6710, Texas Government Code for all eligible QCP letters. In a response letter dated May 5, 2006, the association stated that the organization was not registered with the state or county, but with the city. The Department also confirmed that the organization's status with the Secretary of State was "forfeited". The statutory requirement for county or state registration was not satisfied.

You are appealing the eligibility of the letter based on the assertion that the neighborhood organization met the legislative intent for QCP, which you assert is to

Mr. Lankford  
June 1, 2006  
Page 2 of 2

make sure neighborhoods are made aware of proposed developments within their boundaries and are given the opportunity to voice their opinion regarding said developments.

The requirement to be on record with the state or county, statutorily required under §2306.6710 Texas Government Code, is described in §50.9(i)(2)(A)(v) of the 2006 QAP which states, "If an organization's status with the Secretary of State is shown as "forfeited," "dissolved," or any similar status in the documentation provided by the organization, the organization will not be considered on record with the state...It is insufficient to show that the organization is on record with a city."

This QCP letter does not meet the requirements of §2306.6710 Texas Government Code or §50.9(i)(2)(A)(v) of the QAP, and is therefore ineligible.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

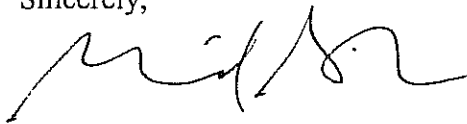
**Appeal Determination**

The appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director



# QCP Documentation



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

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May 15, 2006

Mr. Lee Seals  
Chairman of the Board  
Carver Neighborhood Association  
700 Carver  
Waco, Texas 76704  
Fax: 254-750-5886  
Email:

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Waco River Park Apartment Homes, # 060244

Dear Mr. Lee Seals:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

A deficiency letter was issued to neighborhood organization on April 27, 2006. The response was due May 8, 2006. One of the items required to be submitted was evidence that the organization was on record with the state or county in which the development is to be located as required by §2306.6710, Texas Government Code for all eligible QCP letters. In a response letter dated May 5, the association stated that the organization was not registered with the state or county, but with the city. The Department also confirmed that the organization's status with the Secretary of State was "forfeited". The statutory requirement for county or state registration was not satisfied.

Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

---

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

TRANSMISSION VERIFICATION REPORT

TIME : 05/15/2006 16:38  
NAME :  
FAX :  
TEL :  
SER.# : 000J5J563237

DATE, TIME	05/15 16:37
FAX NO./NAME	92547505880
DURATION	00:00:47
PAGE(S)	02
RESULT	OK
MODE	STANDARD



CITY OF WACO

City Manager's Office

Post Office Box 2570

Waco, Texas 76702-2570

254 / 750-5640

Fax: 254 / 750-5880

www.waco-texas.com

May 5, 2006

Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division

Attn: Sharon Gamble

221 East 11<sup>th</sup> Street

Austin, Texas 78711

RECEIVED

MAY 8 2006

LIHTC

Re: Waco River Park Apartment Homes # 060244

Ms Gamble:

I understand from my Neighborhood Services Director, Melett Harrison, that the application for Waco River Park Apartments has some deficiencies on the Quantifiable Community Participation. Those items are addressed here.

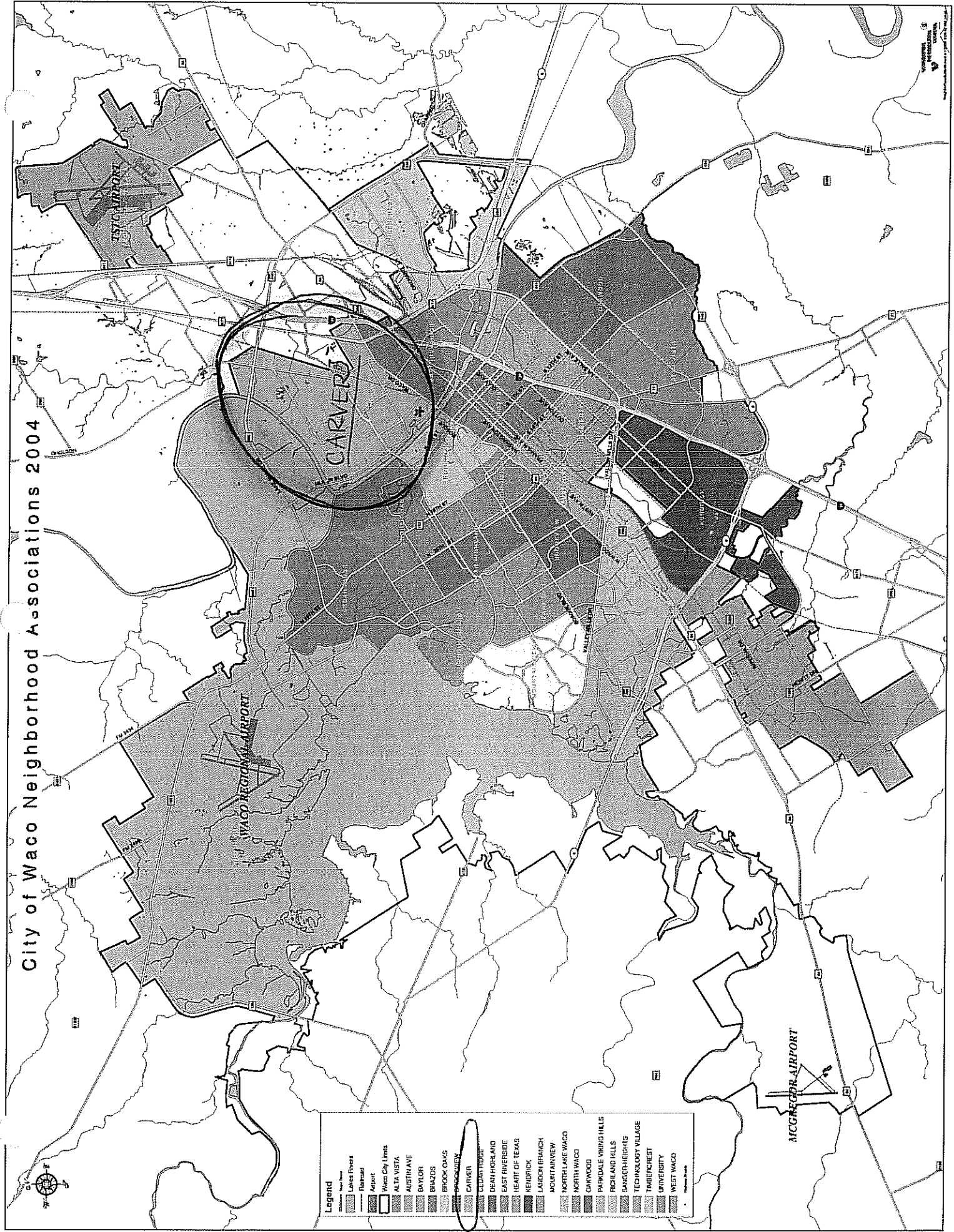
1. Please use the Neighborhood Services staff as an email and fax point of contact. Melett Harrison, [meleth@ci.waco.tx.us](mailto:meleth@ci.waco.tx.us), ph 254-750-5640, fax 254-750-5880.
2. Requested maps are enclosed, if you need something different, please contact Ms Harrison, she can assist you anytime.
3. An additional copy of page 1 of the Carver Neighborhood Association by-laws is included which highlights their primary purpose of "organized to unite the community into a organized group, to promote and establish closer neighborhood ties within this area ..., and to encourage and assist in the restoration, preservation and improvement of the neighborhood."

Regarding deficiency #4, I understand their Secretary of State charter has expired. Please know that the City of Waco does recognize the Carver Neighborhood Association as the voice of that area and we work with them frequently. Please understand that this is a volunteer-driven organization comprised primarily of elderly folks. Their elapsed charter with the secretary of state was a clerical oversight, not the result of a defunct organization. They have been a vital and active neighborhood association since they organized in incorporated in 1996. Please accept our recognition of Carver Neighborhood Association as an important organization in our community.

Sincerely,

Larry D. Groth, P.E.  
City Manager

City of Waco Neighborhood Associations 2004



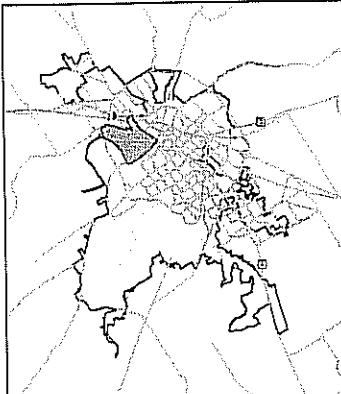
- Legend**
- Water
  - Urban Forest
  - Farmland
  - Airport
  - West City Limits
  - ALTA VISTA
  - AUSTIN AVE
  - BAYLOR
  - BRACKS
  - BROOK OAKS
  - BROOKVIEW
  - CARVER
  - CLAYTON
  - DEAN HIGHLAND
  - EAST RIVERSIDE
  - HEART OF TEXAS
  - KENDRICK
  - LAURON BRANCH
  - NORTHVIEW
  - NORTH LAKE WACO
  - NORTH WACO
  - OLYWOOD
  - PARKDALE VORPES HILLS
  - RICHLAND HILLS
  - SANGER HEIGHTS
  - TECHNOLOGY VILLAGE
  - TIMBERCREST
  - UNIVERSITY
  - WEST WACO

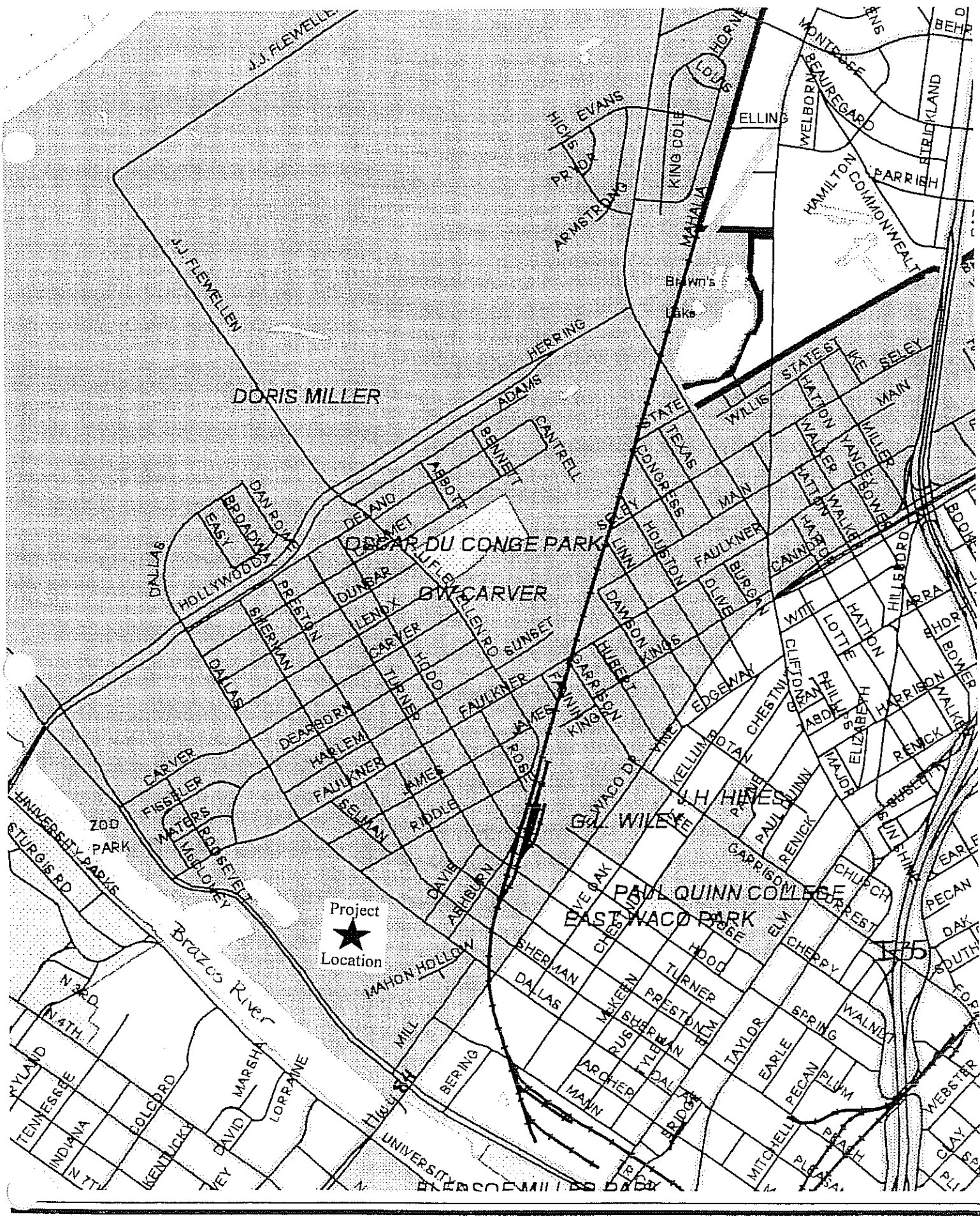
City of Waco  
 Planning Department  
 2004

# Carver Neighborhood Association



CITY OF WACO







# CARVER NEIGHBORHOOD ASSOCIATION

## BYLAWS

### ARTICLE I

#### Name and Purpose

- 1.1 Name: The name of this corporation is the Carver Neighborhood Association.
- 1.2 The period of duration of the Carver Neighborhood Association is perpetual.
- 1.3 Purpose: The Carver Neighborhood Association is organized to unite the community into an organized group, to promote and establish closer neighborhood ties within this area as defined in Article II, and to encourage and assist in the restoration, preservation, and improvements of the neighborhood.

### ARTICLE II

#### Boundaries

- 2.1 For the purpose of this Association the Carver Neighborhood, limits will be defined by the following geographic boundaries within the corporate city limits of Waco, Texas, West along the Brazos River on the North, South along Brazos River on the West, East along East Waco Drive, city limits, and Highway 491 on the South, and North along city limits on the East.
- 2.2 Any person age 16 or above living on the far side of these boundaries or doing business on the far side of these boundaries are welcome to join as voting members in this Association.

### ARTICLE III

#### Membership

- 3.1 Eligibility in this Association is open to any persons living in or doing business in the area defined in Article II above. Membership in the Association shall consist of those persons or businesses that have paid, in a timely manner, their membership dues as set forth in these bylaws. Voting membership is reserved for those persons living or doing business in the area as defined in Article II above.

**Carver Neighborhood Association  
Membership List 2006**

	last name	first name	mailing address	phone	city	state	zip
1	Bargain	R.J.	1127 Faulkner Lane	753-3494	Waco	TX	76704
2	Bailey	Earnestine	2405 J J Flewellen #1002	799-9374	Waco	TX	76704
3	Booker	Loretta P.	705 Carver	752-0142	Waco	TX	76704
4	Brown	Jacki	900 Turner	754-3773	Waco	TX	76704
5	Chansler	Eva D.	1300 Gholson Road	799-4333	Waco	TX	76704
6	Clark	Velma	524 Carver	799-7055	Waco	TX	76704
7	Cottrell	Dorothy	1813 Armstrong	799-9858	Waco	TX	76704
8	Cottrell	Andrew	1813 Armstrong	799-9858	Waco	TX	76704
9	Daniels	Gyruth	1205 J J Flewellen	752-1028	Waco	TX	76704
10	Davis	W.O.	541 Faulkner Lane	752-8078	Waco	TX	76704
11	Davis	Minnie	541 Faulkner Lane	752-8078	Waco	TX	76704
12	Dobbins	Lula	725 Carver	753-5114	Waco	TX	76704
13	Dorsey	Dorothy	1000 Carver	799-7582	Waco	TX	76704
14	Dorsey	LaRue	1001 Dallas	753-8449	Waco	TX	76704
15	Dorsey	Sandra	6740 Glondia Drive	881-5812			
16	Evans	Gloria	912 Faulkner Lane	754-4210	Waco	TX	76704
17	Evans	Eddie	1607 Proctor	235-9937	Waco	TX	76708
18	Evans	Almeda	1607 Proctor	235-9937	Waco	TX	76704
19	Flewellen	Marie	820 Faulkner Lane	754-6533	Waco	TX	76704
20	Foster	Lorene	1015 Carver	756-3262	Waco	TX	76704
21	Freeman	Eva D.	1801 Armstrong	799-3394	Waco	TX	76704
22	Gamble	Harold	2013 King Cole	799-6429	Waco	TX	76704
23	Gooden	Dalton	604 Dearborn	752-6993	Waco	TX	76704
24	Grimes	Gracie	1407 Turner	753-8792	Waco	TX	76704
25	Hardin	Emma J.	625 Carver	753-1282	Waco	TX	76704
26	Harper	Sadie	1301 Sherman	756-0263	Waco	TX	76704
27	Harris	Doris			Waco	TX	
28	Haynes	Hazel	1518 Evans	799-8372	Waco	TX	76704
29	Holbert	Willie E.	712 Dunbar	799-7691	Waco	TX	76704
30	Holbert	Thomas	712 Dunbar	799-7691	Waco	TX	76704
31	Howard	Travis	905 Carver	753-4823	Waco	TX	76704
32	Huckaby	Albertha	605 Dearborn	753-3510	Waco	TX	76704
33	Jackson	Mary	523 Carver	756-0782	Waco	TX	76704
34	Jackson	Sherman	901 Dallas	754-2894	Waco	TX	76704
35	Jefferson	Octavia	710 Dawson	753-2395	Waco	TX	76704
36	Johnson	Annie P.	705 Carver	752-0142	Waco	TX	76704
37	Johnson	Alice	471 Mesquite Rd		Waco	TX	76705
38	Johnson	Lawrence	4705 Glenwood	753-2177	Waco	TX	
39	Kincade	Eula M.	916 Dearborn	754-6805	Waco	TX	76704
40	Lee	Luberta	1907 Armstrong Dr.	799-1077	Waco	TX	76704
41	Littles	Glenn	1112 Walker	754-5517	Waco	TX	76704

42	Little's	Myrtle	1112 Walker	754-5517	Waco	TX	76704
43	Lloyd	Nettie	713 Harlem	756-0864	Waco	TX	76704
44	McGown	T. Bertha	2016 Broadway	799-9480	Waco	TX	76704
45	Medearis	Argie M.	1021 Faulkner Lane	754-4822	Waco	TX	76704
46	Moore	Evelyn	519 Carver	752-0032	Waco	TX	76704
47	Mosley	Fred	201 Faulkner	756-0113	Waco	TX	76704
48	People	Louise	728 Dunbar	799-7082	Waco	TX	76704
49	Pezzano	Marcia	536 Faulkner Lane	366-3069	Waco	TX	76704
50	Pezzano	Michael	536 Faulkner Lane	366-3069	Waco	TX	76704
51	Roberts	Chester	1021 Carver	752-1824	Waco	TX	76704
52	Scarlett	Henry	613 Carver	235-5153	Waco	TX	76704
53	Seals	Lee	700 Carver	799-2557	Waco	TX	76704
54	Seals	Joan	700 Carver	799-2557	Waco	TX	76704
55	Sneed	Helen	927 Dawson	754-5552	Waco	TX	76704
56	Stanley	Lovie	900 Turner	754-3773	Waco	TX	76704
57	Taylor	Carlotta	1000 Carver	799-7582	Waco	TX	76704
58	Wade	Coran	536 Faulkner Lane	366-3069	Waco	TX	76704
59	Wilkerson	Byron	1913 King Cole	799-3744	Waco	TX	76704
60	Williams	Willie	2025 King Cole	799-5693	Waco	TX	76704
61	Williams	Robbie	2025 King Cole	799-5693	Waco	TX	76704
62	Williams	Maria	706 Dearborn	751-3110	Waco	TX	76704
63	Williams	Jesse	204 Waters St.	753-2847	Waco	TX	76704
64	Wilson	Joe	920 Lennox	799-4400	Waco	TX	76704
65	Wilson	Ruth	920 Lennox	799-4400	Waco	TX	76704
66	Woodard	Beulah	616 Carver	799-8813	Waco	TX	76704
67	* Brazos Village Apartments	Sandra Jones	2525 E. Lake Shore Drive	799-5355	Waco	TX	76704
68	* Carver Park Baptist Church		1020 E Herring	799-2766	Waco	TX	76704
69	* Chapman's Fruit Market		801 E. Waco Drive	757-0728	Waco	TX	76704
70	Greater Macedonia Baptist Church		801 Carver	752-7784	Waco	TX	76704
71	* The Landing Apartments	Mary Hamilton	2509 E. Lake Shore Drive	799-1000 or 723-8040	Waco	TX	76704
72	* Living Word Church of God in Christ		P O Box 1549	799-3796	Waco	TX	76704
73	* Mt. Vernon Baptist Church		812 Calumet	867-8817	Waco	TX	76704
74	* Open Door Church of God in Christ		1208 Rose	756-3912	Waco	TX	76704
75	* Second Baptist Missionary Church		2100 Dallas	799-6300	Waco	TX	76704

\* - business or organization membership



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 27, 2006  
Mr. Lee Seals  
Chairman of the Board  
Carver Neighborhood Association  
700 Carver  
Waco, Texas 76704

PC 5/4 - UNABLE TO REACH L. SEALS. CALLED M. MILLS,  
REFERRED TO M. HARRISON AT CITY OF WACO. SHE IS  
HELPING THEM. MS. HARRISON UNDERSTANDS THE  
DEFICIENCIES. I TOLD HER THAT THE PROBLEM IS THAT  
THEY FORFEITED THEIR SOS REGISTRATION AND ARE  
NOT REGISTERED ANYWHERE ELSE. REC'D RESPONSE  
5/8. STILL NO REGISTRATION DOCUMENTATION FOR STATE  
ON COUNTY, ONLY CITY.

Organization Fax:

Organization Email:

Second Contact:

Dorothy Dorsey

Second Contact Fax:

Second Contact Email:

Second Contact Phone: (254) 799-7582

Ineligible  
5/19/06  
[Signature]

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Waco River Park Apartment Homes, # 060244

Dear Mr. Lee Seals:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 8. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

If there is any email address or fax number through which information can be submitted, please provide that information.

As evidence of the organization's boundaries, you submitted an area-wide map depicting the Waco-area neighborhood associations. We need a map that shows the actual boundaries of the neighborhood association with the site marked within those boundaries to match the boundaries indicated in your



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

bylaws. In order to satisfy this requirement, please submit a more detailed map that shows the actual streets and available landmarks, marked to show the boundaries and the location of the site.

3.  Your response included the original letter of support submitted by the neighborhood association. The letter submitted did not provide the required information indicating that the organization is a "neighborhood organization," specifically that it is an organization of people living near one another that has the primary purpose of working to maintain or improve the general welfare of the neighborhood. The letter did not state the total number of members of the organization, nor did it state the process used by the organization to reach its position of support. In order to satisfy this requirement, provide a letter that includes this information.

4.  As evidence of registration with the Secretary of State's office, you submitted a copy of the original certificate of recording from the Secretary's office. A review of the Secretary of State's website indicates that the organization forfeited its registration on August 31, 1998. To satisfy this threshold requirement, you must provide evidence that the neighborhood organization was registered with the Secretary of State's office or the county in which the development is to be located on or before March 1, 2006. If you cannot provide this evidence, your letter will be ineligible for Quantifiable Community Participation.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by May 8.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

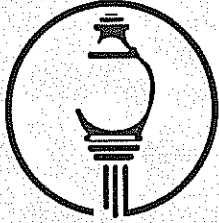
Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

*PROVIDED  
total members  
not any other  
info. 5/9/06*

*unable  
to provide  
5/9/06*



Downtown Waco  
Incorporated

RECEIVED  
APR 18 2006  
LIHTC

April 17, 2006

Sharon Gamble  
TDHCA  
Multifamily Finance Production  
P. O. Box 13941  
Austin, TX 78711-3941

RE: Letter from TDHCA regarding Carver Neighborhood Association Quantifiable  
Community Participation  
Development#060244  
Development: RiverWalk Apartment Homes  
Development Location: 1300 Block of Martin Luther King Boulevard, Waco, TX

As the City of Waco's contractor for Economic Development within the Brazos River Corridor, we work closely with neighborhood associations and their officers within the corridor boundaries to facilitate development consistent with the goals and objectives of the Corridor Plan.

This morning Mr. Lee Seals, President of the Carver Neighborhood Association, brought the copy of your letter April 13, 2006 identifying two items needed by the department clarifying the status of the neighborhood association's letter of participation and a request to determine the neighborhood association's support for the development. Mr. Seals asked that I respond on his behalf to provide clarification of the requested information.

Attached for your review is a copy of the letter dated March 3<sup>rd</sup> advising TDHCA of the neighborhood support for the above referenced development at 1300 Martin Luther King Boulevard. We believe Mr. Seals clearly complied with the information required. Attached also is a map identifying the location of Carver Neighborhood Association, a copy of his Certificate of Incorporation and Charter for the neighborhood Association and his letter filing the association with the Secretary of State for the State of Texas May 2, 1996. Also enclosed is a copy of the Bylaws for the Carver Neighborhood Association.

MANAGING CONTRACTOR,  
DOWNTOWN WACO  
PUBLIC IMPROVEMENT DISTRICT

P. O. Box 1062  
Waco, Texas 76703  
254/753-8277

If there are remaining questions regarding this neighborhood association's strong stated support for the RiverWalk Apartment Homes or questions regarding his organization registration with the Secretary of State before March 1, 2006, we will hope that you contact us immediately to address any remaining issue.

The Neighborhood Association is eagerly and enthusiastically willing to provide any further clarification of support that would be beneficial to this development.

Sincerely,

A handwritten signature in cursive script that reads "Margaret Mills". The signature is written in black ink and is positioned above the typed name.

Margaret Mills  
Executive Director  
Downtown Waco Inc.



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

MA NEO

April 13, 2006  
Mr. Lee Seals  
Chairman of the Board  
Carver Neighborhood Association  
700 Carver  
Waco, Texas 76704

Organization Fax: Organization Email:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Waco River Park Apartment Homes, # 060244

Dear Mr. Lee Seals:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

The Department is in receipt of your letter regarding your neighborhood association's support for the River Walk Apartment Homes development. We are uncertain whether your letter was intended as input in our process or was if it was intended to be counted as quantifiable community participation. If you meant for your letter to be noted as your organization's opposition to this development, please know that your letter has been received and will count as such.

If you intended for your letter to count as quantifiable community participation, according to §50.9(i)(2) of the QAP, you must be a registered organization with the state or the county in which the development is located. You must have supplied certain documentation, including organizational documents, boundaries and maps indicating the area included in your organization, and contact information for two members of your organization. If your organization was registered with the Secretary of State or with the county on or before March 1, 2006, please submit evidence of that

DWD Deficiencies do not match those listed in the review sheet. Should we consider re-issuing the letter?

Shae - We'll need to re-send w/ other def. Be sure it's super-detailed which referring to QAP as a non-applicant. !! - Jen 4/17/06





Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

registration. If you submitted the documentation required for quantifiable community participation to the Department on or before April 1, 2006, please submit evidence of that submission and re-submit the documents.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by ~~April-24~~ 5/9**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production



[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

**BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY**

**Filing Number:** 139874001      **Entity Type:** Domestic Nonprofit Corporation  
**Original Date of Filing:** April 29, 1996      **Entity Status:** Forfeited existence  
**Formation Date:** N/A      **Non-Profit Type:** N/A  
**Tax ID:** 30118553392      **FEIN:**  
**Duration:** Perpetual  
**Name:** CARVER NEIGHBORHOOD ASSOCIATION  
**Address:** 1004 SHERMAN ST  
 Waco, TX 76704 USA

<u>REGISTERED</u> <u>AGENT</u>	<u>FILING</u> <u>HISTORY</u>	<u>NAMES</u>	<u>MANAGEMENT</u>	<u>ASSUMED</u> <u>NAMES</u>	<u>ASSOCIATED</u> <u>ENTITIES</u>
<b>Name</b>	<b>Address</b>	<b>Inactive Date</b>			
Eddie Evans	1004 SHERMAN ST. Waco, TX 76704 USA				

Instructions:

- To place an order for additional information about a filing press the 'Order' button.



[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

**BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY**

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**Name:** CARVER NEIGHBORHOOD ASSOCIATION  
**Address:** 1004 SHERMAN ST  
 Waco, TX 76704 USA

<u>REGISTERED AGENT</u>	<u>FILING HISTORY</u>	<u>NAMES</u>	<u>MANAGEMENT</u>	<u>ASSUMED NAMES</u>	<u>ASSOCIATED ENTITIES</u>
<b>View Image</b>	<b>Document Number</b>	<b>Filing Type</b>	<b>Filing Date</b>	<b>Effective Date</b>	<b>Eff. Cond</b> <b>Page Count</b>
<input checked="" type="checkbox"/>	6717376	Articles Of Incorporation	April 29, 1996	April 29, 1996	No   3
N/A	6717377	Nonprofit Periodic Report	May 20, 1998	May 20, 1998	No   N/A
N/A	6717378	RETMAIL	June 1, 1998	June 1, 1998	No   N/A
N/A	6717379	Tax Forfeiture	August 25, 1998	August 25, 1998	No   N/A
N/A	7697485	Public Information Report (PIR)	December 31, 1998	December 31, 1998	No   N/A

[Order](#)   [Return to Search](#)

**Instructions:**

☛ To place an order for additional information about a filing press the 'Order' button.

**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: RIVER WALK APARTMENT HOMES

Dev. Number: 060244

Organization Name: CARVER NEIGHBORHOOD ASSOC.

Date Letter Received: 3/9/06

Reviewer Name: S. GAMBIE

Date Reviewed: 3/14/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries</u> ?  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>

8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization <u>of persons living near one another</u> within the organization's defined boundaries that contain the proposed Development site and that has a <u>primary purpose of working to maintain or improve the general welfare of the neighborhood</u>. More specifically:</p> <p>"Neighborhood organizations" <b>DO</b> include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" <b>DO NOT</b> include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>

**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete? Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

NO EMAIL OR FAX FOR EITHER CONTACT; BOUNDARIES NOT INDICATED; NO DRS  
DOCS; DOES NOT ESTABLISH ITSELF AS NEIGHBORHOOD ORG; DOES NOT EST ON  
RECORD; NO TOTAL OF MEMBERS; NO DESCRIPTION OF DECISION PROCESS; NO STATEMENT  
OF FORMATION.

Date deficiency letter issued: 4/13/06

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): 4/24/06

Date deficiencies received: NO RESPONSE

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_ Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: \_\_\_\_\_ Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
<b>FINAL SCORE (Enter from box checked above):</b>		

Has this been entered in the 2006 Database? Yes  No

**CARVER NEIGHBORHOOD ASSOCIATION  
700 CARVER  
WACO, TX 76704**

**RECEIVED  
MAR 09 2006  
LHTC**

March 3, 2006

Ms. Edwina Carrington  
Executive Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
P. O. Box 13941  
Austin, TX 78711-3941

RE: Quantifiable Community Participation  
Development #060244  
Development: River Walk Apartment Homes  
Development Location: 1300 Block of Martin Luther King Boulevard, Waco, Texas

Dear Ms. Carrington,

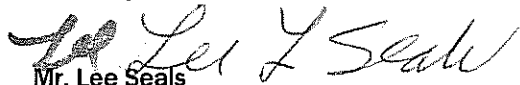
As Chairman of the Board of Carver Neighborhood Association, I am writing to advise you of our support for the above referenced development to be located in the 1300 Block of Martin Luther King Boulevard and is located within McLennan County. The above referenced development is within the boundaries of the Carver Neighborhood Association (see attached map), which is a qualified neighborhood association on record with the Secretary of State of Texas effective May 2, 1996.

It is the feeling of our Neighborhood Association that the proposed River Walk Apartment Homes (1) will provide much needed housing for the elderly citizens of Waco while (2) enhancing the general desirability for housing within the neighborhood. The proposed development is (3) consistent with the guidelines for housing and development within the Brazos River Corridor and (4) offers the assurance of an increased economic base for the Carver neighborhood.

We have reviewed similar properties of Lankford Interest LLC in Killeen, Texas and believe the reputation of the developer of the proposed development provides the necessary assurances to the Carver Neighborhood Association which merit our endorsement for this project.

The organization nor any of it's members has received any money or gift(s) in exchange for this support. The Applicant did not provide any "production" assistance to meet the requirements for the application round.

Sincerely,



Mr. Lee Seals  
700 Carver  
Waco, TX 76704  
254 799-2557

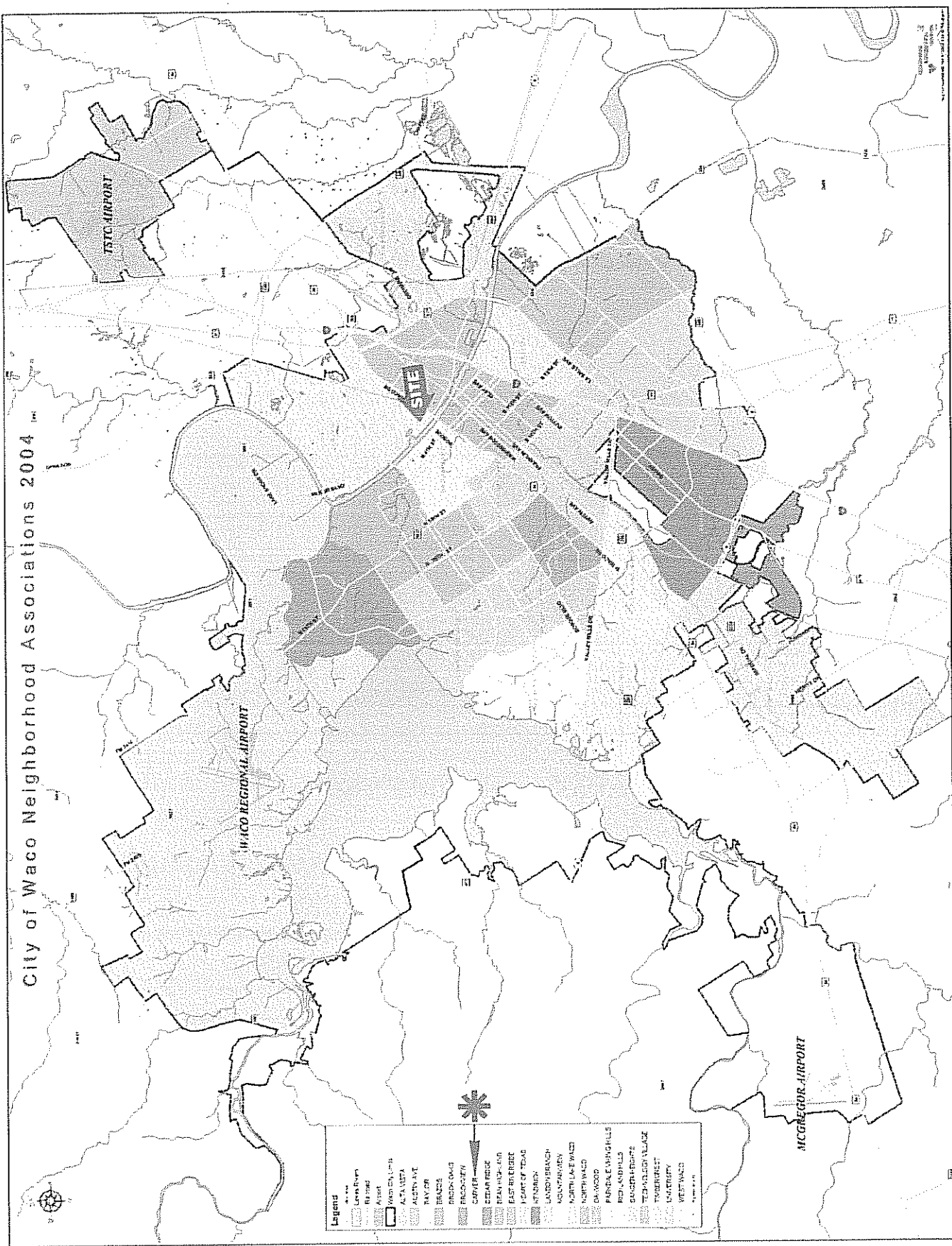
(Mr. Seals does not have an email address or fax)

Also provided is the following additional contact name if further information is required:

Ms. Dorothy Dorsey  
1000 Carver  
Carver Neighborhood Association  
Waco, TX 76704  
254 799-7582

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City of Waco Neighborhood Associations 2004



Legend	
[Symbol]	Level River
[Symbol]	Railroad
[Symbol]	Artery
[Symbol]	Waco City Limits
[Symbol]	ACTA AREA
[Symbol]	ALSTON AVE
[Symbol]	RAY DR
[Symbol]	BRANCO
[Symbol]	BRANCO-040
[Symbol]	BRANCO-041
[Symbol]	BRANCO-042
[Symbol]	BRANCO-043
[Symbol]	BRANCO-044
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[Symbol]	BRANCO-100





# The State of Texas

Secretary of State

MAY 2, 1996

CARVER NEIGHBORHOOD ASSOCIATION  
P.O. BOX 2273  
WACO ,TX 76703-2273

RE:  
CARVER NEIGHBORHOOD ASSOCIATION

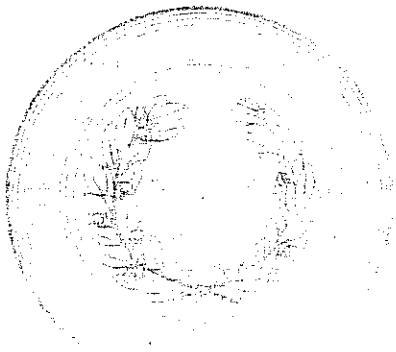
CHARTER NUMBER 01398740-01


IT HAS BEEN OUR PLEASURE TO APPROVE AND PLACE ON RECORD THE ARTICLES OF INCORPORATION THAT CREATED YOUR CORPORATION. WE EXTEND OUR BEST WISHES FOR SUCCESS IN YOUR NEW VENTURE.

AS A CORPORATION, YOU ARE SUBJECT TO STATE TAX LAWS. SOME NON-PROFIT CORPORATIONS ARE EXEMPT FROM THE PAYMENT OF FRANCHISE TAXES AND MAY ALSO BE EXEMPT FROM THE PAYMENT OF SALES AND USE TAX ON THE PURCHASE OF TAXABLE ITEMS. IF YOU FEEL THAT UNDER THE LAW YOUR CORPORATION IS ENTITLED TO BE EXEMPT YOU MUST APPLY TO THE COMPTROLLER OF PUBLIC ACCOUNTS FOR THE EXEMPTION. THE SECRETARY OF STATE CANNOT MAKE SUCH DETERMINATION FOR YOUR CORPORATION.

IF WE CAN BE OF FURTHER SERVICE AT ANY TIME, PLEASE LET US KNOW.

VERY TRULY YOURS,



  
Antonio O. Garza, Jr., Secretary of State

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The State of Texas  
Secretary of State

CERTIFICATE OF INCORPORATION

OF

CARVER NEIGHBORHOOD ASSOCIATION  
CHARTER NUMBER 01398740

THE UNDERSIGNED, AS SECRETARY OF STATE OF THE STATE OF TEXAS,  
HEREBY CERTIFIES THAT THE ATTACHED ARTICLES OF INCORPORATION FOR THE  
ABOVE NAMED CORPORATION HAVE BEEN RECEIVED IN THIS OFFICE AND ARE  
FOUND TO CONFORM TO LAW.


ACCORDINGLY, THE UNDERSIGNED, AS SECRETARY OF STATE, AND BY VIRTUE  
OF THE AUTHORITY VESTED IN THE SECRETARY BY LAW, HEREBY ISSUES THIS  
CERTIFICATE OF INCORPORATION.

ISSUANCE OF THIS CERTIFICATE OF INCORPORATION DOES NOT AUTHORIZE  
THE USE OF A CORPORATE NAME IN THIS STATE IN VIOLATION OF THE RIGHTS OF  
ANOTHER UNDER THE FEDERAL TRADEMARK ACT OF 1946, THE TEXAS TRADEMARK LAW,  
THE ASSUMED BUSINESS OR PROFESSIONAL NAME ACT OR THE COMMON LAW.

DATED APR. 29, 1996

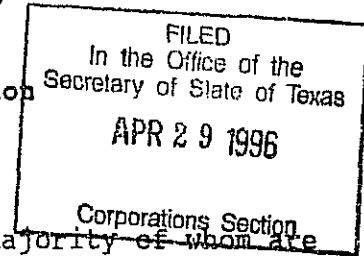
EFFECTIVE APR. 29, 1996



  
Antonio O. Garza, Jr., Secretary of State

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Carver Neighborhood Association  
ARTICLES OF INCORPORATION



Articles of Incorporation the undersigned, a majority of whom are citizens of the United States, desiring to form a Non-Profit Corporation under the Non-Profit Law of Texas, do hereby certify:

ARTICLE ONE

The name of the corporation shall be the Carver Neighborhood Association.

ARTICLE TWO

The period of its duration is perpetual.

ARTICLE THREE

The corporation is a non-profit corporation.

Said corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations under section 501(c)3 of the Internal Revenue Code, or the corresponding section of any future federal tax code.

ARTICLE FOUR

The purposes for which this corporation is formed are:

- A. To unite the community into an organized group in order to promote and establish closer neighborhood ties and to assist in the restoration, preservation, and improvements of the neighborhood.
- B. To receive and administer funds, for the subscribed purposes, and otherwise operate as a non-profit corporation in the State of Texas during a fiscal year beginning January 1 and ending December 31 each year.

ARTICLE FIVE

The address of its initial Registered Office is 1004 Sherman St., Waco, Texas 76704. The name of its initial registered agent is Mr. Eddie Evans.

ARTICLE SIX

The number of directors constituting the initial Board of Directors is four, and the names and addresses of the persons who are to serve as the initial directors are:

Mr. Eddie Evans, President  
1004 Sherman St., Waco, Texas 76704

Mr. Joe Wilson, Vice President  
920 Lennox Ave., Waco, Texas 76704

Ms. Clara Cobb, Secretary  
1004 Lennox Ave., Waco, Texas 76704

Mrs. Thurman (Dorothy) Dorsey, Treasurer  
1000 Carver St., Waco, Texas 76704

ARTICLE SEVEN

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Four hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, this corporation shall not, except to insubstantial degree, engage in any activities of exercise any powers that are not in furtherance of the purposes of this corporation.

ARTICLE EIGHT

In the event of the dissolution of this organization, voluntarily or involuntarily, the Board of Directors shall, after payment of all liabilities, distribute any remaining assets to one or more charitable, educational, scientific or philanthropic organization which qualify as exempt from payment of state and federal taxes. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE NINE

The name and street address of the incorporator is:

Ms. Clara Cobb, 1004 Lennox St., Waco, Texas 76704

Clara Cobb  
Incorporator

# Carver Neighborhood Association By-Laws

## ARTICLE I

### NAME/PURPOSE

- 1.1 Name: The name of this corporation is the Carver Neighborhood Association.
- 1.2 The period of duration of the Carver Neighborhood Association is perpetual.
- 1.3 Purpose: The Carver Neighborhood Association is organized to unite the community into an organized group, to promote and establish closer neighborhood ties within this area as defined in Article II, and to encourage and assist in the restoration, preservation, and improvements of the neighborhood.

## ARTICLE II

### BOUNDARIES

- 2.1 For the purpose of the Carver Neighborhood Association, limits will be defined by the following geographic boundaries within the corporate city limits of Waco, Texas, West along the Brazos River on the North, South along Brazos River on the West, East along East Waco Drive, city limits, and Highway 491 on the South, and North along city limits on the East.
- 2.2 Any person age 16 or above who resides within, is employed within, own property within, or doing business within the far side of these boundaries are welcomed to join as paid voting members in this Association.

## ARTICLE III

### MEMBERSHIP

- 3.1 Eligibility in this Association is open to any persons who resides within, employed within, own property, or doing business within the Carver boundaries as defined in Article II, Section 2.2 above. Membership in the Association shall consist of those persons or businesses that have paid, in a timely manner, their membership dues as set forth in these Bylaws. Voting membership is reserved for those persons as defined in Article II above. The outside voting membership will not exceed 30% of the total membership.

Membership - continued

- 3.2 Membership in this Association shall be for one membership year. This period will be determined by the Board of Directors.
- 3.3 Membership year will be from January 1<sup>st</sup> through December 31<sup>st</sup>.

The following schedule of dues is hereby established and authorized by these By-Laws for Voting Members:

Type	Dues
A.Residential	\$5.00
B.Commercial	\$20.00

Annual dues for subsequent membership years shall be in such amounts and payable at such times as the Board of Directors may recommend for approval by a full membership vote. The first year's membership dues shall be effective May 31, 1994.

- 3.4 Privileges of Membership: Each individual member or business member shall have the right to attend all membership meetings as may be called by the Board of Directors, and each member shall be entitled to one vote on any matter submitted to the membership for vote at such meetings. All members shall have the right to be heard on any subject properly before any meetings of the members consistent with orderly process of such meetings. No member of the Carver Neighborhood Association may use the name of the Association, in any manner, without the prior written permission of the Board of Directors.
- 3.5 Meetings: A general meeting of the Association will be held monthly on the 3<sup>rd</sup> Saturday at G. W. Carver Academy, 1601 J. J. Flewellen Rd. or designated meeting site. Additional meetings of the Association may be called by the Board of Directors when requested by at least twenty percent (20%) for the membership in writing. The Secretary will provide to the membership at least seven (7) days written notice of all membership meetings, including the agenda for these meeting.

The membership present will be considered to be a quorum for the transaction of business at any duly called meeting of members for which seven days written notice has been given by the Secretary. Any resolution presented at such meeting shall be adopted by a majority vote of the members present and voting, unless otherwise provided of in the By-Laws. No proxy voting will be allowed.

*Membership -continued*

Officers and members of Board of Directors shall be elected by secret ballot.

- 3.6 In order for a member to be eligible to serve in any office within the association he/she must be a member in good standing with the Association and have been in such status for a period of at least six (6) months, who resides within, is employed within, own property within, or doing business within the boundaries of the Association. A member in good standing shall, for the purpose of these By-Laws, be defined as any person who has paid his/her annual dues in a timely manner for the current year.

ARTICLE IV

BOARD OF DIRECTORS

- 4.1 The powers and duties of the Board of Directors shall include the direction and management of the affairs of the Association and control of its business. Subject to any restrictions, imposed by law, the Articles of Incorporation, and these By-Laws or any limitation imposed by a membership vote, the Board may exercise all of the powers of the Association.
- 4.2 Membership on the Board: The Board of Directors shall be composed of nine (9) officers which include: President, 1<sup>st</sup> Vice-President, 2<sup>nd</sup> Vice-President, Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, Parliamentarian, and Chaplain. Additionally, there will be five (5) members of the Board who will be the Chairman of the Five Standing Committees as defined in Article VI. The immediate past President shall also serve as an ex-officio member of the Board of Directors in a non-voting capacity. Members on the Board of Directors will serve a term of two (2) years. A Board Member may be re-elected, but may not serve more than two (2) consecutive terms.
- 4.3 Elections will be held at the annual membership meeting during the year that would be year two for the serving members of the Board of Directors. All voting, by secret ballot, will be decided by a simple majority.
- 4.4 A vacancy shall be declared in a seat on the Board of Directors upon the death, resignation, or removal by Board of Directors. A member of the Board may be impeached and his/her seat declared vacant by, but not limited to, the following reasons:



**Board of Directors - continued**

- A. Failure to pay the annual dues.
- B. Failure to attend three (3) consecutive Board meetings without an acceptable excuse to the remaining members on the Board.
- C. Vacancies on the Board shall be filled by a majority vote of all members of the Board. The new Board member shall serve until the next regular election during the annual membership meeting.

**4.6 Meeting of the Board:** The Board of Directors shall meet twice a month; every 2<sup>nd</sup> and 4<sup>th</sup> Tuesday or at the request of the President. Notice of the Board meetings must be made three days prior to each Board meeting. The General Membership meeting shall be held on the 3<sup>rd</sup> Saturday each month at G. W. Carver Academy, 1601 J. J. Flewellen Rd. or designated meeting site.

At all meetings of the Board, a majority of Directors must be present in order for business to be transacted. All Board actions shall be taken by a majority of the Directors present at a meeting in which a quorum is present. Proxy voting will be permitted, but proxies will not be counted towards a quorum. Proxy votes must be in writing.

**4.8 Report:** The Board will present a Report of the Affairs of the Association for the Year to the membership at the March meeting. A copy of the Report will be available for inspection by any member of the Association.

**4.9 Redress:** Any decision of the Board of Directors may be nullified by a vote of two-thirds (2/3) of the members present at the next duly called meeting of the Association.

**4.10 Removal:** Any member of the Board of Directors can be removed for just cause by the following steps:

- A. The Board of Directors shall, by a majority vote, present to a full Association membership meeting a recommendation to remove from office an individual Board Member.
- B. A two-thirds (2/3) majority of the members present at the membership meeting will be needed to approve a vote to remove an individual from office or any Board Members.

## ARTICLE V

### OFFICERS

**5.1 Title, Term and Election:** The officers of the Association shall be President, 1<sup>st</sup> Vice President, 2<sup>nd</sup> Vice President, Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, Parliamentarian, and Chaplain which shall serve a two year term. No member of the Board may hold any elected office of another Neighborhood Association.

**5:2 Duties and Powers:**

**A. President:** The President will preside at all meetings of the association and Board of Directors. The President shall serve ex-officio as a member of all committees. He/she will exercise general supervision over the affairs of the Association, and will ensure that all orders and resolutions of the Board of Directors are executed. Subject to the approval of the Board, the President shall have the power to execute contracts and other authorized instruments in the name of the Association, except as provided in these Bylaws.

**B. Vice-President:** The Vice-President shall plan, arrange, and coordinate programs for meetings of the Association's membership and for special events. The Vice-President shall represent the association in case of the absence or disability of the President, and shall exercise the powers of that office.

**C. Secretary:** The secretary shall keep minutes of all meetings of the Association and the Board of Directors. The minutes shall be available for inspection by any member of the Association. The Secretary shall be responsible for giving the notice of meetings provided in these Bylaws.

The Secretary shall be responsible for the correspondence and records of the Association as directed by the Board.

**D. Treasurer:** The Treasurer will have charge of the funds of the Association, and shall secure their deposit as directed by the Board. The Treasurer will keep records of the Associations's finances, and these records shall be available for inspection at any regular membership meeting.

All funds solicited of this association shall be directed to the Treasurer. All checks, indebtedness issued in the name of the Association must be signed by two

of the following officers; the President, Vice President or the Treasurer. The Treasurer will be a member of, but will not chair, the Fund Raising Committee.

- E. Assistant Officer will be appointed by Board of Directors as required: no voting rights for these appointed officers [see Article IV Sec. 4.2].
- F. Assistant Secretary: The Assistant Secretary shall act as the Recording Secretary of all meetings of the Association and the Board of Directors and assist the Secretary in carrying out her responsibilities.
- G. Assistant Treasurer:
- H. Parliamentarian:
- I. Chaplain:

*Note: F thru I positions will be defined according to Robert's Rules of Order Definitions.*

#### STANDING COMMITTEES

- 6.1 Duties and Responsibilities: The following standing committee are deemed necessary for the operation of Carver Neighborhood Association, and are authorized by the Bylaws.
- A. Membership: The Membership Committee shall be responsible for the recruitment and maintenance of the membership of the Association.
  - B. Public Relations: The Public Relations committee will be responsible for promotion of activities of the Association and the communication of the Association's objectives to all segments of the community.
  - C. Special Action: The Special Action Committee will work with officials and staff of the city of Waco to implement activities designed to improve and maintain the environment of the Carver Neighborhood Area.

D. **Fund Raising:** The Fund Raising Committee will devise, plan, coordinate, and execute all events used by the Associations to raise funds.

E. **Finance:** Duties to be determined.

6.2 **Appointment of Committees:** Chairpersons of all committees listed in section 6.1 shall be elected from the membership of the Association.

6.3 **Ad Hoc Committees:** These special committees will be appointed by the Board of Directors as they deem necessary for the operation of the Association. These committees will be appointed for a specified period of time and may, as necessary, be extended to complete their assigned tasks, determined by the Board.

## ARTICLE VII

### Amendments

These By-Laws may be amended by the affirmative vote of two-thirds of the members of the Association present and voting at a duly called meeting, provided that written notice of the proposed amendment shall have been provided to the membership of the Association in accordance with Article III, Section 3.5 of the By-Laws, and provided that written notice of such intent be mailed to each member's available address at least seven days prior to such meeting.

## ARTICLE VIII

### Revisions

These By-Laws may be revised by the affirmative vote of two-thirds of the members of the Association present and voting at a duly called meeting, provided that written notice of the proposed revisions shall have been provided to the membership of the Association in accordance with Article III, Section 3.5 of the By-Laws, and provided that written notice of such intent be mailed to each member's available address at least seven days prior to such meeting.

*Revised: 8/15/98*

**060224**

**Notting Hill Gate**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Notting Hill Gate Apartments- 060224**

By April 3, 2006, the Department received a letter from the Gessport Patio Homes of Fondren Southwest Homeowner's Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) and outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

In an April 13, 2006 deficiency notice, the neighborhood organization was asked to define the boundaries of their organization. Their April 24, 2006 response indicated that the development site is located in an area described as an "expanded boundary." A deficiency notice was issued on May 4, 2006, requesting evidence of an official action taken to expand the boundaries of the neighborhood organization to include the proposed site prior to March 1, 2006, as required by §50.9(i)(2) of the QAP. In their May 15, 2006 response, the contact stated the organization was not able to provide such evidence.

The applicant is appealing the eligibility of the letter based on the applicant's assertion that all state law regarding QCP were adhered to in the submission of the application. The applicant asserts that the March 1, 2006 deadline set by the QAP for a neighborhood organization to set their boundaries is not supported by legislation. The applicant further asserts that the March 1,

2006 deadline does not allow enough time for an applicant to work with neighborhood organizations.

This letter clearly does not meet the requirements of §50.9(i)(2)(A)(viii) of the QAP which requires that, “The boundaries in effect for the organization on March 1, 2006, will be those boundaries utilized for the purposes of evaluating these letters and determining eligibility. Annexations occurring after that time to include a Development site will not be considered eligible [emphasis added]...”.

QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the QAP because the neighborhood organization’s boundaries did not include the development site by March 1, 2006.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	BW 8 200, LP
Site Location:	200 ft. S.E. of the Intersection of S. Gessner and Beltway 8
City/County:	Missouri City/ Harris County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Elderly
Region:	6
Type of Development:	New Construction
Units:	146
Credits Requested:	\$1,045,000

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

## Boundaries and Deadlines

### §50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;

(iv) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents). "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."

(v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located... If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"... the organization will not be considered on record with the state... As an option to be considered on record with the state... must be received by the Department no later than March 1, 2006.

(vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).

(vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...

(viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.

(ix) The boundaries in effect for the organization on March 1, 2006... Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...

(x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.

(ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) In general, letters that meet the requirements of this paragraph and

(I) establish three or more reasons for support...(+24 points) or opposition (zero);

(II) establish two reasons...+18 points for support...

(III) establish one reason for support ... +13 points for support...;

(IV) that do not establish a reason...neutral (+12 points).

(iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.



**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Deny the applicant's appeal of scoring of 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Issue a determination on the appeal.

**Background and Recommendations**

**I. Notting Hill Gate Apartments- 060224**

This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

In an April 13, 2006 deficiency notice, the neighborhood organization was asked to define the boundaries of their organization. Their April 24, 2006 response indicated that the development site is located in an area described as an "expanded boundary." A deficiency notice was issued on May 4, 2006, requesting evidence of an official action taken to expand the boundaries of the neighborhood organization to include the proposed site prior to March 1, 2006, as required by §50.9(i)(2) of the QAP. In their May 15, 2006 response, the contact stated the organization was not able to provide such evidence.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	BW 8 200, LP
Site Location:	200 ft. S.E. of the Intersection of S. Gessner and Beltway 8
City/County:	Missouri City/ Harris County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Elderly
Region:	6
Type of Development:	New Construction
Units:	146
Credits Requested:	\$1,045,000

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

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# Board Appeal

Jennifer Joyce  
Manager, Multifamily Finance Production  
TDHCA  
PO Box 13941  
Austin, TX 78701

Re: Application #060224 (Notting Hill Gate)

Ms. Joyce:

In response to the Department's denial of the applicants appeal of QCP points for TDHCA application #060224 (Notting Hill Gate), please consider this a formal request to take this appeal to the TDHCA Board of Directors at their next meeting to be held on June 9<sup>th</sup>.

We specifically ask the provisions set forth in Section 50.9(i)(2)(A)(ix) which state "*The boundaries in effect for the organization on March 1, 2006, will be those boundaries utilized for the purposes of evaluating these letters and determining eligibility. Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization to satisfy eligibility for this item; a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site*" be waived for the following reasons:

1. The Gessport Patio Homes Association, an organization that was formed approximately 25 years ago, expanded its boundaries and timely submitted a qualified QCP letter prior to the April 1 deadline. All elements required to receive QCP points were met.
2. The March 1 deadline provides additional restrictions that go beyond statutory requirements that the organization be on record with the State or county and the boundaries include the development by the time they submit their letter of support.
3. The imposition of the deadline, which requires neighborhood organizations to vote on the extension of its boundaries by March 1 2006, is in conflict with granting neighborhood associations until April 1 to come to a decision and submit a letter to the Department.
4. Requiring the boundary extension by March 1 creates a bias in favour of newly created organizations that include the development site within their boundaries from inception.
5. Extenuating circumstances with regard to the process the Developer was asked to follow by the City Councilmember for the area (as well as the wishes of a community organization) did not allow enough time to work with this neighborhood organization to clarify their expanded boundaries prior to March 1, 2006.
6. The deadline does not take into consideration organizations that were unknown to the developer and organizations that had learned of the development after March 1, 2006 – these organizations are not given the same opportunity to fully participate in the process.

In light of the reasons outlined in this appeal we would ask the Board to waive Section 50.9(i)(2)(A)(ix) which requires an applicant's development site to be located within the neighborhood organization's boundaries by March 1, 2006 -- in advance of the April 1, 2006 deadline for submission of the QCP letter. Along with the waiving of the rule, we would ask that the QCP letter submitted by Gessport Patio Homes Association and the neutral score assigned the letter be re-evaluated by staff.

Attached is a more detailed description of the circumstances surrounding this issue. Please let me know if you have any further questions.

Sincerely,



Sarah Andre

## Overview

Several years ago the Texas Legislature passed legislation to ensure that local neighborhood organizations (NOs) would be included in the tax credit process. The legislation specifically outlined that:

*Points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site.*

TDHCA has struggled for years to find a way to implement the legislation in a way that balances the intent of the legislation with the rights of the organizations involved, all the while making certain that the process is fair to all applicants.

The requirements the first year proved to be insurmountable for most organizations, with less than 10% of the letters qualifying. Taking this into account changes were made in the following QAP which allowed for more letters to qualify. Unfortunately an unintended consequence of this was an increase in protests from competitors about how organizations were formed and the process they went through to produce their letters. Again changes to the QAP were made to address perceived problems with the process.

It is one of the new inclusions from last year's QAP that we wish to ask the Board to waive. Specifically Section 50.9(i)(2)(A)(ix) which states:

*The boundaries in effect for the organization on March 1, 2006, will be those boundaries utilized for the purposes of evaluating these letters and determining eligibility. Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization to satisfy eligibility for this item; a site that is only partially within the boundaries will not satisfy the requirement that the boundaries contain the proposed Development site.*

At the request of a local City Councilmember, the developer spent most of February 2006 working with a neighborhood organization, that specifically asked that the developer work exclusively with them and not approach any of the other local neighborhood groups. As a courtesy to, and in the interest of keeping good relations with the group he complied. When the group in question held a vote, they were deadlocked at an even vote and did not pass the resolution. With the April 1 deadline looming the developer was introduced to another neighborhood organization by a member of the first group and was able to get the support of the second organization.

The developer in this case worked diligently with the community and even when the March 1 date passed, continued to work with the local organizations, following not only the spirit of the legislation, but in reality the letter of it as it was written.

**It is important to note that the Gessport Patio Homes Association provided all of the documentation required by TDHCA to receive full QCP points. This included:**

- Proof of being on record with the State prior to March 1, 2006 (the organization was actually formed in August of 1981)
- Articles of Incorporation and By-Laws indicating their boundaries at the time of their formation (in their restated articles from February of 1982) with a specific reference regarding the expansion of the organization though the statement "any additions thereto as may hereafter be brought within the jurisdiction of this Association" (see attached articles)
- A statement that they development was within the boundaries of the organization and a map showing their expanded boundaries as allowed by their Articles of Incorporation; and
- A letter that met all of the qualifications for QCP including the process of how they came to support the deal and three reasons for support.

Presumably the purpose for setting an April 1, 2006 deadline for submission of both legislative and QCP support letters, is to allow both groups an extra month for dialogue with the developer regarding a project. The educational process and associated learning curve mixed with compressed timelines and due dates make the additional month crucial for all parties involved. In light of the volunteer nature of these organizations, the additional time is necessary to be able to meet with/educate members and to allow for an official meeting to be held so they can vote on the organization's position. The letter submission deadline was set one month beyond the application deadline of March 1 to help relieve this burden.

While an applicant is used to meeting tight deadlines for their applications, there is no way to push the decision making process forward, especially when the applicant is strictly prohibited from working with a neighborhood organization beyond supplying a QCP packet. There simply was not enough time for the organization to be able to get up to speed and vote to meet that deadline, nor was there a way to truly impress upon the organization the importance of the associated deadlines.

### **Request**

Section 50.22(a) of the QAP that governs the Waiver and Amendment of Rules states:

*The Board, in its discretion, may waive any one or more of these Rules if the Board finds that waiver is appropriate to fulfill the purposes or policies of Chapter 2306, Texas Government Code, or for other good cause, as determined by the Board.*

By setting Quantifiable Community Participation as the second highest scoring item, 2306 of the Government Code is very clear regarding the desire for developers do outreach and work with local organizations so they are included in the application process. The developer met all of the statutory requirements that the legislature envisioned were necessary to receive the associated points.

In light of the extenuating circumstances outlined in this appeal we would ask the Board to waive Section 50.9(i)(2)(A)(ix) which requires an applicant's development site to be located within the neighborhood organization's boundaries established by March 1, 2006. We additionally request that the QCP letter submitted by Gessport Patio Homes Association and the neutral score assigned the letter be re-evaluated by staff.

## Timeline

- Developer and seller begin negotiations on development site in early December, approximately 45 days prior to submission of pre application.
- Developer and seller execute purchase money sales contract on January 9, 2006.
- In mid-January developer meets with Missouri City Councilperson Eunice Reiter seeking her support. She grants support and recommends speaking with association near development site regarding QCP letter.
- Developer contacts West Airport Homeowner's Association and its president, Don Bahr, who is also a board member of Super Neighborhood #36.
- Mr. Bahr is supportive of the development and feels his board will approve QCP letter. Additionally, mentions Ms. Betty Keller, Ph.D., as another person who would likely be an advocate of the development in the event his board does not vote to support the development -- she is on the boards of the Gessport Patio Homes Association.
- Developer asks West Airport association permission to dual track Gessport and West Airport on the QCP letter, but is instructed by Mr. Bahr to wait until after the board meeting of West Airport Association. prior to contacting Betty Keller, so as not to create a competitive or potentially disruptive environment between the two associations. Developer waits several weeks in February for West Airport board meeting.
- Board meeting of West Airport does not yield enough votes to approve QCP letter. Board wants more time and will address the issue at late March board meeting. Because of April 1, 2006 deadline, however, Developer receives permission from Mr. Bahr to contact Ms. Keller.
- March 2006, development facts presented to Board of Gessport Patio Homes Association. Developer request board to write QCP letter.
- Gessport Board approves QCP letter, writes it, board president signs it and submits it to TDHCA prior to April 1, 2006.

# **Executive Director Appeal**

Jennifer Joyce  
Manager, Multifamily Programs  
TDHCA

Re: application #060224 (Notting Hill)

Ms. Joyce,

The applicant for TDHCA application #060224 would like to appeal the final score for its application. Specifically, the applicant would like to see a re-review of the QCP scoring for this application.

All aspects of state law as regarding QCP were adhered to for this application:

- The organization was formed prior to March 1, 2006
- The property was within the boundaries of the organization
- The organization followed its processes in voting on supporting the deal
- Three reasons were given to support the deal

The applicant understands that the March 1, 2006 deadline for the creation of the organization was put into place to ensure that fly by night organizations were not created to support or oppose deals. We believe that additional requirements added to the QAP this year that they boundaries of the organization also be set by the March 1, 2006 date set an unreasonable timeframe for the applicant to work with neighborhoods within the context of the tax credit cycle. The date is not laid out in legislation and has no obvious reason for inclusion. We also believe that it does not take into account an applicant discovering an organization later in the process.

In the case of the Notting Hill developer, he spent most of February working with a neighborhood organization that specifically asked that he not approach any of the other local neighborhood groups. As a courtesy to the group and in the interest of working with the local group he complied. When the group in question held a vote, they were deadlocked at an even vote and did not pass the resolution. At that time, he was then introduced to a neighboring group by the member of the first group.

The developer followed the spirit of the legislation by working closely with the community. He also followed the letter of the law. The only reason he did not get the points was because he didn't meet with the organization and get a vote prior to March 1, 2006.

The short time frame between pre-application, learning of scores, and the March 1 deadline doesn't leave enough time for a developer to meet with organization and get a vote out of a group that may only meet once a month if that.

Because the March 1 boundary deadline is not in legislation, we would like to see the letter re-reviewed and given a full 24 points.

Thank you for your consideration.

Sarah Anderson  
554-4721

//





**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

Date Issued: 05/15/06

BW 8 200, LP  
 Sarah Andre  
 2318 Canterbury Street  
 Austin, TX 78702  
 Phone #: (512) 495-6516  
 Fax #: (512) 233-2269

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

**RE: 2006 9% Housing Tax Credit (HTC) Competitive Application for Notting Hill Gate**  
**TDCHA Number: 060224**

Attention: Sarah Andre

The Texas Department of Housing and Community Affairs (the Department) has completed its Eligibility and Selection Criteria Review of the above-referenced application as further described in §50.9(d)(1) of the 2006 Qualified Allocation Plan and Rules (QAP). Below, a summary is provided of the score requested, as calculated by the Applicant, followed by the score requested, as calculated by the Department. The two numbers differ if the Applicant's calculation was incorrect. The next score shown is the score awarded to the application by the Department, followed by the difference between the score requested (as calculated by the Department) and the score awarded. An explanation of the reason(s) for any differences, including points denied, is provided at the top of the second page of this notice. The next scoring items show the number of points awarded for each of the three categories for which points could not be requested by the applicant: Quantifiable Community Participation (QCP) from neighborhood organizations, letters of support or opposition from state senators and letters of support or opposition from state representatives. This is followed, in bold, by the final cumulative number of points awarded by the Department to the above-referenced Application.

Please note that if you were awarded points under §50.9(i)(5), this notice only provides an explanation of any point deductions for that item. A separate addendum is attached, "Addendum A" which details which sources qualified for the score under this section. It is important to note this addendum because should this application receive an award of tax credits, at the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the local political subdivision for the sufficient local funding to the Department. Only eligible sources identified in the addendum may be submitted and may not be substituted with any source not listed pursuant to §50.9(i)(5).

To the extent that a threshold review is not yet completed for this application, pursuant Section 50.9(d)(3), the final score may still change, in which case you will be notified.

Allocation  Urban/Exurban      Set Asides:     USDA     Non Profit     At Risk

Score Requested by Applicant (Does not include QCP and Elected Official Points):  
 Score Requested as Calculated by Department (Does not include QCP and Elected Official Points):  
 Score Awarded by Department (Does not include QCP and Elected Official Points):  
 Difference between Requested and Awarded (Does not include QCP and Elected Official Points):  
 Points Awarded for Quantifiable Community Participation:  
 Points Awarded for Input from State Senator:  
 Points Awarded for Input from State Representative:  
**Final Score Awarded to Application by Department:**

156
157
156
1
12
0
7
175

12



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- 9% HTC Competitive Application

**Appeal Election Form: 060224, Notting Hill Gate**

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

If my appeal is denied by the Executive Director, I:



Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.



Do not wish to appeal to the Board of Directors.

**Note: If you do not wish to appeal this notice, you do not need to submit this form.**

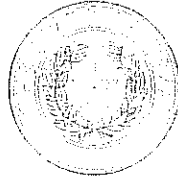
Signed Shah Anderson

Title Consultant

Date 5/22/06

Please fax or email to the attention of Jennifer Joyce: (fax)  
512.475.0764 or 512.475.1895  
(email) [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us)

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
Executive Director

Ms. Sarah Andre  
Sarah Andre  
2318 Canterbury Street  
Austin, TX 78702  
Telephone: (512) 495-6516  
Telecopier: (512) 233-2269

**Re: Appeal Received for Notting Hill Gate - 060224**

Dear Ms. Andre:

### Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 18, 2006 regarding the eligibility of a letter from the Gessport Patio Homes of Fondren Southwest Homeowner's Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because the neighborhood organization was unable to submit evidence that it met the requirements of §50.9(i)(2)(A)(viii) of the Qualified Allocation Plan and Rules (QAP), because the neighborhood organization's boundaries did not include the development site by March 1, 2006.

Specifically, this determination was made based on the fact that in an April 13, 2006 deficiency notice, the neighborhood organization was asked to define the boundaries of their organization. Their April 24, 2006 response indicated that the development site is located in an area described as an "expanded boundary." A deficiency notice was issued on May 4, 2006, requesting evidence of an official action taken to expand the boundaries of the neighborhood organization to include the proposed site prior to March 1, 2006, as required by §50.9(i)(2)(A)(viii) of the QAP. In their May 15, 2006 response, the contact stated the organization was not able to provide such evidence and further provided evidence that the boundaries were expanded after March 1, 2006.

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Ms. Andre  
June 1, 2006  
Page 2 of 2

You appealed the eligibility of the letter by asserting that because all state laws regarding QCP were adhered to in the submission of the application. You also assert that the March 1, 2006 deadline set by the QAP for a neighborhood organization to set their boundaries is not supported by legislation, and that the March 1, 2006 deadline does not allow enough time for an applicant to work with neighborhood organizations.

This letter clearly does not meet the requirements of §50.9(i)(2)(A)(viii) of the QAP which requires that, "The boundaries in effect for the organization on March 1, 2006, will be those boundaries utilized for the purposes of evaluating these letters and determining eligibility. Annexations occurring after that time to include a Development site will not be considered eligible [emphasis added]...".

QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the QAP because the neighborhood organization's boundaries did not include the development site by March 1, 2006.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

#### Appeal Determination

The appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

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# QCP

# Documentation

**BUTLER & HAILEY**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

**FAX TRANSMITTAL**  
Cover Sheet  
Fax Number 713/780-4549

Date: May 24, 2006

To: Jennifer Joyce/Texas Dept. of Housing      Fax No.: 512/475-3995  
512/475-~~0074~~  
0764

From: Cliff Davis      Client No.: 2007/10001

Re: Notting Hill Gate - #060224

**Jennifer,**

**Per your request, attached are the meeting minutes (see first paragraph on last page) which note the Associate Member program approved by the Board in March 2006.**

**Thanks, Cliff Davis**

There are a total of 95 pages, including this cover page. Please contact the undersigned immediately if you do not receive all pages.

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged and confidential, or which constitutes work product and is exempt from disclosure under applicable law.

*If the reader of this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please notify the firm immediately by telephone at (713) 780-4135, and return the original message to the firm at the address located at the bottom of this page via the U.S. Postal Service.*

FAX SENDER

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

18

GESSPORT HOMEOWNERS ASSOCIATION, INC.  
Minutes of the Regular Monthly Meeting of the Board of Directors  
April 25, 2006

The regular monthly meeting of the Gessport Homeowners Association Board of Directors was held on April 25, 2006 in the Fellowship Hall of the Braeswood Assembly of God Church located at 10611 Fondren at Willowbend. Director Lee called the meeting to order at 6:50 p.m. with the following board members present:

Pamela Lee  
Betty Keller  
April Asoera  
Alex Rider  
Sharon Brown (arrived at 6:57 p.m.)

The following board members were not present:

Al Edwards  
Lois Guillory

Cathy Winfield of AVR Management and Deputy Young with Precinct 7 Constable's office were also in attendance.

Deputy Young discussed the following items: complaints from the homeowners, Precinct 5 taken over the areas' contracts and the incident in Glenshire with time it took to answer a call. Ms. Winfield informed Deputy Young that the March 2006 report had the wrong contract name on it and asked for confirmation on the information. He left at 7:15 p.m.

The first order of business was that of the review of the minutes from the previous board meeting held on February 28, 2006. Director Keller moved to approve the minutes as presented. The motion was seconded by Director Rider and passed by unanimous vote.

The next order of business was that of the review of ACC applications as follows:

1. 8826 North Rylander Circle – replace roof and siding; paint house – approved
2. 12430 Settle – paint house – approved

Ms. Winfield then reviewed the deed restriction violation report. The board unanimously agreed on the following:

1. 8819 North Rylander Circle – remove mildew on left side of house and repair siding on left side of house – final demand letter

Ms. Winfield then reviewed the management report for the month of January 2006. The board unanimously agreed to the following:

19



1. 8767 East Rylander Circle – post property for foreclosure and pull sale if not paid
2. 12406 South Rylander Circle – approved payment plan
3. 12403 Vinkins Court – letter from Ms. Winfield regarding balance due
4. 8603 Vinkins Road – letter from Ms. Winfield regarding balance due

The next order of business was that of old business as follows:

Subdivision Patrol Report – This matter was previously discussed with Deputy Young.

Newsletter – Director Rider stated that it would be out this week.

Crime Prevention Meeting Update – Director Keller stated that twenty- (20) new officers will be assigned to the Fondren Southwest area and presented a handout with that information to the board for review.

Yard of the Month – There was nothing to report due to Director Edwards' absence.

Super Neighborhood Update – Director Keller stated that several neighbors in this area were changing from Precinct 7 to Precinct 5 and asked the board if they would want to change. The board unanimously agreed to change the contract to Precinct 5 and ask for Deputy Carl Smith to come back.

The next order of business was that of new business as follows:

Letter from Homeowner of 8851 North Rylander Circle Requesting Fees Be Waived – Ms. Winfield presented the letter to the board for review. The board unanimously agreed not to waive the attorney fees in the amount of \$75 and requested that Ms. Winfield advise the homeowner that the house is still not painted properly.

Letter from Homeowner of 12406 South Rylander Circle Requesting Payment Plan – This matter was previously discussed with the management report.

Draft of 2005 Audit – Ms. Winfield presented the draft of the 2005 audit for the board to review.

There was discussion in reference to a donation to the church for the meeting space. The board unanimously agreed to donate to \$300 to the church.

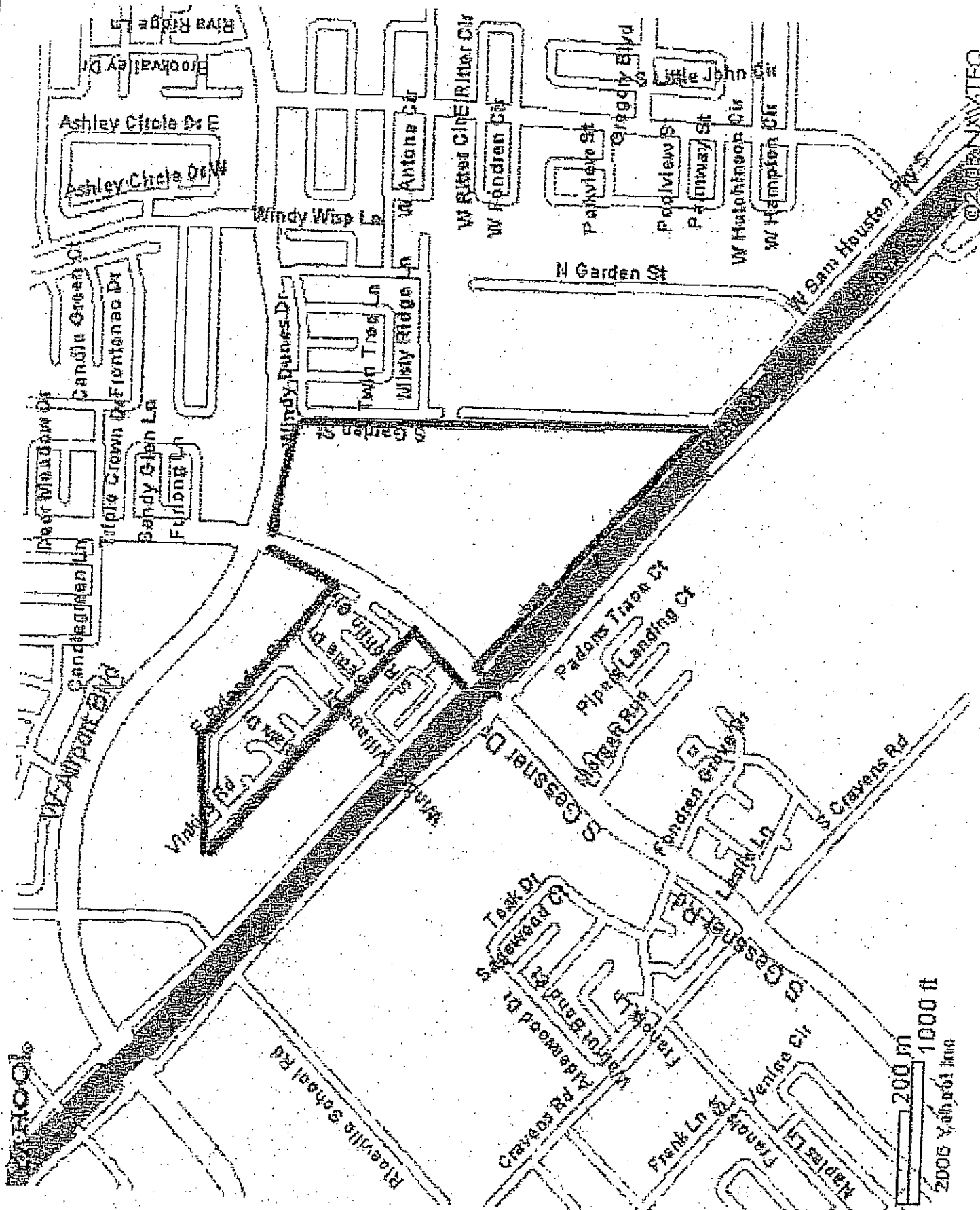
Engagement Letter for 2006 Audit and Tax Return – Ms. Winfield presented the letter for the board to review. The board unanimously agreed to sign the engagement letter for 2006 and 2007 in the amount of \$1,900.00 for each year. Director Rider signed the letter for Ms. Winfield.

Ms. Winfield then presented a letter to the board from Barry Wuntch regarding the requirement that the association have a fidelity bond per the restrictions. The board agreed to have Ms. Winfield purchase the bond per the restrictions.

Housing Project to Benefit the Area – The Association's Articles of Incorporation and By-Laws, drafted in 1981, authorize the Association to bring additional properties into the jurisdiction of the Association. In March 2006 the Board decided to expand the boundaries of the Association and accept Associate Members from the new properties if the Associate Member is located in the expanded boundaries (as indicated on the attached map) and the proposed member met all other requirements. Board Director Keller moved to note in these minutes that the Associate Member program was approved by the Board. The motion was seconded by Director Brown and passed by unanimous vote. Because the Board believes the proposed Notting Hill Gate project would benefit the area, Director Brown moved to accept Alix Capital as an Associate Member of the association. The motion was seconded by Director Rider and passed by unanimous vote. Ms. Winfield advised the board to refer all inquiries to the attorney on this matter. All documents are attached and made a part of the minutes.

It was decided that the next meeting would be held on May 23, 2006 at 6:30 p.m. in the Library in Braeswood Assembly of God Church.

There being no further business to come before the meeting, Director Lee moved to adjourn the meeting. The motion was seconded by Director Rider and passed by unanimous vote. The meeting was adjourned at 8:57 p.m.



200m 1000ft  
 2006 Vectorline

22



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

---

May 17, 2006

Alex Rider  
President

Gessport Patio Homes of Fondren Southwest Homeowner's Association,  
Inc.

8675 Vinkins Road

Houston, Texas 77071

Fax: (281) 481-8099

(713) 780-4549

Email: kament@avrmanagement.com cdavis@butlerhailey.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Notting Hill Gate, # 060224

Dear Alex Rider:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

In an April 13, 2006 deficiency notice, the neighborhood organization was asked to define the boundaries of their organization. Their April 24, 2006 response indicated that the development site is located in an area described as an "expanded boundary." A deficiency notice was issued on May 4, 2006, requesting evidence of an official action taken to expand the boundaries of the neighborhood organization to include the proposed site prior to March 1, 2006, as required by §50.9(i)(2) of the QAP. In their May 15, 2006 response, the contact stated the organization was not able to provide such evidence.

Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

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Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

24

TRANSMISSION VERIFICATION REPORT

TIME : 05/17/2006 15:53  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	05/17 15:52
FAX NO./NAME	92814818099
DURATION	00:00:24
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 17, 2006

Alex Rider  
President

Gessport Patio Homes of Fondren Southwest Homeowner's Association,  
Inc.

8675 Vinkins Road

Houston, Texas 77071

Fax: (281) 481-8099

(713) 780-4549

Email: kament@avrmanagement.com cdavis@butlerhailey.com

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Notting Hill Gate, # 060224

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In an April 13, 2006 deficiency notice, the neighborhood organization was asked to define the

25

TRANSMISSION VERIFICATION REPORT

TIME : 05/17/2006 15:54  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BROG4J729978

DATE, TIME	05/17 15:54
FAX NO./NAME	97137804549
DURATION	00:00:30
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 17, 2006

Alex Rider  
President

Gessport Patio Homes of Fondren Southwest Homeowner's Association,  
Inc.

8675 Vinkins Road

Houston, Texas 77071

Fax: (281) 481-8099

(713) 780-4549

Email: [kament@avrmanagement.com](mailto:kament@avrmanagement.com) [cdavis@butlerhailey.com](mailto:cdavis@butlerhailey.com)

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Notting Hill Gate, # 060224

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In an April 13, 2006 deficiency notice, the neighborhood organization was asked to define the boundaries of their organization. That notice was dated April 13, 2006.

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**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

12929 Gulf Freeway, Suite 320  
Houston, TX 77034

May 15, 2006

Sharon Gamble (Via Fax 800/733-5120 and e-mail)  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin TX 78711-3941

Re: Your 05/04/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation  
Notting Hill Gate, #060224

Dear Ms. Gamble:

This firm represents the *Gessport Patio Homes of Fondren Southwest Homeowners' Association, Inc.* (Association). We are in receipt of the above-referenced letter.

The Association cannot provide the documentation requested in your letter, however, the Association's *Board of Directors* would like to go on record to state that the Association's Board believes that the proposed Notting Hill Gate development will be a benefit to the community and will aide in making the area around the *Gessport Patio Homes of Fondren Southwest* a stronger neighborhood.

Thank you for your cooperation in this matter. Please contact me at 713/780-4135 if you have any questions.

Respectfully,

**BUTLER & HAILEY, P.C.**

/s/

Cliff Davis

116689/2007/10001



**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

12929 Gulf Freeway, Suite 320  
Houston, TX 77034

May 15, 2006

Sharon Gamble (Via Fax 800/733-5120 and e-mail)  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin TX 78711-3941

Re: Your 05/04/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation  
Notting Hill Gate, #060224

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Thank you for your cooperation in this matter. Please contact me at 713/780-4135 if you have any questions.

Respectfully,

**BUTLER & HAILEY, P.C.**

/s/

Cliff Davis

116689/2007/10001

## Sharon Gamble

---

**From:** Cliff Davis [cdavis@butlerhailey.com]  
**nt:** Monday, May 15, 2006 4:26 PM  
**o:** sharon.gamble@tdhca.state.tx.us  
**Subject:** Letter of Support - Notting Hill Gate - 060224



Gessport Letter.doc  
(20 KB)

Cliff Davis  
Butler & Hailey, P.C.  
(713) 780-4135  
cdavis@butlerhailey.com

29

INELIGIBLE ✓



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

FAKED & EMAIL

5/4 PC TO A. RIDER - VM LEFT RE: NOTICE

Alex Rider  
President

5/10 - PC TO A. RIDER AND C. DAVIS. LEFT VMs 6/800#

Gessport Patio Homes of Fondren Southwest Homeowner's Association, Inc.  
8675 Vinkins Road  
Houston, Texas 77071

5/15 PC TO K. KAMENT - DISCO'D. PC TO A. RIDER - VM LEFT

PC TO C. DAVIS - LEFT VM  
BY EMAIL

Organization Fax: (281) 481-8099

Organization Email: kament@avrmanagement.com

Second Contact:

Cliff Davis

Second Contact Fax: (713) 780-4549

Second Contact Email: cdavis@butlerhailey.com

Second Contact Phone: (713) 780-4135

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Notting Hill Gate, # 060224

Dear Alex Rider:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

Your April 24, 2006 response indicates that the development site is located in an area described as an "expanded boundary." In order for your letter to be eligible for QCP, you must submit evidence that the boundaries of your neighborhood organization included the proposed site prior to March 1, 2006.

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

This evidence must include a document showing that your organization took official action to extend the boundaries to include the site on or before March 1, 2006. This may include the official minutes from an association meeting where you voted to amend the boundaries to include the area of the proposed site.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be received, not merely postmarked, by May 15.

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

# BUTLER & HAILEY

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

*COPY*

RECEIVED

MAY 16 2006

LHTC

FAX TRANSMITTAL  
Cover Sheet  
Fax Number 713/780-4549

Date: May 15, 2006

To: Sharon Gamble/TDHCA

Fax No.: 800/733-5120  
512/475-1895

From: Cliff Davis

Client No.: 2007/10001

Re: Your 04/04/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation

Notting Hill Gate, #060224

There are a total of 2 pages, including this cover page. Please contact the undersigned immediately if you do not receive all pages.

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged and confidential, or which constitutes work product and is exempt from disclosure under applicable law.

If the reader of this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please notify the firm immediately by telephone at (713) 780-4135, and return the original message to the firm at the address located at the bottom of this page via the U.S. Postal Service.

FAX SENDER

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

32

**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

12929 Gulf Freeway, Suite 320  
Houston, TX 77034

May 15, 2006

Sharon Gamble (Via Fax 800/733-5120 and e-mail)  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin TX 78711-3941

Re: Your 05/04/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation  
Notting Hill Gate, #060224

Dear Ms. Gamble:


This firm represents the *Gessport Patio Homes of Fondren Southwest Homeowners' Association, Inc.* (Association). We are in receipt of the above-referenced letter.

The Association cannot provide the documentation requested in your letter, however, the Association's *Board of Directors* would like to go on record to state that the Association's Board believes that the proposed Notting Hill Gate development will be a benefit to the community and will aide in making the area around the *Gessport Patio Homes of Fondren Southwest* a stronger neighborhood.

Thank you for your cooperation in this matter. Please contact me at 713/780-4135 if you have any questions.

Respectfully,

**BUTLER & HAILEY, P.C.**

  
Cliff Davis

116689/2007/10001

33

# BUTLER & HAILEY

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

**FAX TRANSMITTAL**  
Cover Sheet  
Fax Number 713/780-4549

Date: May 15, 2006

To: Sharon Gamble/TDHCA

Fax No.: 800/733-5120  
512/475-1895

From: Cliff Davis

Client No.: 2007/10001

Re: Your 04/04/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation

Notting Hill Gate, #060224

There are a total of 2 pages, including this cover page. Please contact the undersigned immediately if you do not receive all pages.

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged and confidential, or which constitutes work product and is exempt from disclosure under applicable law.

*If the reader of this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please notify the firm immediately by telephone at (713) 780-4135, and return the original message to the firm at the address located at the bottom of this page via the U.S. Postal Service.*

FAX SENDER

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

34

**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

12929 Gulf Freeway, Suite 320  
Houston, TX 77034

May 15, 2006

Sharon Gamble (Via Fax 800/733-5120 and e-mail)  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin TX 78711-3941

Re: Your 05/04/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation  
Notting Hill Gate, #060224

Dear Ms. Gamble:

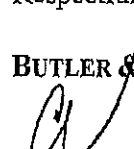
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Respectfully,

**BUTLER & HAILEY, P.C.**

  
Cliff Davis

116689/2007/10001

35



TRANSMISSION VERIFICATION REPORT

TIME : 05/04/2006 16:42  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	05/04 16:41
FAX NO./NAME	97137804549
DURATION	00:00:38
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Alex Rider  
President

Gessport Patio Homes of Fondren Southwest Homeowner's Association, Inc.  
8675 Vinkins Road  
Houston, Texas 77071

Organization Fax: (281) 481-8099      Organization Email: [kament@avrmanagement.com](mailto:kament@avrmanagement.com)

Second Contact:

Cliff Davis

Second Contact Fax: (713) 780-4549      Second Contact Email: [cdavis@butlerhailey.com](mailto:cdavis@butlerhailey.com)

Second Contact Phone: (713) 780-4135

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Notting Hill Gate, # 060224

Dear Alex Rider:

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The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems

36

TRANSMISSION VERIFICATION REPORT

TIME : 05/04/2006 16:55  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	05/04 16:55
FAX NO./NAME	992814818099
DURATION	00:00:00
PAGE(S)	00
RESULT	BUSY
MODE	STANDARD

BUSY: BUSY/NO RESPONSE



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Alex Rider  
President

Gessport Patio Homes of Fondren Southwest Homeowner's Association, Inc.  
8675 Vinkins Road  
Houston, Texas 77071

Organization Fax: (281) 481-8099      Organization Email: [kament@avrmanagement.com](mailto:kament@avrmanagement.com)

Second Contact:

Cliff Davis

Second Contact Fax: (713) 780-4549      Second Contact Email: [cdavis@butlerhailey.com](mailto:cdavis@butlerhailey.com)

Second Contact Phone: (713) 780-4135

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TRANSMISSION VERIFICATION REPORT

TIME : 05/04/2006 16:23  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	05/04 16:23
FAX NO./NAME	2814818099
DURATION	00:00:00
PAGE(S)	00
RESULT	BUSY
MODE	STANDARD

BUSY: BUSY/NO RESPONSE



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Alex Rider  
President

Gessport Patio Homes of Fondren Southwest Homeowner's Association, Inc.  
8675 Vinkins Road  
Houston, Texas 77071

Organization Fax: (281) 481-8099      Organization Email: kament@avrmanagement.com

Second Contact:

Cliff Davis

Second Contact Fax: (713) 780-4549      Second Contact Email: cdavis@butlerhailey.com

Second Contact Phone: (713) 780-4135

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Notting Hill Gate, # 060224

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38

## Sharon Gamble

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**From:** Sharon Gamble  
**Sent:** Thursday, May 04, 2006 3:58 PM  
**To:** 'kament@avrmanagement.com'  
**Cc:** 'cdavis@butlerhailey.com'  
**Subject:** QCP Deficiency Letter #060224

I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday. Please reply to this email as soon as you get it as confirmation of receipt.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

39

**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

12929 Gulf Freeway, Suite 320  
Houston, TX 77034

April 24, 2006

Sharon Gamble (Via Fax 800/733-5120)  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin TX 78711-3941

Re: Your 04/13/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation  
Notting Hill Gate, #060224

Dear Ms. Gamble:

This firm represents the *Gessport Patio Homes of Fondren Southwest Homeowners' Association, Inc.* (Association). We are in receipt of the above-referenced letter.

The primary contact for the Association is:


Cliff Davis/Attorney  
Phone (713)780-4135  
Fax (713) 780-4549

We have attached a copy of the Association's current By-Laws that contain a reference to the plat map in Article I(m) of the By-Laws. A copy of the plat map is attached.

The Association also accepts members on an associate basis for persons/entities located within the expanded boundaries indicated on the attached map. The proposed Notting Hill Gate is located within these boundaries. Accordingly, the proposed Notting Hill Gate is a member of the Association. Thank you for your cooperation in this matter. Please contact me at 713/780-4135 if you have any questions.

Respectfully,

BUTLER & HAILEY, P.C.

  
Cliff Davis

**BUTLER & HAILEY**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

**FAX TRANSMITTAL**  
Cover Sheet  
Fax Number 713/780-4549

Date: April 24, 2006

To: Sharon Gamble/TDHCA

Fax No.: 800/733-5120

From: Cliff Davis

Client No.: 2007/10001

Re: **FIRST AMENDED RESPONSE TO 04/13/06 LETTER**

Your 04/13/06 Letter Regarding Neighborhood Organization for Quantifiable Community Participation

Notting Hill Gate, #060224

Ms. Gamble,

Please replace the response letter faxed to you earlier today with the attached. The attached letter contains a description of the boundaries of the Association as requested in your 04/13/06 letter and contains the e-mail address for the Association's contact. Please use as exhibits to the attached letter the exhibits faxed to you earlier.

Thanks, Cliff Davis

There are a total of 3 pages, including this cover page. Please contact the undersigned immediately if you do not receive all pages.

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FAX SENDER

\_\_\_\_\_  
(Signature)

41

\_\_\_\_\_  
(Print Name)

**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

12929 Gulf Freeway, Suite 320  
Houston, TX 77034

April 24, 2006

Sharon Gamble (Via Fax 800/733-5120)  
Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin TX 78711-3941

Re: Your 04/13/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation  
Notting Hill Gate, #060224

Dear Ms. Gamble:

This firm represents the *Gessport Patio Homes of Fondren Southwest Homeowners' Association, Inc.* (Association). We are in receipt of the above-referenced letter.

The primary contact for the Association is:

Cliff Davis/Attorney  
Phone (713)780-4135  
Fax (713) 780-4549  
[cdavis@butlerhailey.com](mailto:cdavis@butlerhailey.com)

We have attached a copy of the Association's current By-Laws that contain a reference to the plat map in Article I(m) of the By-Laws. The Association's boundaries, which have been in place since June 1981, are as follows: North Rylander to the west (including the platted lots on both sides of this street), East Rylander and East Rachlin to the north (including the platted lots on both sides of these streets); Vinkins Road to the south (including the platted lots on both sides of the street); and Gessner Road to the east. A copy of the plat map is attached.

The Association also accepts members on an associate basis for persons/entities located within the expanded boundaries indicated on the attached map. The expanded boundaries include the original development referenced above plus an area to the east of the original development bounded by Gessner Road on the west; West Airport Boulevard on the north; the South Main Gardens subdivision on the east; and Beltway 8 on the south. The proposed Notting Hill Gate is located within this area and is a member of the Association.

42

Thank you for your cooperation in this matter. Please contact me at 713/780-4135 if you have any questions.

Respectfully,

**BUTLER & HAILEY, P.C.**

  
Cliff Davis

116001/2007/10001



**BUTLER & HAILEY**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

**FAX TRANSMITTAL**  
Cover Sheet  
Fax Number 713/780-4549

Date: April 24, 2006

To: Sharon Gamble Fax No.: 800/733-5120  
Texas Department of Housing and Community Affairs

From: Cliff Davis Client No.: 2007/10001

Re: Your 04/13/06 Letter Regarding Neighborhood Organization for Quantifiable  
Community Participation  
Notting Hill Gate, #060224

There are a total of 17 pages, including this cover page. Please contact the undersigned immediately if you do not receive all pages.

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FAX SENDER

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

44

**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

12929 Gulf Freeway, Suite 320  
Houston, TX 77034

April 24, 2006

Sharon Gamble (Via Fax 800/733-5120)  
Texas Department of Housing and Community Affairs  
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This firm represents the *Gessport Patio Homes of Fondren Southwest Homeowners' Association, Inc.* (Association). We are in receipt of the above-referenced letter.

The primary contact for the Association is:

Cliff Davis/Attorney  
Phone (713)780-4135  
Fax (713) 780-4549

We have attached a copy of the Association's current By-Laws that contain a reference to the plat map in Article I(m) of the By-Laws. A copy of the plat map is attached.

The Association also accepts members on an associate basis for persons/entities located within the expanded boundaries indicated on the attached map. The proposed Notting Hill Gate is located within these boundaries. Accordingly, the proposed Notting Hill Gate is a member of the Association. Thank you for your cooperation in this matter. Please contact me at 713/780-4135 if you have any questions.

Respectfully,

BUTLER & HAILEY, P.C.

  
Cliff Davis

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BUTLER & HAILEY  
ATTORNEYS AT LAW

JAN 29 2001

FILE \_\_\_\_\_ FROM \_\_\_\_\_

# BYLAWS

\*\*\*\*\*

## CESSPORT PATIO HOMES OF FONDREN SOUTHWEST HOMEOWNERS' ASSOCIATION, INC.

\*\*\*\*\*

**ADOPTED:** December 10, 1981  
**AMENDED:** August 16, 1984  
September 22, 1987  
May 30, 1991

4/6

**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

\*\*\*\*\*

**BYLAWS**

\*\*\*\*\*

**ARTICLE I**

**DEFINITIONS**

The following words when used in these bylaws, unless a different meaning or intent clearly appears from the context, shall have the following meaning:

(a) "Association" shall mean Gessport Patio Homes of Fondren Southwest Homeowners' Association, Inc., a non-profit corporation organized pursuant to the Texas Non-Profit Corporation Act.

(b) "Board of Directors" or "Board" shall mean the governing body of the Association, elected pursuant to the Bylaws of the Association.

(c) "Common Facilities" shall mean and refer to Common Facilities as defined in the Declaration.

(d) "Common Properties" shall mean Common Properties as defined in the Declaration.

(e) "Declaration" shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions applicable to the Properties and recorded or to be recorded in the Deed Records of Harris County, Texas, and as the same may be amended or supplemented from time to time as therein provided.

(f) "Developer" shall have the same meaning as the term "Declarant" as defined in the Declaration.

(g) "Lot" shall mean and refer to a Lot as defined in the Declaration.

(h) "Member" shall mean and refer to a Member as defined in the Declaration.

(i) "Mortgage" shall mean a first lien deed of trust well as a first lien mortgage on one or more lots.

(j) "Mortgagee" shall mean beneficiary under or holder of a Mortgage who has given to the Association written notice that it is the beneficiary under or holder of a Mortgage affecting all or any part of the Project, as hereinafter defined.

(k) "Owner" shall mean and refer to the record owner, or such Lot subject to a purchase contract with Developer, to the purchaser under such contract, whether one or more persons or entities, the fee simple title to any Lot situated upon the Properties, but, notwithstanding any applicable theory of mortgages, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title to one or more Lots pursuant to foreclosure or any proceeding in lieu of foreclosure.

(l) "Properties" shall mean and refer to the real property described on the Subdivision Plats, together with such additions as may hereafter be made thereto.

(m) "Subdivision Plat" shall mean and refer to all respective maps, plats or replats of GESSPORT PATIO HOMES OF FONDREN SOUTHWEST recorded in Volume 304, page 48 of the Map Records of Harris County, Texas.

## ARTICLE II

### OFFICES

**Section 1. Principal Office.** The principal office of the Association shall be located in the County of Harris, State of Texas.

**Section 2. Other Offices.** The Association may also have offices at such other places, within and without the State of Texas, as the Board of Directors may from time to time determine or as the business of the Association may require.

## ARTICLE III

### MEMBERSHIP

**Section 1. Membership.** Every Owner (including the transferee of such Owner who becomes an Owner by the acquisition of a fee or undivided fee interest in a Lot) shall, upon the acquisition by original purchase or transfer of the fee or undivided fee interest in a Lot, whether by foreclosure, deed in lieu of foreclosure or otherwise, automatically be a Member of the Association and entitled to all rights of the Members, as herein provided, including the rights with respect to the Common Properties, subject, however, to the terms and provisions hereof. The term "Member" is further defined to include and refer to the executors, personal representatives and administrators of any Member, and all other persons, firms or corporations, acquiring or succeeding to the title of the Member by sale, grant, will, foreclosure, extension, or by any legal process, or by operation of law, or in any other legal manner. The interest and proportionate share of each Member in the Association shall not be assigned, hypothecated or transferred in any manner whatsoever except as an appurtenance to a Lot. The provisions of this paragraph shall not apply to sales of Lots by Developer.

**Section 2. Payment of Assessments.** The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of which assessments is imposed against the owner of and becomes a lien upon each Lot against which such assessments are made as provided by Article VI of the Declaration (incorporated herein and made a part hereof for all purposes).

**Section 3. Suspension of Membership.** During any period in which a Member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights and right to the use of the Common Facilities and Common Properties of such Member, his tenants, and each individual residing with either of them in the Lot owned by such Member, may be suspended by the Board of Directors until such assessment has been paid. Such rights of a Member, his tenants, and each individual residing with either of them in any improvements located on such Member's Lot, may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days, for violation of any rules and regulations established by the Board of Directors governing the use of the Common Facilities and Common Properties, or for failure to meet any obligations imposed by the Declaration upon such Member, his tenants, or any individual residing with either of them. (rev: 9/22/87)

#### ARTICLE IV

##### PROPERTY RIGHTS: RIGHTS OF ENJOYMENT

Each Member, his tenants, and the individuals who reside with either of them in any improvements located on any Lot owned by such Member, shall be entitled to the use and enjoyment of the Common Properties and Common Facilities in accordance with and subject to the terms and conditions set forth in the Declaration, the Bylaws, and the rules and regulations adopted from time to time by the Board of Directors. The rights and privileges of any such tenant or other individual are subject to suspension to the same extent as those of the Member. Any Member may also delegate the aforementioned rights of enjoyment to his guests, subject to any applicable rules and regulations that may be adopted from time to time by the Board of Directors of the Association.

#### ARTICLE V

##### BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

**Section 1. Number: Qualifications.** The affairs of this Association shall be managed by a Board of Directors. The Board of Directors of the Association shall consist of seven (7) members. Members of the board of Directors shall be Owners or spouses of Owners. If an Owner is a partnership or corporation, any partner or officer thereof shall qualify as an Owner and may be a member of the Board of Directors.

**Section 2. Election: Term.** Three (3) directors shall be elected in even numbered years to serve a term of two (2) years and four (4) directors shall be elected in odd numbered years to serve a term of two (2) years. At each annual meeting, two (2) Owners shall be elected as alternates to replace any directors that die, resign or are removed from the board of Directors. The alternates shall be allowed to attend the meetings of the Board of Directors, but may not be counted towards quorum or allowed to vote. Directors shall serve until their respective successors are elected, or until their death, resignation or removal; provided, that if any director ceases to be an Owner or the spouse of an Owner, his membership on the Board shall terminate.

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**Section 3. Death, Resignation and Removal; Filling Vacancies.** Any director may resign at any time by giving written notice to the other directors, and any director may be removed from membership on the Board by the vote of the members to remove a director, a majority of the Board of Directors at any meeting of the Board of Directors. In any director that has missed three (3) or more regular meetings of the Board of Directors, that position shall be filled by the alternate receiving the highest number of votes at the annual meeting. If no alternate is available or willing to serve, the position will remain vacant until the next annual or special meeting or the members at which time it will be filled. Provided, however, that if vacancies exist such that the total number of directors is less than four (4), a special meeting will be called to fill these vacancies in the same manner as for their initial election.

**Section 4. Compensation.** Directors shall serve without pay unless expressly approved by the Members entitled to cast a majority of the votes in the Association. However, a director may be reimbursed for his actual expenses incurred in the performance of his duties.

**Section 5. Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

## ARTICLE VI

### MEETINGS OF DIRECTORS

**Section 1. Place of Meetings.** Meetings of the Board of Directors, regular or special, may be held either within or without the State of Texas.

**Section 2. First Meeting.** The first meeting of each newly elected Board of Directors shall be held at such time and place as shall be fixed by the vote of the Members at the annual meeting and no notice of such meeting shall be necessary to the newly elected directors in order legally to constitute the meeting, providing a quorum shall be present. In the event of the failure of the Members to fix the time and place of such first meeting of the newly elected Board Directors, or in the event such meeting is not held at the time and place so fixed by the Members, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meeting of the Board of Directors, or as shall be specified in a written waiver signed by all of the directors.

**Section 3. Regular Meetings.** Regular meetings of the Board of Directors (in addition to the first meeting provided in Section 2 above) may be held without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should the day so fixed be a legal holiday, then the meeting shall be held at the same time on the next day not a legal holiday.

**Section 4. Special Meetings.** Special meetings of the Board of Directors may be called by the president and shall be called by the secretary on the written request of two directors of the Board. Written notice of special meetings of the Board of Directors shall be given to each director at least three (3) days before the date of the meeting. Neither the business to be

transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

**Section E. Quorum.** A majority of the directors shall constitute a quorum for the transaction of business and the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless a greater number is required by the Articles. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

## ARTICLE VII

### NOMINATION AND ELECTION OF DIRECTORS

**Section 1. Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each meeting of the Members in which directors are to be elected, and such appointment shall be announced at each such meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. (rev: 9/22/87)

**Section 2. Election.** Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast as many votes as they are entitled to exercise.

## ARTICLE VIII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**Section 1. Powers.** The business and affairs of the Association shall be managed by its Board of Directors, which may exercise all such powers as are not by law, the Articles of the Bylaws directed or required to be exercised and done by the Members. The power and authority of the Board of Directors shall include, but shall not be limited to, all powers, duties and authority vested in or delegated to the Board of Directors in the Declaration.

**Section 2. Duties.** It shall be the duty of the Board of Directors

- (a) to keep all books and records of the Association in accordance with good accounting procedures;
- (b) to supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration,



(i) to fix the amount of the annual assessment against each Lot, as provided in Article VI of the Declaration, and

(ii) to send written notice of each assessment to every Owner subject thereto, as provided in Article VI of the Declaration;

(d) to issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) to produce and maintain adequate liability and hazard insurance on property owned by the Association and to adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property; to assess all Lots in proportionate amounts to cover the deficiency;

(f) to procure and maintain adequate fidelity coverage to protect against dishonest acts by officers, directors, trustees and other employees of the Association having fiscal responsibilities and all others who are responsible for handling funds of the Association. Such fidelity bonds shall comply in all respects with Section 4, Article X of the Declaration;

(g) to cause the Common Properties and Common Facilities to be maintained;

and

(h) to perform any and all other duties and exercise any and all other powers specified in either the Declaration or the Articles.

**Section 3. Limitation.** The Board's powers and duties hereinabove enumerated shall be limited in that the Board shall not have the authority to acquire and pay for any structural alterations, capital additions to, or capital improvements of the Common Properties (other than for purposes of replacing or restoring portions of the Common Facilities, subject to all the provisions of the Declaration) requiring any expenditure in excess of Ten Thousand Dollars (\$10,000.00) (exclusive of any insurance proceeds applied to such alterations, additions, improvements, or repair of damages), without in each case the prior approval of the Members entitled to cast a majority of the votes in the Association.

## ARTICLE IX

### COMMITTEES

The Board of Directors, by resolution adopted by a majority of the Board, may designate two (2) or more Members of the Association to constitute special committees, which committees, to the extent provided in such resolution, shall have and may exercise all the authority of the Board of Directors within its field of responsibility except when the action of the Board of Directors is required by statute. Vacancies in the membership of the committee shall be filled by the Board of Directors at a regular or special meeting of the

Board. The committees shall keep regular minutes of their proceedings and report the same to the Board when required.

## ARTICLE X

### MEETINGS OF MEMBERS

**Section 1. Place of Meetings.** Meetings of the Members shall be held at the offices of the Association, in Harris County, Texas, or at such other location within or without the State of Texas as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof.

**Section 2. Annual Meeting.** A regular annual meeting of Members shall be held during the month of September in each year commencing with the year 1982. The date of the annual meeting may be changed from time to time by the resolution duly adopted by the Board of Directors of the Association. (rev: 8/16/84)

**Section 3. Special Meetings.** Special meetings of the Members shall be called by the secretary upon written request of (a) two (2) members of the Board of Directors, or (b) Members entitled to cast one-fourth (1/4th) of the votes in the Association.

**Section 4. Notice.** Written notice of the organization meeting, each annual meeting, and each special meeting of the Members, specifying the date, hour and place of the meeting, shall be delivered to each Owner (and, upon request to each Mortgagee, which shall be permitted to designate a representative to attend all such meetings) not less than ten (10) nor more than fifty (50) days prior to the date fixed for said meeting. Notices of special meetings shall in addition specify the general nature of the business to be transacted at the meeting.

**Section 5. Purposes.** Business transacted at any special meeting shall be confined to the purposes stated in the notice thereof.

**Section 6. Quorum.** The presence at any meeting of Members entitled to cast a majority of the votes in the Association, represented in person or by proxy, shall constitute a quorum. If a quorum is not present at any meeting, the Members present, though less than a quorum, may adjourn the meeting to a later date and give notice thereof to all Members in accordance with the provisions of Section 4 of this Article X, and at that meeting whatever Members are present shall constitute a quorum. (rev: 9/22/87)

**Section 7. Majority Vote.** The vote of Members entitled to cast a majority of the votes thus represented at a meeting at which a quorum is present shall be the act of the Members meeting, unless the vote of a greater number is required by law, the Declaration, the Articles, or these Bylaws.

**Section 8. Voting Rights.** Each Member may cast as many votes as he is entitled to exercise under the terms and provisions of the Articles on each matter submitted to a vote at a meeting of Members, except to the extent that the voting rights of any Member have been suspended in accordance with the Bylaws. Whenever there is more than one record

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Owner of a Lot, any or all the record Owners may attend and vote at any meeting of the Members, but in no event shall more than one vote be cast with respect to any Lot.

**Section 9. Proxies.** Any Member may attend and vote at any meeting of Members in person or by an agent duly appointed by an instrument in writing signed by the Member and filed with the Board of Directors. Whenever there is more than one (1) recorded Owner of a Lot, any designation of an agent to act for such record Owners must be signed by all such record Owners. Any designation of an agent to act for a Member may be revoked at any time by written notice to the Board of Directors and shall be deemed revoked when the Board shall receive actual notice of the death or judicially declared incompetency of such Member or of the conveyance by such Member of his Lot. Upon the death of a Member, the legal representative of the Member's estate shall have the right to vote for that Member and the legally appointed guardian of a Member who has been judicially declared to be incompetent shall have the right to vote for the Member.

**Section 10. List of Members.** The officer or agent having charge of the corporate books shall make, at least ten (10) days before each meeting of Members, a complete list of the Members entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of each, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal office of the Association and shall be subject to inspection by any Member at any time during the usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Member during the whole time of the meeting.

**Section 11. Record Date.** The Board of Directors may fix in advance a date, not exceeding fifty (50) days preceding the date of any meeting of Members, as a record date for the determination of the Members entitled to notice of, and to vote at, any such meeting, and any adjournment thereof, and in such case such Members and only such Members as shall be Members of record on the date so fixed shall be entitled to such notice of, and to vote at, such meeting and any adjournment thereof, notwithstanding any change of membership on the books of the Association after any such record date fixed as aforesaid.

**Section 12. Action Without Meeting.** Any action required by the statutes to be taken at a meeting of the Members, or any action that may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all Members entitled to vote with respect to the subject matter thereof.

## ARTICLE XI

### NOTICES

**Section 1. Delivery.** Any notice to a Director or Member shall be in writing and delivered personally or mailed to the director or Member addressed to the Director or Member at the address of his Lot, or at such other address as may be given, in writing, to the Board of Directors by the Director or Member. Notice by mail shall be deemed to be given at the time when deposited in the United States Mail addressed to the Member or directors, with postage thereon prepaid. Notice to directors may also be given by telegram and shall be deemed to be given when given to the telegraph company.

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**Section 2. Waivers.** Whenever any notice is required to be given to any Member or director by law, the Declaration, the Articles, or the Bylaws, a waiver thereof, in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

**Section 3. Attendance at Meetings.** Attendance of any Member or director at a meeting shall constitute a waiver of notice of such meeting, except when a Member or director attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. (rev: 9/22/87)

## ARTICLE XII

### OFFICERS AND THEIR DUTIES

**Section 1. Enumeration of Offices.** The officers of the Association shall be a president, vice president, a secretary, and a treasurer (each of whom shall at all times be a member of the Board of Directors), and such other officers as the Board may from time to time by resolution create. (rev: 8/16/84)

**Section 2. Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

**Section 3. Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

**Section 4. Special Appointment.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Vacancies.** A vacancy in any office may be filled in the manner prescribed for regular election. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7. Multiple Offices.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8. Duties.** The duties of the officers are as follows:

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(a) The president shall be the chief executive officer of the Association, shall preside at all meetings of the Members and the Board of Directors, shall have general and active management of business of the Association, and shall see that all orders and resolutions of the Board of Directors are carried into effect. He shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Association, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Association.

#### The Vice Presidents

(b) The vice presidents in the order of their seniority, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the president, perform the duties and exercise the powers of the president. They shall perform such other duties and have such other powers as the Board of Directors shall prescribe.

#### The Secretary and Assistant Secretaries

(c) The secretary shall attend all meetings of the Board of Directors and all meetings of the Members and record all the proceedings of the meeting of the Association and of the Board of Directors in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or president, under whose supervision he shall be. (rev: 9/22/87)

(d) The assistant secretaries in the order of their seniority, unless otherwise determined by the Board of Directors shall, in the absence or disability of the secretary, perform the duties and exercise the powers of the secretary. They shall perform such other duties and have such powers as the Board of Directors may from time to time prescribe.

#### The Treasurer and Assistant Treasurers

(e) The treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors.

(f) The treasurer shall disburse the funds of the Association as may be authorized by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and the Board of Directors at its regular meetings or when the Board of Directors so requires an account of all his transactions as treasurer and of the financial condition of the Association.

(g) If required by the Board of Directors, the treasurer shall, at the expense of the Association, give the Association a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Association, in the case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Association.

(h) The treasurer shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare (i) an annual budget and (ii) a statement of income and expenditures, to be presented to the membership at its regular annual meetings, a copy of each of which shall be made available to each Member upon request.

(i) The assistant treasurers in the order of their seniority, unless otherwise determined by the Board of shall, in the absence or disability of the perform the duties and exercise the powers of the treasurer. They shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

ARTICLE XIII

BOOKS AND RECORDS

The Declaration, the Articles, the Bylaws, and the books, records and financial statements of the Association shall at all times, upon request during normal business hours or under other reasonable circumstances, be subject to inspection by any Member. Copies of the Declaration, the Articles and the Bylaws of the Association may be purchased at reasonable cost at the principal office of the Association. (rev: 9/22/87)

ARTICLE XIV

CORPORATE SEAL

(Deleted in its entirety, 9/22/87)

ARTICLE XV

AMENDMENTS

These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of the Members entitled to cast a majority of the votes of a quorum of the Members present in person or by the Members present by proxy; provided, that no amendment shall be made which would cause these Bylaws to be in conflict with the terms or provisions of the Declaration. (rev: 8/16/84)

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**ARTICLE XVI**

**CONFLICTS**

In the case of any conflict between the Articles and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**ARTICLE XVII**

**FISCAL YEAR**

The fiscal year-end of the Association shall be December. (rev: 8/16/84)

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TRANSMISSION VERIFICATION REPORT

TIME : 04/13/2006 16:53  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BROG4J729978

DATE, TIME	04/13 16:52
FAX NO./NAME	92814818099
DURATION	00:00:29
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 13, 2006

Alex Rider

President

Gessport Patio Homes of Fondren Southwest Homeowner's Association, Inc.

8675 Vinkins Road

Houston, Texas 77071

Organization Fax: (281) 481-8099      Organization Email: [kament@avrmanagement.com](mailto:kament@avrmanagement.com)

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Notting Hill Gate, # 060224

Dear Alex Rider:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is received by the organization, the organization's letter will not be considered further for scoring and the organization

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**TDHCA Mail Room**

TO:

Sharon G.

Section:

MFP

Date Stamp

RECEIVED  
APR 24 2006

Texas Department of Housing  
and Community Affairs

Type of Document \_\_\_\_\_

The following document was:

Hand Delivered   
Check   
Fax

*Pleased sign and return this form to mail room:*

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 13, 2006

Alex Rider  
President

Gessport Patio Homes of Fondren Southwest Homeowner's Association, Inc.  
8675 Vinkins Road  
Houston, Texas 77071

Organization Fax: (281) 481-8099      Organization Email: kament@avrmanagement.com

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Notting Hill Gate, # 060224

Dear Alex Rider:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

✓ The QCP letter you submitted did not contain an email address and/or fax number for the primary contact person for your organization. Per §50.9(i)(2)(A)(ii) of the QAP, submit an email address and/or fax number.

The QCP letter you submitted does not state the geographic boundaries of your organization. As required by §50.9(i)(2)(A)(iii) of the QAP, please state what the geographical boundaries are and establish that the proposed development site is located within those boundaries.

✓ The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. According to §50.9(i)(2)(A)(viii) of the QAP, your bylaws must "at a minimum, identify the boundaries of the organization, ..." Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

include a copy of the document.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by April 24.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

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**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: NOTTING HILL GATE SQ HOUSING

Dev. Number: 060224

Organization Name: BESSPORT PATIO HOMES SW HOA

Date Letter Received: 3/31/06

Reviewer Name: S. GALBIE

Date Reviewed: 4/6/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? <i>NOT W/IN?</i> c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries?</u>  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization <u>of persons living near one another</u> within the organization's defined boundaries that contain the proposed Development site and that has a <u>primary purpose of working to maintain or improve the general welfare of the neighborhood</u>. More specifically:</p> <p>"Neighborhood organizations" DO include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" DO NOT include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input checked="" type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

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**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete?

Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

NOT EMAIL/FAX; BOUNDS IN LTR + TRG DOC

Date deficiency letter issued: 4/13/06

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): 4/24/06

Date deficiencies received: 4/24/06

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: JB

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
FINAL SCORE (Enter from box checked above):		

Has this been entered in the 2006 Database?

Yes  No

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**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST  
HOMEOWNERS' ASSOCIATION, INC.**

12929 Gulf Freeway, Suite 320  
Houston, TX 77034

Ms. Brook Boston  
Deputy Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
P.O. Box 13941 (MC 332-10)  
Austin TX 78711-3941

Re: Quantifiable Community Participation  
Development #: 123  
Notting Hill Gate Senior's Development, Missouri City, Texas  
Development Location: Near SE Corner of BW 8 and S. Gessner.

As President of the *Gessport Patio Homes of Fondren Southwest Homeowners' Association, Inc.* (Association), I am writing to provide the Association's support for the above-referenced development that is located at the corner of Near SE Corner of BW 8 and S. Gessner, Missouri City, Harris County, Texas. The Association is a qualified Neighborhood Organization as further described below.

As the signer of this letter, I am providing my contact information:

Alex Rider  
8675 Vinkins Road  
Houston, Texas 77071-2832  
713/981-7136

I am also providing the following information for one additional contact, Kathryn Ament, for the Association:

Kathryn Ament/Association Property Manager  
AVR Management Consultants, Inc.  
12929 Gulf Freeway, Suite 320  
Houston, Texas 77034  
713/481-8062  
Email: kament@avrmanagement.com  
Fax: 281/481-8099

Attached please find a copy of the map that establishes the Association/Associate Member boundaries. The proposed development is within the Association/Associate Member boundaries.

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The Association is an organization of persons living near one another within the Association's boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are copies of the Association's *Articles of Incorporation* created before March 1, 2006.

The Association has jurisdiction over approximately 228 lots and has approximately 400 members. The Association's business is carried out by its Board of Directors that contains seven directors. The Association reached its decision to support the proposed development after interviewing the developer and reviewing materials provided by the developer to the board concerning the development. The board then held a vote and approved sending a letter of support.

This Association is:

On record, as of March 1, 2006, with the Texas Comptroller of Public Accounts as an incorporated entity in good standing (see enclosed documentation).

This Association was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance. The Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter).

The Association supports the proposed development for the following reasons:

- It will provide needed housing for the community
- The quality of the proposed development and the reputation of the developer
- Will improve the general appeal of the area
- Will improve the economic base of the area
- Will help spur redevelopment and/or new development in the area

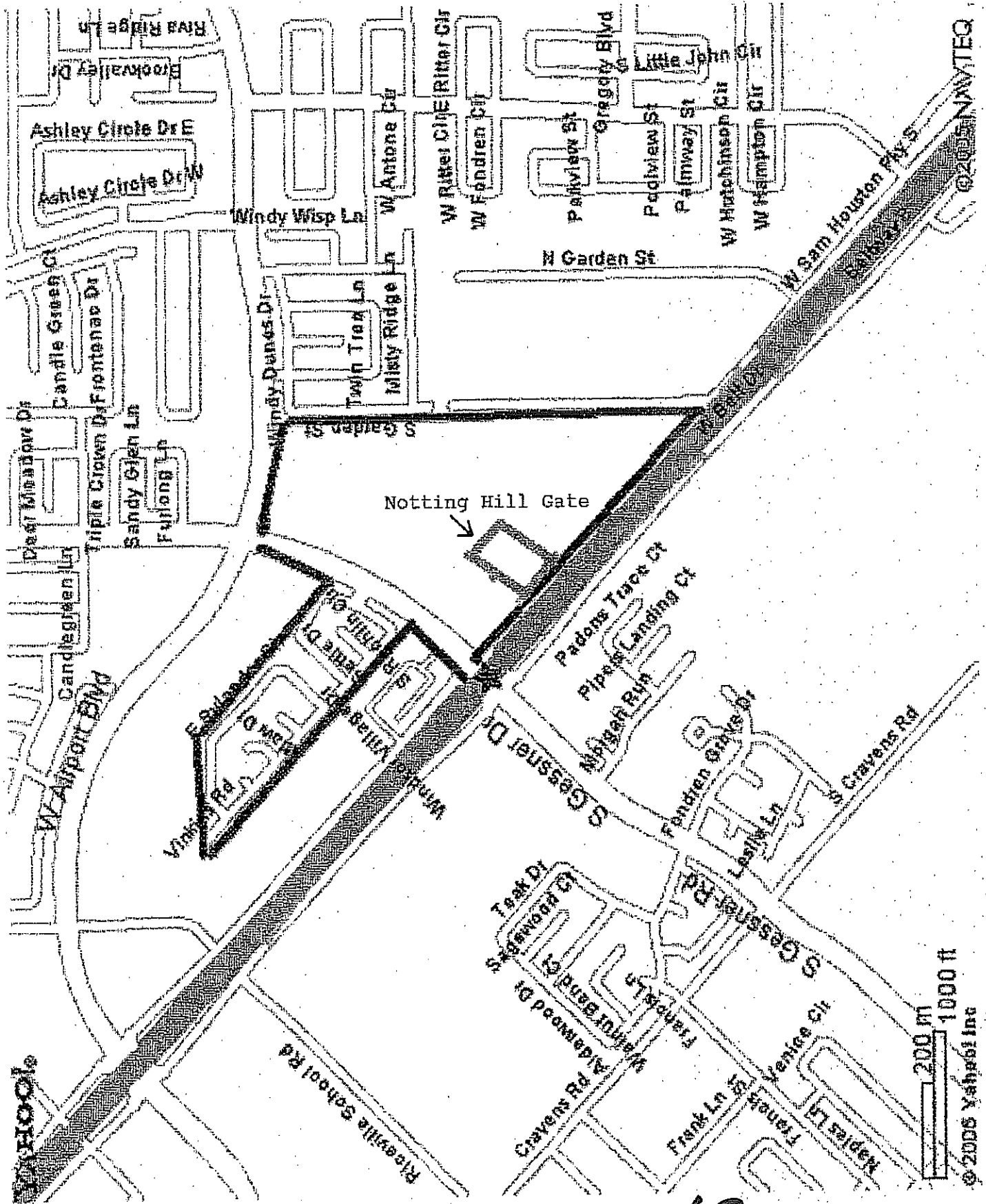
Sincerely,

GESSPORT PATIO HOMES OF FONDREN SOUTHWEST HOMEOWNERS' ASSOCIATION,  
INC.



Alex Rider,  
As President of the Association

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FILED  
In the Office of the  
Secretary of State of Texas

FEB 12 1982

CORPORATION  
Division

RESTATED ARTICLES OF INCORPORATION  
(WITH AMENDMENTS)  
OF  
GESSPORT PATIO HOMES OF FONDREN  
SOUTHWEST HOMEOWNERS' ASSOCIATION, INC.

1. GESSPORT PATIO HOMES OF FONDREN SOUTHWEST HOMEOWNERS' ASSOCIATION, INC., pursuant to the provisions of Article 4.06 of the Texas Non-Profit Corporation Act, hereby adopts Restated Articles of Incorporation which accurately copy the Articles of Incorporation and as further amended by such Restated Articles of Incorporation as hereinafter set forth and which contain no other change in any provision thereof, except that the number of directors presently constituting the Board of Directors and the names and addresses of the persons presently serving as directors have been inserted in lieu of similar information concerning the initial Board of Directors, and the names and addresses of the incorporators have been deleted therefrom.

2. The Articles of Incorporation of the Association are amended by the Restated Articles of Incorporation by amending the following described provisions to read as follows:

ARTICLE FOUR

PURPOSES AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the Lots and Common Properties, within that certain tract of property described as:

GESSPORT PATIO HOMES OF FONDREN SOUTHWEST, a subdivision in Harris County, Texas, according to the replat thereof recorded in Volume 304, Page 48 of the Map Records of Harris County, Texas.

and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association and, subject to the terms and provisions of the Declaration, for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the

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Association as set forth in the Declaration, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Properties;

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Act of the State of Texas by law may now or hereafter have or exercise.

## ARTICLE FIVE

### MEMBERSHIP

Every Owner (including the transferee of such Owner who becomes an Owner by the acquisition of a fee or undivided fee interest in a Lot) shall, upon acquisition by original purchase or transfer of the fee or undivided fee interest in a Lot, whether by foreclosure, deed in lieu of foreclosure or otherwise, will automatically be a Member of the Association and entitled to all rights of the Members as provided

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in the Declaration, including the rights with respect to the Common Properties, subject however, to the terms and provisions of the Declaration. The term "Member" is further defined to include and refer to the executors, personal representatives and administrators of any Member, and all of the persons, firms or corporations, acquiring or succeeding to the title of the Member by sale, grant, will, foreclosure, execution, or by any legal process, or by operation of law, or in any other legal manner.

#### ARTICLE SIX

##### VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Members with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Class B. The Class B Member(s) shall be the Declarant. The Class B Member(s) shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership. However, at such times as the total number of Lots owned by the Class A Members equals or exceeds three (3) times the total number of Lots owned by the Class B Member(s), the Class B Member(s) shall, during the time such equality or excess continues, be entitled to only one (1) vote for every Lot owned by it. Control of the Association shall become vested in the Class A Members not later than the earlier of (i) 120 days after completion of transfer to such Class A Members of title to Lots representing seventy-five percent (75%) of the Lots in the Properties, or (ii) January 1, 1992.

#### ARTICLE SEVEN

##### INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the corporation is 10555 Northwest Freeway, Suite 161, Houston, Texas 77092 and the name of its initial registered agent at such address is STAN DAVIS.

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## ARTICLE TEN

AMENDMENTS

Amendment of these Articles shall require the assent of the Members entitled to cast two-thirds (2/3) of the votes of the Association; provided, that no amendment shall be made which would cause these Articles to be in conflict with the terms or provisions of the Declaration or which would change the status and purpose of the Association as a nonprofit corporation.

## ARTICLE ELEVEN

INDEMNIFICATION OF DIRECTORS AND OTHERS

The members of the Board of Directors and officers of the Association shall not be personally liable to the Association, Owners or others for any mistake of judgment or for any acts or omissions made in good faith acting as such Board members or officers individually or collectively. Each member of the Board of Directors and each officer shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, or any settlement thereof, by reason of his being or having been a member of the Board of Directors or an officer of the Association, whether or not he is a member of the Board of Directors or an officer at the time such expenses are incurred, except in such cases wherein the member of the Board of Directors or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association.

## ARTICLE TWELVE

DEFINITIONS

The following words, when used in these Articles of Incorporation, shall have the following meanings:

- (a) "Association" shall mean and refer to the corporation incorporated hereunder.

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(b) "Common Properties" shall mean and refer to the Common Properties as defined in the Declaration.

(c) "Declarant" shall mean and refer to SAWYER DEVELOPMENT CORPORATION and WOOD BROS. HOMES, INC., their successors and assigns, if (i) such successors and assigns should acquire more than one undeveloped Lot from the said SAWYER DEVELOPMENT CORPORATION or WOOD BROS. HOMES, INC. for the purpose of development or resale, or (ii) any such successor or assignee who (A) shall receive by assignment from said SAWYER DEVELOPMENT CORPORATION or WOOD BROS. HOMES, INC. all or a portion of their rights as Declarant under the Declaration, by an instrument expressly assigning such rights as Declarant to such assignee and (B) who shall own or have an interest in all or a portion of the Properties. Notwithstanding the foregoing, from and after such time that neither WOOD BROS. HOMES, INC., nor any person receiving an assignment of its rights as Declarant shall no longer own any portion of the Properties, the term "Declarant" shall be deemed to mean SAWYER DEVELOPMENT CORPORATION.

(d) "Declaration" shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions applicable to the Properties and recorded or to be recorded in the Deed Records of Harris County, Texas, and as the same may be amended or supplemented from time to time as therein provided.

(e) "Lot" shall mean and refer to a Lot as defined in the Declaration.

(f) "Member" shall mean and refer to a Member as defined in the Declaration.

(g) "Owner" shall mean and refer to an Owner as defined in the Declaration.

3. The amendments made by these Restated Articles of Incorporation have been effected in conformity with the provisions of the Texas Non-Profit Corporation Act and such Restated Articles of Incorporation and each such amendment made by the Restated Articles of Incorporation was duly adopted by the sole Member, being the Declarant, on the 15<sup>th</sup> day of December, 1987 by a unanimous written consent to the adoption of such Restated Articles of Incorporation as so amended.

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4. The original Articles of Incorporation are hereby superseded by the following Restated Articles of Incorporation which accurately copy the entire text thereof and as amended as above set forth:

#### ARTICLES OF INCORPORATION

We, the undersigned natural persons of the age of eighteen (18) years of more, at least two (2) of whom are citizens of the State of Texas, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation:

#### ARTICLE ONE

##### NAME

The name of the corporation is GESSPORT PATIO HOMES OF FONDREN SOUTHWEST HOMEOWNERS' ASSOCIATION, INC.

#### ARTICLE TWO

##### NONPROFIT CORPORATION

The corporation is a nonprofit corporation.

#### ARTICLE THREE

##### DURATION

The period of its duration is perpetual.

#### ARTICLE FOUR

##### PURPOSES AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the Lots and Common Properties, within that certain tract of property described as:

GESSPORT PATIO HOMES OF FONDREN SOUTHWEST, a subdivision in Harris County, Texas, according to the replat thereof recorded in Volume 304, Page 48 of the Map Records of Harris County, Texas.

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and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association and, subject to the terms and provisions of the Declaration, for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Properties;

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Act of the State of Texas by law may now or hereafter have or exercise.

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## ARTICLE FIVE

MEMBERSHIP

Every Owner (including the transferee of such Owner who becomes an Owner by the acquisition of a fee or undivided fee interest in a Lot) shall, upon acquisition by original purchase or transfer of the fee or undivided fee interest in a Lot, whether by foreclosure, deed in lieu of foreclosure or otherwise, will automatically be a Member of the Association and entitled to all rights of the Members as provided in the Declaration, including the rights with respect to the Common Properties, subject however, to the terms and provisions of the Declaration. The term "Member" is further defined to include and refer to the executors, personal representatives and administrators of any Member, and all of the persons, firms or corporations, acquiring or succeeding to the title of the Member by sale, grant, will, foreclosure, execution, or by any legal process, or by operation of law, or in any other legal manner.

## ARTICLE SIX

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Members with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Class B. The Class B Member(s) shall be the Declarant. The Class B Member(s) shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership. However, at such times as the total number of Lots owned by the Class A Members equals or exceeds three (3) times the total number of Lots owned by the Class B Member(s), the Class B Member(s) shall, during the time such equality or excess continues, be entitled to only one (1) vote for every Lot owned by it. Control of the Association shall become vested in the Class A Members not later

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than the earlier of (i) 120 days after completion of transfer to such Class A Members of title to Lots representing seventy-five percent (75%) of the Lots in the Properties, or (ii) January 1, 1992.

#### ARTICLE SEVEN

##### INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the corporation is 10555 Northwest Freeway, Suite 161, Houston, Texas 77092 and the name of its initial registered agent at such address is STAN DAVIS.

#### ARTICLE EIGHT

##### BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of four (4) directors, who need not be Members of the Association. The number of directors may be changed by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

STAN DAVIS	10555 Northwest Freeway Suite 161 Houston, Texas 77092
JIM ASHFORD	10555 Northwest Freeway Suite 161 Houston, Texas 77092
DAVID SAWYER	5851 San Felipe Suite 215 Houston, Texas 77057
MITCHELL DURLAND- BLUMBERG	5851 San Felipe Suite 215 Houston, Texas 77057

#### ARTICLE NINE

##### DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets

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of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes and which is qualified as an exempt organization under the Internal Revenue Code of 1954, or the corresponding provisions of any future United States Internal Revenue law.

#### ARTICLE TEN

##### AMENDMENTS

Amendment of these Articles shall require the assent of the Members entitled to cast two-thirds (2/3) of the votes of the Association; provided, that no amendment shall be made which would cause these Articles to be in conflict with the terms or provisions of the Declaration or which would change the status and purpose of the Association as a nonprofit corporation.

#### ARTICLE ELEVEN

##### INDEMNIFICATION OF DIRECTORS AND OTHERS

The members of the Board of Directors and officers of the Association shall not be personally liable to the Association, Owners or others for any mistake of judgment or for any acts or omissions made in good faith acting as such Board members or officers individually or collectively. Each member of the Board of Directors and each officer shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, or any settlement thereof, by reason of his being or having been a member of the Board of Directors or an officer of the Association, whether or not he is a member of the Board of Directors or an officer at the time such expenses are incurred, except in such cases wherein the member of the Board of Directors or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association.

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## ARTICLE TWELVE

DEFINITIONS

The following words, when used in these Articles of Incorporation, shall have the following meanings:

(a) "Association" shall mean and refer to the corporation incorporated hereunder.

(b) "Common Properties" shall mean and refer to the Common Properties as defined in the Declaration.

(c) "Declarant" shall mean and refer to SAWYER DEVELOPMENT CORPORATION and WOOD BROS. HOMES, INC., their successors and assigns, if (i) such successors and assigns should acquire more than one undeveloped Lot from the said SAWYER DEVELOPMENT CORPORATION or WOOD BROS. HOMES, INC. for the purpose of development or resale, or (ii) any such successor or assignee who (A) shall receive by assignment from said SAWYER DEVELOPMENT CORPORATION or WOOD BROS. HOMES, INC. all or a portion of their rights as Declarant under the Declaration, by an instrument expressly assigning such rights as Declarant to such assignee and (B) who shall own or have an interest in all or a portion of the Properties. Notwithstanding the foregoing, from and after such time that neither WOOD BROS. HOMES, INC., nor any person receiving an assignment of its rights as Declarant shall no longer own any portion of the Properties, the term "Declarant" shall be deemed to mean SAWYER DEVELOPMENT CORPORATION.

(d) "Declaration" shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions applicable to the Properties and recorded or to be recorded in the Deed Records of Harris County, Texas, and as the same may be amended or supplemented from time to time as therein provided.

(e) "Lot" shall mean and refer to a Lot as defined in the Declaration.

(f) "Member" shall mean and refer to a Member as defined in the Declaration.

(g) "Owner" shall mean and refer to an Owner as defined in the Declaration.

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IN WITNESS WHEREOF, the undersigned have executed these Restated Articles of Incorporation on this 15 day of December, 1981.

GESSPORT PATIO HOMES OF FONDREN  
SOUTHWEST HOMEOWNERS' ASSOCIATION,  
INC.

*Stan Davis*

\_\_\_\_\_  
President

*[Signature]*

\_\_\_\_\_  
Secretary

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THE STATE OF TEXAS

5  
3  
5

COUNTY OF Harris

I, Carmell J. Tobola, Notary Public, do hereby certify that on this 15 day of December, 1981, personally appeared before me Stan Davis who being by me first duly sworn, declared that he is the President of GESSPORT PATIO HOMES OF FONDREN SOUTHWEST HOMEOWNERS' ASSOCIATION, INC., that he signed the foregoing document as President of said corporation, and that the statements therein contained are true.

Carmell J. Tobola

Notary Public in and for the State of Texas

My Commission Expires:

6-5-85

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Certificate of Account Status - Exempt Letter



**TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**  
CAROLE KEETON STRAYHORN • COMPTROLLER • AUSTIN, TEXAS 78774

March 30, 2006

**CERTIFICATE OF ACCOUNT STATUS**

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I, Carole Keeton Strayhorn, Comptroller of Public Accounts of the State of Texas, DO HEREBY CERTIFY that according to the records of this office

**GESSPORT PATIO HOMES OF FONDREN SOUTHWEST HOMEOWNE**

is exempt from payment of franchise tax and consequently is in good standing with this office.

GIVEN UNDER MY HAND AND  
SEAL OF OFFICE in the City of  
Austin, this 30th day of  
March 2006 A.D.

Carole Keeton Strayhorn  
Texas Comptroller

Taxpayer number: 30005906703  
File number: 0057343201

Form 05-303 (Rev. 1-03/6)

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**BUTLER & HAILEY**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

**FAX TRANSMITTAL**  
Cover Sheet  
Fax Number 713/780-4549

060224

Date: March 31, 2006

To: Brook Boston ~~TDHCA~~ *RM*

Fax No.: 512/475-3746

From: Cliff Davis

Client No.: 2007/10001

Re: Gessport Patio Homes of Fondren Southwest HOA Approval Letter for Development #123-  
Notting Hill Gate Senior Housing, Missouri City, Texas

**HARD COPY TO FOLLOW VIA MAIL**

There are a total of 19 pages, including this cover page. Please contact the undersigned immediately if you do not receive all pages.

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged and confidential, or which constitutes work product and is exempt from disclosure under applicable law.

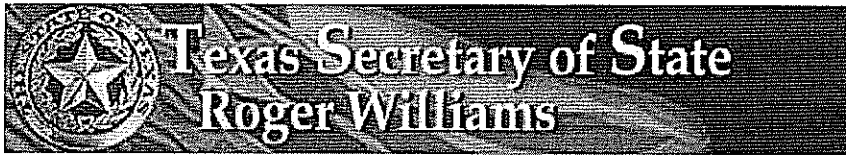
*If the reader of this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please notify the firm immediately by telephone at (713) 780-4135, and return the original message to the firm at the address located at the bottom of this page via the U.S. Postal Service.*

FAX SENDER

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

85



[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

**BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY**

**Filing Number:** 57343201      **Entity Type:** Domestic Nonprofit Corporation  
**Original Date of Filing:** August 10, 1981      **Entity Status:** In existence  
**Formation Date:** N/A      **Non-Profit Type:** N/A  
**Tax ID:** 30005906703      **FEIN:**  
**Duration:** Perpetual  
**Name:** GESSPORT PATIO HOMES OF FONDREN SOUTHWEST HOMEOWNERS' ASSOCIATION, INC.  
**Address:** 12434 TRUESDALE DR  
 Houston, TX 77071-0000 USA

<u>REGISTERED AGENT</u>	<u>FILING HISTORY</u>	<u>NAMES</u>	<u>MANAGEMENT</u>	<u>ASSUMED NAMES</u>	<u>ASSOCIATED ENTITIES</u>
<a href="#">View</a>	<a href="#">Document</a>				
<input checked="" type="checkbox"/>	<b>Image Number</b>	<b>Filing Type</b>	<b>Filing Date</b>	<b>Effective Date</b>	<b>Eff. Cond</b> <b>Page Count</b>
<input checked="" type="checkbox"/>	4696376	Articles of Incorporation	August 10, 1981	August 10, 1981	No   5
<input checked="" type="checkbox"/>	4696378	Restated Articles Of Incorporation	February 12, 1982	February 12, 1982	No   14
<input checked="" type="checkbox"/>	7869887	Public Information Report (PIR)	December 31, 1984	December 31, 1984	No   1
<input checked="" type="checkbox"/>	4696372	Change Of Registered Agent/Office	June 14, 1990	June 14, 1990	No   1
<input checked="" type="checkbox"/>	4696374	901DEL	June 30, 1993	June 30, 1993	No   1
<input checked="" type="checkbox"/>	4696373	901	July 5, 1993	July 5, 1993	No   1
<input checked="" type="checkbox"/>	4696375	Change Of Registered Agent/Office	September 29, 1995	September 29, 1995	No   1
<input checked="" type="checkbox"/>	4696377	Change Of Registered Agent/Office	November 1, 1999	November 1, 1999	No   1

[Order](#)      [Return to Search](#)

**Instructions:**

- To place an order for additional information about a filing press the 'Order' button.

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**060143**

**Sun Valley Homes**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Sun Valley Homes- 060143**

By April 3, 2006, the Department received a letter from the Centerpoint Resident Council requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) and outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which they were providing comment on. They currently reside in Centerpoint single family housing development, and according to them the proposed development, Sun Valley Homes, would become part of their organization when built.

Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization.

The applicant is appealing the eligibility of the letter based on three assertions. My response to each assertion is outlined below each statement:

- (1) The applicant asserts that the members of the neighborhood organization do not live in apartments, but rather in single family homes. It is further asserted that the proposed development will be constructed on lots that are part of an existing subdivision that houses the members of the resident council and that the entire subdivision constitutes the development for purposes of the council's boundaries.

Staff Response: The QAP is explicit that the resident council may not comment on any development not proposing demolition or rehabilitation of the property occupied by the residents. The fact that the council's members live in single family homes adjacent to the proposed new construction is no different than an existing apartment complex commenting on the new construction of a second phase of the development. In either scenario, the QCP letter would be ineligible.

- (2) The applicant asserts that the QAP requirement that the resident council only comment on the property occupied by the residents automatically denies residents of single family homes the ability to comment on a proposed development within the nearby area.

Staff Response: See response #1.

- (3) The applicant asserts that the QAP restricts the definition of a neighborhood organization beyond Section 2306.6705(9)(A) and that Section 50.9(i)(2)(A)(iv) of the QAP is therefore invalid with respect to resident councils.

Staff Response: QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by HUD, which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant: Chicory Court Rose Hill II, LP  
Site Location: Mile 2 West and Mile 8.5 North  
City/County: Mercedes/ Hidalgo County  
Regional Allocation Category: Rural  
Set-Aside: None  
Population Served: Family  
Region: 11  
Type of Development: New Construction  
Units: 36  
Credits Requested: \$521,691

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

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## Resident Councils

### §50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;

(iv) ~~establish that the organization is a "neighborhood organization."~~ A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. ~~"Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).~~ "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."

(v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. ...If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"...the organization will not be considered on record with the state... As an option to be considered on record with the state...must be received by the Department no later than March 1, 2006...

(vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).

(vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...

(viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.

(ix) The boundaries in effect for the organization on March 1, 2006...Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...

(x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.

(ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

- (iii) In general, letters that meet the requirements of this paragraph and
  - (I) establish three or more reasons for support...(+24 points) or opposition (zero);
  - (II) establish two reasons...+18 points for support...
  - (III) establish one reason for support ... +13 points for support...;
  - (IV) that do not establish a reason...neutral (+12 points).

(iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.

# Board Appeal

ODYSSEY RESIDENTIAL HOLDINGS, L.P.  
5420 LBJ FREEWAY, SUITE 1235  
TWO LINCOLN CENTRE  
DALLAS, TX 75240  
972-701-5551  
972-701-5562 FAX

Ms. Jennifer Joyce  
Multifamily Housing Production  
TDHCA  
221 East 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78701

060143

May 31, 2006

RE: Centerpointe Home Ownership, TDHCA #06-0144, denial of the QCP points

Dear Jennifer:

In follow up to your call yesterday with Mr. Fisher, I respectfully suggest the staff is missing the key issues of why the QCP letter counts for this single family home development in this platted single family sub division whether the department determines the organization to be a neighborhood organization in its fullest meaning or a resident's council with the comment restrictions. This development activity complies with the QAP under either circumstance because of the following:




1. This development to build 36 new single family homes within the existing sub-division where the existing housing exists involves demolition and new construction activity on the same site by the same development sponsor. We meet the required demolition new construction test in the QAP.
2. In the pictures already provided in the application on page 120 is a clear shot of the existing recreation facilities on several lots already owned by the housing authority and covered by the site control documentation. This entire facility is being demolished along with the under ground improvements in place on the adjacent lots to build part of the new community. This particular area will contain the clubhouse, public parking and swimming pool along with other common area amenities. All this work is duly noted in the application package including but limited to page 155 and page 403.
3. The sub-division is not entirely made up of housing authority residents participating in the public housing home ownership program. As you can see from the sub division plat attached hereto approximately +-20 of the homes and home sites are owned by third parties not affiliated with the sponsor or the developer. These home owners are part of this resident's representative organization and are not bound by the limitation for comment in the QAP. We are fully QCP supported demolition new construction development on the same site.

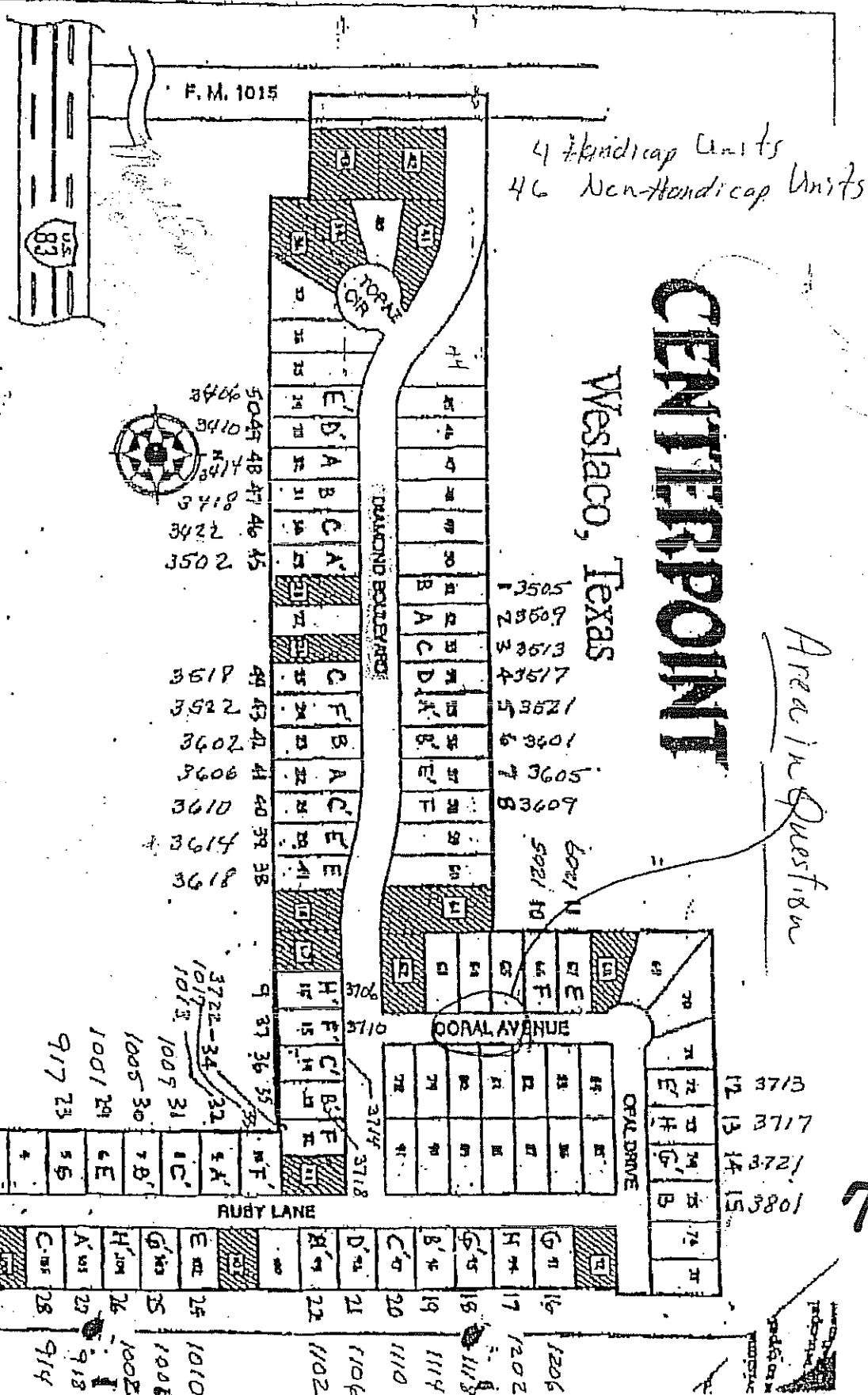
Before taking this to the TDHCA board on appeal, please check the application one more time to verify these facts. If you are determining we do not meet the demolition new construction criteria please be specific as to why we do not meet the requirement. If allowed under the site change rules, we will shift the Clubhouse to an existing home site and demolish one home in lieu of the existing area noted for demolition to clarify this issue. If this is passed to the TDHCA board for the appeal, please include this letter and attachments in the official record of appeal. Your consideration of our request is appreciated.

Sincerely,

  
Saleem Jafar, President of the G.P.

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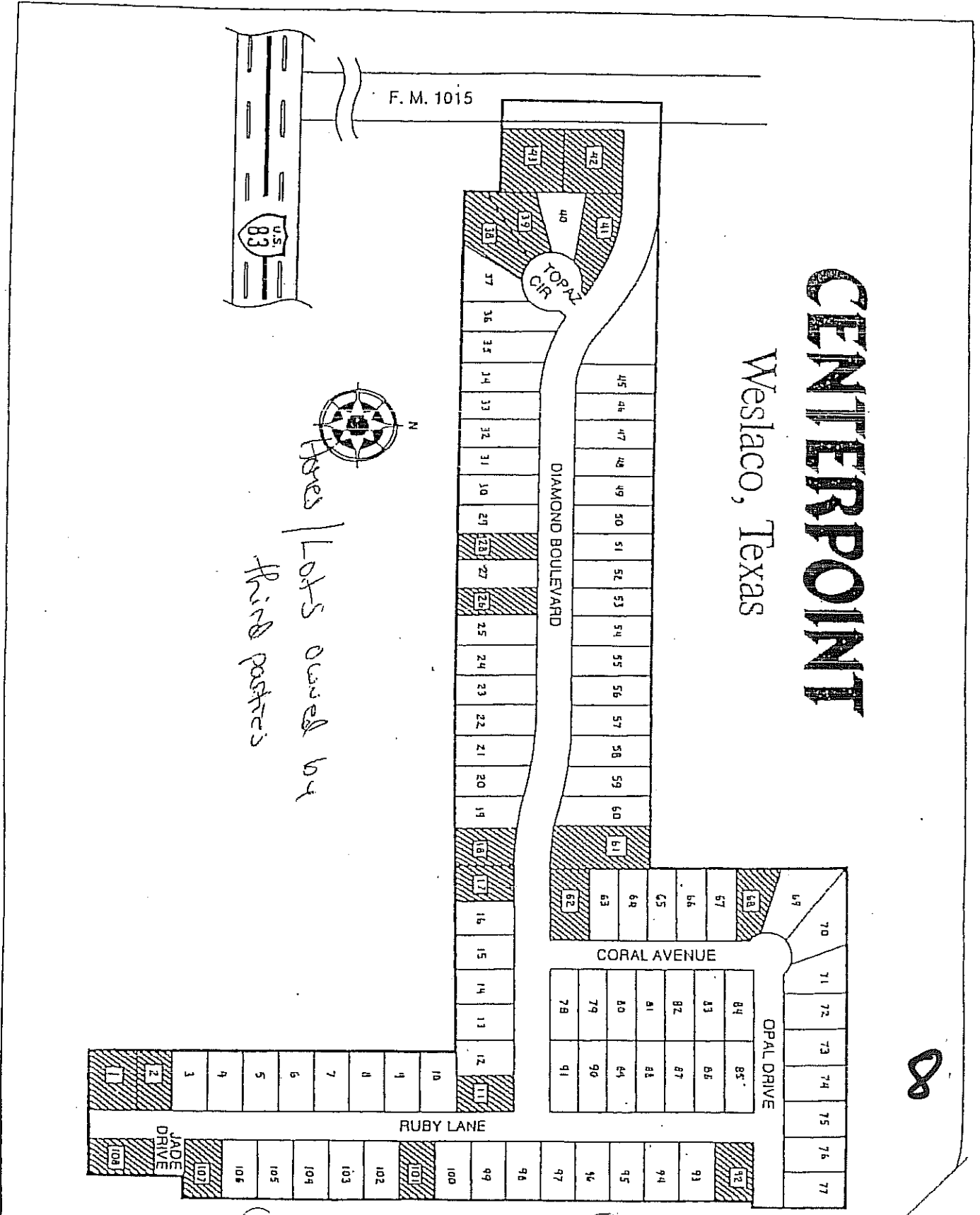
-  LOTS OWNED BY OTHER OWNERS
-  LOTS OWNED BY P.H.A. WHICH ARE CURRENTLY UNDER CONSTRUCTION
-  LOTS OWNED BY P.H.A. WHICH ARE AVAILABLE FOR FUTURE CONSTRUCTION




Attachment 1  
Page 6 of 7

# CENTERPOINT

Weslaco, Texas

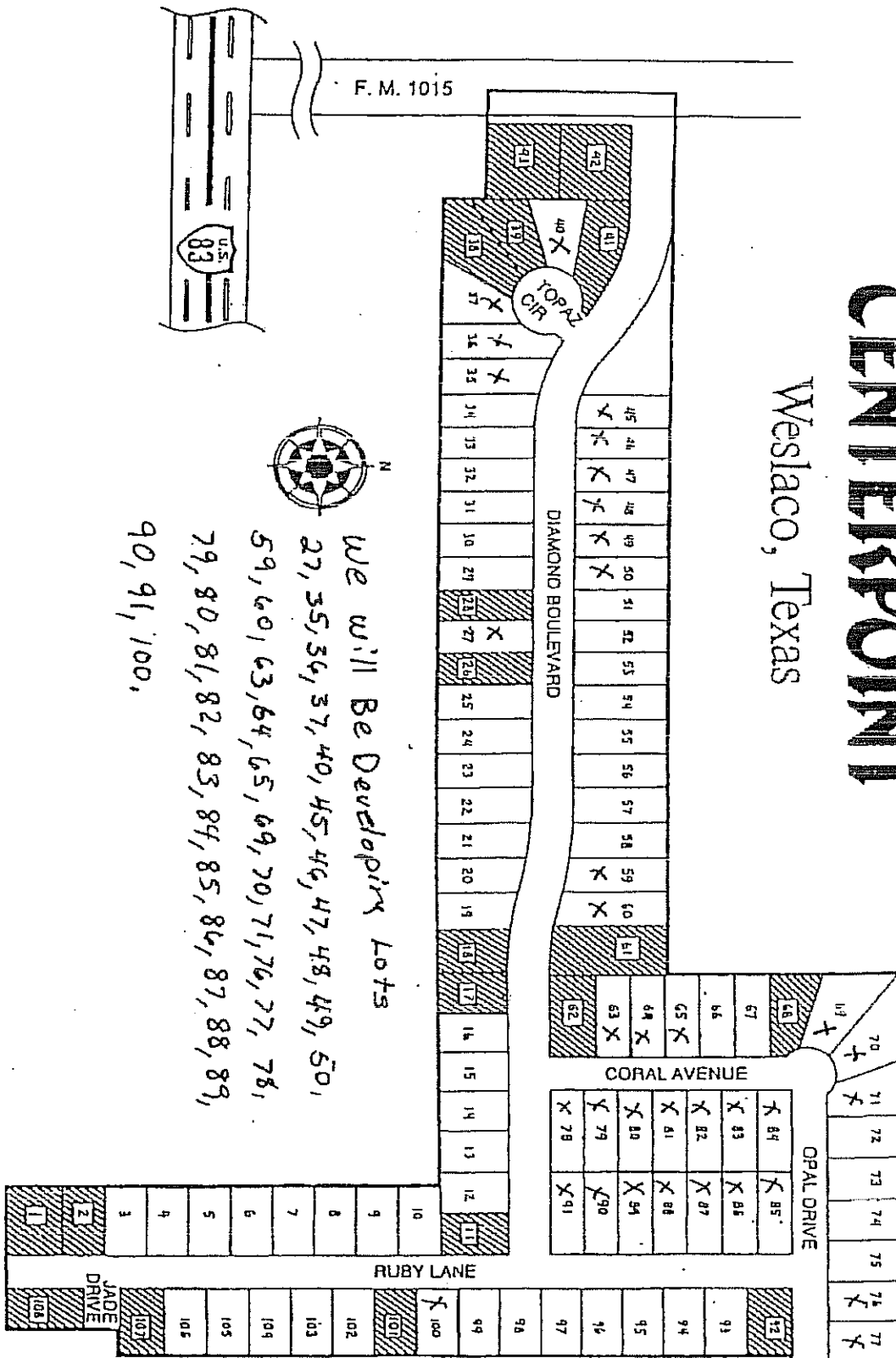



  
 N
   
*Some Lots closed by*
  
*pending parties*

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# CENTERPOINT

## Weslaco, Texas



We will Be Developing Lots  
 27, 35, 36, 37, 40, 45, 46, 47, 48, 49, 50,  
 59, 60, 63, 64, 65, 69, 70, 71, 76, 77, 78,  
 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89,  
 90, 91, 100.

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# **Executive Director Appeal**

**SHACKELFORD MELTON & MCKINLEY**  
\*\*\*\*\* ATTORNEYS & COUNSELORS

A LIMITED LIABILITY PARTNERSHIP  
INCLUDING PROFESSIONAL CORPORATIONS

3333 Lee Parkway  
Tenth Floor  
Dallas, Texas 75219  
Tel: (214) 780-1400  
Fax: (214) 780-1401

RECEIVED  
MAY 22 2006  
EXECUTIVE

May 22, 2006

**FACSIMILE TRANSMISSION**

**TO:** Mr. Michael Gerber  
**FAX NUMBER:** (512) 469-9606  
**FROM:** Sonia De Leon-Moore on behalf of John C. Shackelford, Esq.  
**RE:** Sun Valley Homes and Orchard Valley Homes  
**CLIENT NO.:** 50331.4  
**NO. OF PAGES:** 7  
**(including cover page)**

*Message:*

Please see attached.

Thank you.

**IF THIS TRANSMISSION IS INCOMPLETE, PLEASE CALL (214) 780-1400**

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. IRS CIRCULAR 230 NOTICE REQUIREMENT: THIS COMMUNICATION IS NOT GIVEN IN THE FORM OF A COVERED OPINION WITHIN THE MEANING OF CIRCULAR 230 ISSUED BY THE UNITED STATES SECRETARY OF THE TREASURY. THUS, WE ARE REQUIRED TO INFORM YOU THAT YOU CANNOT RELY UPON ANY TAX ADVICE CONTAINED IN THIS COMMUNICATION FOR THE PURPOSE OF AVOIDING UNITED STATES FEDERAL TAX PENALTIES. IN ADDITION, ANY TAX ADVICE CONTAINED IN THIS COMMUNICATION MAY NOT BE USED TO PROMOTE, MARKET OR RECOMMEND A TRANSACTION TO ANOTHER PARTY. THANK YOU.

11



**SHACKELFORD MELTON & MCKINLEY**  
ATTORNEYS & COUNSELORS

John C. Shackelford  
Also Admitted in Florida and Georgia  
Direct 214.780.1414  
jshack@shacklaw.net

May 22, 2006

VIA FACSIMILE: (512) 469-9606

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701

Re: Sun Valley Homes; TDHCA #060143; Our File No.: 50331.4

Dear Mr. Gerber:

The purpose of this letter is to appeal the decision of the Texas Department of Housing and Community Affairs ("Department") to deny the purpose of scoring Quantifiable Community Participation ("QCP") points for the application for Sun Valley Homes.

Sun Valley Homes is a single family housing development located in Hidalgo County ("Project"). The owner of the Project is Chicory Court Rose Hill II, LP (the "Partnership"), and the developer of the Project is ORH Development II, LLC ("Developer"), and I have been requested by Partnership and Developer to submit this appeal.

On behalf of Partnership and Developer, it is our position that the Project is entitled to QCP points. This appeal is based upon the following:

1. The deficiency notice letter from Robbye Meyers, Interim Director of Multifamily Finance Production, to Debra Foley-Castillo, President of Centerpoint Resident Council, dated May 15, 2006, inaccurately states that the members of the Centerpoint Resident Council ("Council") do not live in the development in which they are providing comment, and that they currently reside in Centerpoint Apartments. The members of the Council do not reside in apartments, but rather reside in single family homes, which are a part of a rent-to-own program. The Project will be built on lots located within the boundaries of the Council. It is possible there is some confusion by members of the staff of the Department about the nature of the Project and the members of the

3333 Lee Parkway  
Tenth Floor  
Dallas, Texas 75219  
Phone 214 780.1400  
Fax 214 780.1401  
www.shacklaw.net

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Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 2

Council which has caused the Department to deny QCP points for the Project. The members of the Council are not residents of apartments.

2. Ms. Meyer's letter further states pursuant to Section 50.9(i)(2) of the 2006 Qualified Action Plan ("QAP") that the Council only comment on property occupied by the residents and that the proposed development is not occupied by members of the organization. The position asserted by Ms. Meyer in her letter denies the right of members of a resident council that occupy single family homes from commenting on a development proposed within the boundaries of an organization in which they live. A single family home resident is automatically denied the ability to comment on the development of property within its nearby area under the Department's interpretation of Section 50.9(i)(2). It is Partnership's and Developer's position that this Section of the QAP is not intended to deny such persons such rights. The entire purpose behind this Section of the QAP is to do otherwise. It is specifically intended to give a voice to those persons that may be affected by a proposed affordable housing development project. Denying the single family home residents the right to have a voice in how nearby property next door or across the street may be developed violates the spirit and intent behind Section 50.9(i)(2) of the QAP. In addition, the philosophy behind this provision was to respect the concerns of apartment residents to the overbuilding of apartments in their community. At the time this language was included in the QAP, it was not contemplated that it would affect single family residents.

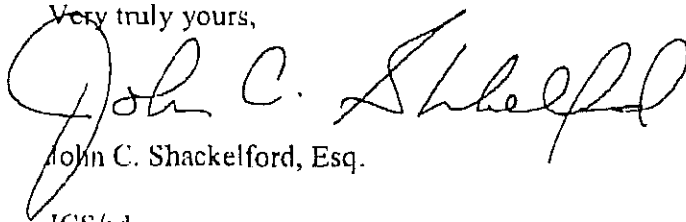
3. In the alternative, Partnership and Developer argue that Section 50.9(i)(2) of the QAP violates Section 2306.6705 of the General Government Code (the "Code") in that the legislation enabling this portion of the QAP does not provide for the stipulation that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition and new construction of the property occupied by the residents. The QAP is subject to satisfying the statutory requirements of the enabling legislation. The statutory requirements of Section 2306.6705(9)(A) of the Code provide for notification to any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site. This language in the Code does not define a neighborhood organization, and I would argue that interpretation of a neighborhood organization under the Code is to be broadly interpreted when a definition is not provided. Section 50.9(i)(2) initially complies with the enabling statute by defining a "Neighborhood Organization" as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. The Council unequivocally satisfies the QAP definition of a "Neighborhood Organization". Such definition in the QAP of a "Neighborhood Organization" is all encompassing as to the type of organizations that are included. The sentence after the definition of "Neighborhood Organization", however, attempts to explain the organizations which are included, but this language is not the definition. The Department has violated Section 2306.6705 of the Code by inserting into Section 50.9(i)(2) of the QAP this stipulation applicable only to resident councils. As such, Section 50.9(i)(2)(A)(iv) of the QAP is invalid with respect to the resident council stipulation and it may not be applied to deny the scoring of QCP points.

Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 3

For all of these reasons, Partnership and Developer respectfully requests the Department to recognize the letter from Council with respect to the Project and to award QCP points for the Project. If your decision is not to award QCP points for the Project, this letter constitutes Partnership's and Developer's request to appeal such decision to the Board.

Thank you for your consideration of this appeal.

Very truly yours,



John C. Shackelford, Esq.

JCS/sd

cc: Saleem A. Jafar (*via e-mail*)  
Bill Fisher (*via e-mail*)

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14

**SHACKELFORD MELTON & MCKINLEY**  
■■■■■ ATTORNEYS & COUNSELORS

John C. Shackelford  
Also Admitted in Florida and Georgia  
Direct 214.780.1414  
jshack@shacklaw.net

May 22, 2006

**VIA FACSIMILE: (512) 469-9606**

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701

Re: Orchard Valley Homes; TDHCA #060147; Our File No.: 50331.4

Dear Mr. Gerber:

The purpose of this letter is to appeal the decision of the Texas Department of Housing and Community Affairs ("Department") to deny the purpose of scoring Quantifiable Community Participation ("QCP") points for the application for Orchard Valley Homes.

Orchard Valley Homes is a single family housing development located in Hidalgo County ("Project"). The owner of the Project is Bennington, LP (the "Partnership"), and the developer of the Project is ORI Development II, LLC ("Developer"), and I have been requested by Partnership and Developer to submit this appeal.

On behalf of Partnership and Developer, it is our position that the Project is entitled to QCP points. This appeal is based upon the following:

1. The deficiency notice letter from Robbye Meyer, Interim Director of Multifamily Finance Production, to Debra Foley-Castillo, President of Centerpoint Resident Council, dated May 15, 2006, inaccurately states that the members of the Centerpoint Resident Council ("Council") do not live in the development in which they are providing comment, and that they currently reside in Centerpoint Apartments. The members of the Council do not reside in apartments, but rather reside in single family homes, which are a part of a rent-to-own program. The Project will be built on lots located within the boundaries of the Council. It is possible there is some confusion by members of the staff of the Department about the nature of the Project and the members of the

3333 Lee Parkway  
Tenth Floor  
Dallas, Texas 75219  
Phone 214.780.1400  
Fax 214.780.1411  
www.shacklaw.net

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Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 2

Council which has caused the Department to deny QCP points for the Project. The members of the Council are not residents of apartments.

2. Ms. Meyer's letter further states pursuant to Section 50.9(i)(2) of the 2006 Qualified Action Plan ("QAP") that the Council only comment on property occupied by the residents and that the proposed development is not occupied by members of the organization. The position asserted by Ms. Meyer in her letter denies the right of members of a resident council that occupy single family homes from commenting on a development proposed within the boundaries of an organization in which they live. A single family home resident is automatically denied the ability to comment on the development of property within its nearby area under the Department's interpretation of Section 50.9(i)(2). It is Partnership's and Developer's position that this Section of the QAP is not intended to deny such persons such rights. The entire purpose behind this Section of the QAP is to do otherwise. It is specifically intended to give a voice to those persons that may be affected by a proposed affordable housing development project. Denying the single family home residents the right to have a voice in how nearby property next door or across the street may be developed violates the spirit and intent behind Section 50.9(i)(2) of the QAP. In addition, the philosophy behind this provision was to respect the concerns of apartment residents to the overbuilding of apartments in their community. At the time this language was included in the QAP, it was not contemplated that it would affect single family residents.

3. In the alternative, Partnership and Developer argue that Section 50.9(i)(2) of the QAP violates Section 2306.6705 of the General Government Code (the "Code") in that the legislation enabling this portion of the QAP does not provide for the stipulation that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition and new construction of the property occupied by the residents. The QAP is subject to satisfying the statutory requirements of the enabling legislation. The statutory requirements of Section 2306.6705(9)(A) of the Code provide for notification to any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site. This language in the Code does not define a neighborhood organization, and I would argue that interpretation of a neighborhood organization under the Code is to be broadly interpreted when a definition is not provided. Section 50.9(i)(2) initially complies with the enabling statute by defining a "Neighborhood Organization" as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. The Council unequivocally satisfies the QAP definition of a "Neighborhood Organization". Such definition in the QAP of a "Neighborhood Organization" is all encompassing as to the type of organizations that are included. The sentence after the definition of "Neighborhood Organization", however, attempts to explain the organizations which are included, but this language is not the definition. The Department has violated Section 2306.6705 of the Code by inserting into Section 50.9(i)(2) of the QAP this stipulation applicable only to resident councils. As such, Section 50.9(i)(2)(A)(iv) of the QAP is

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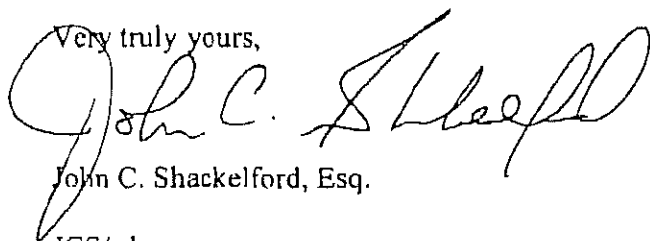
Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 3

invalid with respect to the resident council stipulation and it may not be applied to deny the scoring of QCP points.

For all of these reasons, Partnership and Developer respectfully requests the Department to recognize the letter from Council with respect to the Project and to award QCP points for the Project. If your decision is not to award QCP points for the Project, this letter constitutes Partnership's and Developer's request to appeal such decision to the Board.

Thank you for your consideration of this appeal.

Very truly yours,



John C. Shackelford, Esq.

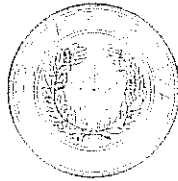
JCS/sd

cc: Saleem A. Jafar (via e-mail)  
Bill Fisher (via e-mail)

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# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY

Governor

BOARD MEMBERS

Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
*Executive Director*

Mr. Saleem Jafar  
Chicory Court Rose Hill II, LP  
5420 LBJ Freeway Suite 1235  
Dallas, TX 75240  
Telephone: (972) 701-5550  
Telecopier: (972) 701-5562

**Re: Appeal Received for Sun Valley Homes - 060143**

Dear Mr. Jafar:

**Appeal Review**

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 22, 2006 regarding the eligibility of a letter from the Centerpoint Resident's Council requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because Centerpoint Resident's Council does not qualify as a "neighborhood organization" as required by the §50.9(i)(2)(A)(iv) of the Qualified Allocation Plan and Rules (QAP). This section specifically precludes resident's councils from qualifying as a "neighborhood association" unless the letter is relating to an application that is proposed for, "...Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents."

This determination was made based on the fact that on May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for QCP if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which

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Mr. Jafar  
June 1, 2006  
Page 2 of 3

they were providing comment on. They currently reside in Centerpoint Development, which is comprised of single-family homes.

Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2)(A)(iv) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization. Rather, existing single-family homes are occupied by the resident council. These homes and those proposed are located on a 80 lots owned by the Edinburg Housing Authority.

The applicant is appealing the eligibility of the letter based on three assertions. My response to each assertion is outlined below each statement:

- (1) You assert that the members of the neighborhood organization do not live in apartments, but rather in single family homes. You further assert that the proposed development will be constructed on lots that are part of an existing subdivision that houses the members of the resident council and that the entire subdivision constitutes the development for purposes of the council's boundaries.

Response: The QAP is explicit that the resident council may not comment on any development not proposing demolition or rehabilitation of the property occupied by the residents. The fact that the council's members live in single family homes adjacent to the proposed new construction is no different than an existing apartment complex commenting on the new construction of a second phase of the development. In either scenario, the QCP letter would be ineligible.

- (2) You assert that the QAP requirement that the resident council only comment on the property occupied by the residents automatically denies residents of single family homes the ability to comment on a proposed development within the nearby area.

Response: See response #1.

- (3) You assert that the QAP restricts the definition of a neighborhood organization beyond Section 2306.6705(9)(A) and that Section 50.9(i)(2)(A)(iv) of the QAP is therefore invalid with respect to resident councils.

Response: QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that

Mr. Jafar  
June 1, 2006  
Page 3 of 3

the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by U. S. Department of Housing and Urban Development (HUD), which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

# QCP Documentation



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

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May 15, 2006

Debra Foley-Castillo

President

Centerpoint Resident Council

3521 Diamond

Weslaco, Texas 78596

Fax: (956) 565-6005

(214) 363-9979

Email:

spritchard@johncarney.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Sun Valley Homes, # 060143

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which they were providing comment on. They currently reside in Centerpoint apartments, and according to them that the proposed development, Sun Valley Homes, would become part of their organization when built.

Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization.



**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

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Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

TRANSMISSION VERIFICATION REPORT

TIME : 05/16/2006 10:13  
NAME :  
FAX :  
TEL :  
SER.# : 000J5J563237

DATE, TIME	05/16 10:12
FAX NO./NAME	92143639979
DURATION	00:01:08
PAGE(S)	08
RESULT	OK
MODE	STANDARD ECM

**JOHN H. CARNEY & ASSOCIATES**ATTORNEYS & COUNSELORS AT LAW  
ONE MEADOWS BUILDING5005 GREENVILLE AVENUE, SUITE 200  
DALLAS, TEXAS 75206  
(214) 368-8300SHANNON PRITCHARD  
Attorney  
spritchard@johnhcarney.comDIRECT TEL. (214) 365-4415  
FACSIMILE (214) 363-9979  
WWW.LEGALADVISORS.COM

May 15, 2006

*Via Fax 800-733-5120*Ms. Robbye Meyer  
Texas Department of Housing  
and Community Affairs  
221 E. 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78711RE: Centerpoint Residents' Council, Deficiency Notice dated May 4, 2006  
QCP #060144; QCP #060143, QCP #060147, QCP #060049

Dear Ms. Meyer:

In response to the notice of administrative deficiency for the referenced QCP letters, please find our responses including enclosure:

Item Number One:

Notwithstanding the registered name of this organization, the Centerpoint Residents' Council functions as a neighborhood association. A letter confirming this from the President of the organization is attached. This group had met early and often to ensure their input. The members of the Centerpoint Residents' Council see themselves as an association of home-buying families and as such, consider themselves to have the same rights to comment on new development that impacts their community as any other organization of single-family neighborhoods in this state.

The proposed development #060144 is an expansion and addition of the existing Centerpoint Neighborhood that this Council represents. This proposed development includes new homes for the rent-to-own program and a community center. Clearly, these new homes and the community center would be included in the boundaries of the Residents' Council.

Proposed developments #060143 and #060147, Sun Valley and Orchard Valley Homes, are new construction of single-family homes that are adjacent to the Centerpoint project and within the Council's registered boundaries. The Centerpoint Residents' Council is in favor of these projects, as they will positively impact the growth of this area into vital, secure neighborhoods.

The proposed development #060049, the Los Milagros Apartments, is not a single-family home development and is immediately adjacent to the Centerpoint project. The members of the Council feel strongly that to allow this project to go forward will negatively impact their neighborhood. This proposed new construction is within the Council's boundaries.

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**Legal Issue:**

The enabling legislation for QCP does not permit the scoring limitations you are attempting to place on our group. We are a neighborhood organization and therefore should be scored for all those purposes within our properly identified boundaries. The Attorney General has previously determined the board does not have the authority to change the legislation scoring criteria. By attempting to limit our neighborhood organization's area of comment to something other than our duly adopted boundaries is not consistent with the legislation passed for scoring these letters for ACP. Furthermore, to deny us this ability to comment on development that impacts the integrity and value of our community is unequal treatment under the law.

We believe our information as submitted meets the requirement intended in the QAP and the department submission material. We believe our letters should be scored for all purposes.

Sincerely,



Shannon Pritchard  
Attorney, Centerpoint Residents'  
Council

SP  
Enclosure



CENTERPOINT RESIDENT COUNCIL  
3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

Ms. Jennifer Joyce  
TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

May 5, 2006

RE: Centerpointe Neighborhood Organization

Dear Jennifer:


This letter confirms the following for our organization:

1. We are all single family homes in a single family sub division. The renters in the homes owned as public housing will participate in a home ownership program. We expect to own these homes at the end the public housing rental period.
2. The definition of our organization is no longer solely a resident's council but a neighborhood association. Our group met several times to discuss the developments we have opposed and those we supported. We changed our organization structure to meet the TDHCA requirement for public comment on all new development within our boundaries. As we discussed among our members, our groups map and organization was specifically amended to comply with your 2006 rules for public comment. We maintained the name of our organization to insure our continued recognition of organization as on record with Hidalgo County.
3. We are on record with the County and have had our opposition to Los Milagros scored in the previous year. We amended our organization in a manner necessary to have input into the TDHCA process as part of formulating our position of opposition and our positions of support. We transformed our group to a neighborhood association to accomplish this goal.
4. Any new single family homes built in our neighborhood boundaries are eligible for membership in our organization. Either the renter occupant or the owner occupant.
5. Your description of our group to limit our ability to comment on any development without neighborhood boundaries does not fit our sub division or our organization as amended by the membership. We are a neighborhood association, a sub division of single family homes. The project description involving demolition and new construction or rehabilitation applies to other types of developments, like the apartments we oppose, they are not a description of our situation.

We conducted our meetings and membership votes around the entire premise of altering our boundaries and organization in whatever manner was needed to meet all the 2006 requirements to the best of our ability.

We hope and expect our letters to be considered and scored in this application round for Centerpoint, Sun Valley, Orchard Valley and Los Milugros.

Sincerely,



Debra Foley-Castillo, President

**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW  
ONE MEADOWS BUILDING  
5005 GREENVILLE AVENUE, SUITE 200  
DALLAS, TEXAS 75206

TELE. (214) 368-8300

FAX (214) 363-9979

**FACSIMILE TRANSMITTAL SHEET**

This fax is being transmitted on a Sharp FO-DC600. If you do not receive this transmission in its entirety, please call our Receptionist at the telephone number listed above.

PAGE COUNT: 5

TO: Sharon Gamble FACSIMILE: 800-733-5120

COMPANY: TDHCA TELEPHONE: 512-475-4610

FROM: Shannon Pritchard DATE: May 15, 2006

REF: Centerpoint Residents' Council's response to Def. Ltr #2, QCP #'s 060144,  
060143, 060147 & 060049

COMMENTS: Original will not follow.

**IMPORTANT**

The materials transmitted by this facsimile are sent by an attorney or his/her agent, and are considered confidential and are intended only for the use of the individual or entity named. If the addressee is a client, these materials may also be subject to applicable privileges. If the recipient of these materials is not the addressee, or the employee or agent responsible for the delivery of these materials to the addressee, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us at (214) 368-8300 (collect) and return the transmitted materials to us at the above address via the U.S. Postal Service. We will reimburse you any costs incurred in connection with this erroneous transmission and your return of these materials. Thank you.

30



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Debra Foley-Castillo  
President

Centerpoint Resident Council  
3521 Diamond  
Weslaco, Texas 78596

SENT FAX-EMAILS/4

PC 5/9 TO VEMER. VM LFT.

5/10 - PC TO S PRITCHARD, LEFT VM

5/10 - PS FROM S PRITCHARD - SAE IS PREPARING  
RESPONSE

Organization Fax: (956) 565-6005

Organization Email:

Second Contact:

Shannon Pritchard

Second Contact Fax: (214) 363-9979

Second Contact Email: spritchard@johncarney.com

Second Contact Phone: (210) 368-8300

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Sun Valley Homes, # 060143

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

As a Resident's Council, you are only eligible to comment on the property you occupy, meaning that you would have to be commenting about the rehabilitation or re-building of your own development. Submit evidence that the site of the new Sun Valley Homes Development will be included in the



**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

boundaries of the existing Centerpoint Resident Council property.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by May 15.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

TRANSMISSION VERIFICATION REPORT

TIME : 05/04/2006 19:05  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME  
FAX NO. /NAME  
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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Debra Foley-Castillo

President

Centerpoint Resident Council

3521 Diamond

Weslaco, Texas 78596

Organization Fax: (956) 565-6005      Organization Email:

Second Contact:

Shannon Pritchard

Second Contact Fax: (214) 363-9979      Second Contact Email: spritchard@johncarney.com

Second Contact Phone: (210) 368-8300

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Centerpoint Home Ownership, # 060144, 143, 147, 049 (8 pages)

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the OAP, the Department may request that you provide additional information or documentation that it deems

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**Sharon Gamble**

---

**From:** Sharon Gamble  
**Sent:** Thursday, May 04, 2006 7:18 PM  
**To:** 'Shannon Pritchard'  
**Subject:** QCP Deficiency Letters #060049, 060143, 060144, and 060147

Here are soft copies of the four notices I faxed to you earlier. I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday. Please reply to this email as soon as you get it as confirmation of receipt.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

34

**Jennifer Joyce**

**From:** Jennifer Joyce  
**Sent:** Wednesday, May 03, 2006 2:55 PM  
**To:** 'Shannon Pritchard'  
**Cc:** Sharon Gamble; 'Kevin Hamby'  
**Subject:** Centerpoint Resident's Council

*Safe w/  
 Ms. Pritchard  
 we'd issue a letter  
 tomorrow, I told her  
 discussing rule but  
 part of 060144 were not  
 agreed after  
 all  
 resident council  
 a development*

Ms. Pritchard,

We still have some issues with the boundary problems in the letters submitted by Centerpoint Resident's Council. This may seem like a technicality to you, but it is important that we ensure that all documentation possibly needed is requested from a neighborhood association before awarding points for QCP. Please note the following two points and answer the question below:

1. A new item added this year to the QAP says, "Neighborhood organizations' include...resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents)."
2. In the bylaws submitted for the Centerpoint Resident's Council, Article II says, "The purpose of the Council is to improve life for the residents of the **Centerpoint Development** [emphasis added]". Article III states that it's members, "...shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization..."

Question: What is the **Centerpoint Development** under Article II? Is it the area named "Centerpoint Development" in your boundaries, or is it actually the name of the housing authority property of apartments called, "Centerpoint". In reading this, do you believe that Centerpoint Resident's Council qualifies as a "Neighborhood Organization" under our rule? If so, please confirm all of the developments that Centerpoint Resident's Council represents. If the council truly does represent the entire area as described in the boundaries you submitted, please explain how and why this is allowable when the bylaws suggest the members are on a development basis.

At this time this is an informal request to quickly clear all of the deficiencies all four letters submitted. Please be sure to reply all to this statement as an explanation. As I said in my voicemail, I am out of the office from 3:30 pm today returning Monday and Sharon Gamble is out Friday.

Thank you!

Please let me know if you have any questions,

Jen Joyce  
 Interim Manager of Multifamily Finance Production Division  
 Texas Department of Housing and Community Affairs  
 (512) 475-3995

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

**From:** Shannon Pritchard [mailto:spritchard@johnhcarney.com]  
**Sent:** Thursday, April 20, 2006 4:58 PM  
**To:** Jennifer Joyce  
**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

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THank you for this information, Jennifer. I just got the fax copy of the letters you sent - I will address the CenterPoint issues as well. I have had trouble reaching my client contact at CenterPoint, as she is a single mom who works a lot of hours, so this letter from your department is tremendously helpful.

Shannon Pritchard

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]

**Sent:** Thursday, April 20, 2006 4:29 PM

**To:** Shannon Pritchard

**Cc:** 'Robbye Meyer'; 'Sharon Gamble'

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

Ms. Pritchard,

No problem at all. I am very happy to hear the level of attention the organizations are giving this.

- 1) Actually, as I look at the bylaws, I see a date at the bottom that says, "Adopted 4/16/2003". This date was most likely missed by Sharon because it is small and at the bottom, which is why I am sure she asked for it. Please consider the issue of the date of the bylaws resolved. As far as the adoption of the map, your proposal sounds exactly like what we're hoping to get.
- 2) If the letter isn't on letterhead but is obviously from the county, it would be acceptable. I have accepted e-mails from the county to organizations in the past because their e-mail addresses indicate they are county entities. A letter on letterhead would definitely be acceptable.
- 3) Yes, the exact deficiency was sent to Centerpoint, and I thought you received this one as well based on the subject of your letter and since they were the same items, you were asking for both. I am faxing over both deficiencies to you now (centerpoint's was mailed because the primary contact's fax did not work. I am SO SORRY our staff missed you as the second contact. It was a data entry issue that we are resolving right now).

Please let me know if you have any questions,

Jen Joyce

Interim Manager of Multifamily Finance Production Division

Texas Department of Housing and Community Affairs

(512) 475-3995

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

**From:** Shannon Pritchard [mailto:spritchard@johnhcarney.com]

**Sent:** Thursday, April 20, 2006 3:39 PM

**To:** Jennifer Joyce

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

Ms. Joyce: Please forgive me if I came off as abrupt - I was simply frustrated in trying to get some answers prior to working all weekend to meet my deadline for my clients, who, you can imagine, are very concerned that we submit these documents appropriately. My clients at Alta Vista Senior Towers may be senior citizens, but they are very keenly concerned that this renovation project go forward and they do not want their misinterpretation of what must be presented to be the stumbling block.

At this time, I will only respond to those points that need further attention, if that is acceptable.

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#1 - As to the creation documents - The letter from TDHCA dated 4/13/06, to Margarita Sanchez, indented paragraph 1, states as follows:

"Submit evidence that the bylaws, articles, or organization documents were created on or before March 1, 2006 and that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document."

My interpretation of that statement was that we had to prove that our organization's bylaws were created prior to March 1, 2006 AND that the boundaries were part of those bylaws. In fact, Alta Vista has existed for some time, and their bylaws were created long before this year. I was told that they had incorporated the map to define the boundaries of the Association prior to March 1, 2006. In anticipation of the need to prove this had been done, I have requested they provide evidence of a resolution to amend, by incorporation of the map showing the physical boundaries of the property, the Constitution and By-Laws, which is, in effect, a creation document.

#2 - Evidence of being on record with the county - I will relay to my client the type of letter needed and the need that it be on the Hildalco County letterhead.

#3 - Is there a similar deficiency notice for CenterPoint?

Shannon Pritchard

[Shannon Pritchard]

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]

**Sent:** Thursday, April 20, 2006 2:50 PM

**To:** Sharon Gamble; Shannon Pritchard; 'Robbye Meyer'

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

In looking at this message, I think it would be more clear had I separated my statements better. Perhaps this version is more helpful so that you don't need to rely on the color coding.

Because time is an issue here, I will respond to your questions/ statements below.

YOU SAID: I am the attorney who has advised, prepared and subsequently submitted the QCP letters for both these Resident Associations and yet I was not copied on a recent request for clarification and further information for Alta Vista. I am very concerned that requests from your department may have gone to CenterPoint without my notification and the deadline to address deficiencies is rapidly approaching.

TDHCA COMMENT: I concur that we should have copied you on the deficiency as a courtesy. This is the first year we asked for a second contact in the letters and it is not required that we copy the second contact on all matters, but it is a reasonable request. In the future, we will copy you on all correspondence. However, it appears that you are aware of the deficiencies and that the neighborhood organizations are working on resolving the issue, and given that the items should not take long to obtain, I do not foresee

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this circumstance of not copying you to be an issue.

YOU SAID: I contacted Ms. Gamble via telephone at the number supplied in Ms. Meyer's letter to Alta Vista, only to get voicemail and be advised that she would not return calls UNTIL 4/24/06. That is too late.

TDHCA COMMENT: Her out of office message says to contact Jennifer Joyce (me) for all deficiency related issues pertaining to QCP, and she clearly states my telephone number.

YOU SAID: My client contact with Alta Vista is gathering the requested information regarding the creation of the Resident's Association (which dates back into the 1970's), and has requested a NEW letter from the county clerk's office, even though the date-stamped letter we submitted has been acceptable for this process in the past.

TDHCA COMMENT: I am unsure why your client is attempting to obtain creation documents. Please explain why. As it relates to the date-stamp being accepted in the past, it was determined by our general council that there needed to be evidence from the county clerk in addition to what was submitted. An e-mail, a fax or a document picked up from their office would all suffice as evidence that the organization is on record with the county as long as it simply states, "As of March 1, 2006 \_\_\_\_\_ neighborhood organization is on record with the county."

YOU SAID: As to the boundaries of the Resident Association, a map with clearly marked boundaries was attached to the by-laws themselves, which legally makes them an accepted addendum to the by-laws. They are accepted as part of the by-laws by incorporation, and is my further understanding that this method of identifying the boundaries has been acceptable to TDHCA in past years.

TDHCA COMMENT: As the legal council for these items I am sure that you have noted that the QCP requirements did change this year, and those requirements are very clearly outlined in the QCP packages on our website. The QAP and all information published for neighborhood organizations very clearly says that the QCP package MUST, "include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization." This entire requirement is new this year in the QAP.

The constitution & bylaws submitted in the package did not include an identification of the boundaries of the organization. It did, however, include a map (as required as a separate item) which includes the Development site. The maps submitted clearly were not part of the by-laws or constitution. What we need is language which was effective as of March 1, 2006 or prior which states the boundaries of the neighborhood organization (in other words, an organizational document that was not created for the purposes of QCP points such as the maps submitted.) Any organizational document will do that identifies the boundaries of the organization, it just needs to be effective on or before March 1, 2006. Note, if

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

MAILED

April 13, 2006  
Debra Foley-Castillo  
President  
Centerpoint Resident Council  
3521 Diamond  
Weslaco, Texas 78596

we / ack

Organization Fax: (956) 565-6005      Organization Email:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Sun Valley Homes, # 060143

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

- ✓ The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. According to §50.9(i)(2)(A)(viii) of the QAP, your bylaws must "at a minimum, identify the boundaries of the organization, ..." Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document.
- ✓ The date-stamped letter you submitted is not sufficient evidence to prove that your organization was on record with the county as of March 1, 2006. In accordance with §50.9(i)(2)(A)(v) of the QAP, submit evidence that the organization was registered with the Secretary of State or the county in which the development is to be located on or before March 1, 2006. Evidence from the county may include a letter written on county letterhead and signed by a representative of the county clerk's office and must include the registration date of the information and that the county considers the organization to be on



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

record.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by April 24.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

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**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW  
ONE MEADOWS BUILDING  
5005 GREENVILLE AVENUE, SUITE 200  
DALLAS, TEXAS 75206  
(214) 368-8300

060143

SHANNON PRITCHARD  
Attorney  
spritchard@johnhcarney.com

DIRECT TEL (214) 365-4415  
FACSIMILE (214) 363-9979  
WWW.LEGALADVISORS.COM

April 24, 2006

*Via E-Mail & Fax*  
800-733-5120

Ms. Robbye Meyer  
Texas Department of Housing  
and Community Affairs  
221 E. 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78711

RE: Center Point Residents' Council QCP; Deficiency Notice dated April 10, 2006

Dear Ms. Meyer:

In response to the notice of administrative deficiency, please find our responses including enclosure:

Item Number One:

Enclosed please find a letter from Debra Foley-Castillo, President of the Center Point Resident Council, verifying that the Council considers the map submitted with their QCP packet to be part of their organizational records, and that these boundaries were established prior to March 1, 2006.

Item Number Two:

Enclosed please find a letter from the Office of the County Judge Ramon Garcia, County of Hidalgo, confirming that the Center Point Residents' Council was on record with Hidalgo County as of February, 2005. Additionally, we respectfully suggest that the State must consider the letter from the Council asking for registration with the County, which is both file stamped and initialed by County personnel, to be adequate evidence of registration with the County, notwithstanding the letter from Judge Garcia.

It is my understanding that the Department scored this Council's letter in opposition to Los Milagros last year, with only the file-stamped letter from the county as proof of registration. It is my further understanding that no new registration or new evidence of registration is required.

Furthermore, we believe the boundary and registration information as submitted meets the spirit, if not the letter, of the requirement of the QAP.

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If you need additional information please do not hesitate to contact me. Please make note this material applies to the Sun Valley, Orchard Valley and Los Milagros applications, for which the Center Point Residents' Council also provided QCP letters to your agency.

Sincerely,



Shannon Pritchard  
Attorney, Center Point Resident's  
Council

SP  
Enclosure

CENTERPOINT RESIDENT COUNCIL  
3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

Ms. Robbye Meyer  
TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: QCP Notice on Centerpointe

Dear TDHCA:

This letter hereby confirms that the boundary map provided in our QCP packet with the organization documents is the established boundary of the organization. It was the established boundary prior to March 1, 2006. They are part of our organizational records.

Sincerely,



Debra Foley-Castillo, President





OFFICE OF THE COUNTY JUDGE  
County Of Hidalgo

RAMON GARCIA  
County Judge

Centerpointe Residents' Council  
3521 Diamond  
Weslaco, TX 78596

April 20, 2006

RE: Centerpointe Residents' Council file stamped letter

Dear Centerpointe Residents' Council:

Per your request, we hereby confirm that the resident's council for the Centerpointe sub-division was filed with Hidalgo County in February 2005. Your registration letter was filed stamped on that date, a copy of which is attached. This letter confirms that registration is on record with Hidalgo County as of that date.

Sincerely,

A handwritten signature in black ink, appearing to read "Ramon Garcia".

Ramon Garcia  
Hidalgo County Judge

**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW  
ONE MEADOWS BUILDING  
5005 GREENVILLE AVENUE, SUITE 200  
DALLAS, TEXAS 75206

TELE. (214) 368-8300

FAX (214) 363-9979

**FACSIMILE TRANSMITTAL SHEET**

This fax is being transmitted on a Sharp FO-DC600. If you do not receive this transmission in its entirety, please call our Receptionist at the telephone number listed above.

**PAGE COUNT:** 5

**TO:** Sharon Gamble **FACSIMILE:** 800-733-5120

**COMPANY:** TX Dept. of Housing & Com. Affairs **TELEPHONE:** 512-475-3995

**FROM:** Shannon Pritchard **DATE:** April 24, 2006

**REF:** Center Point Residents' Council QCP; Response to Deficiency Notice dated April 10, 2006.

**COMMENTS:** Original will not follow, but submission via e-mail will follow.

**IMPORTANT**

The materials transmitted by this facsimile are sent by an attorney or his/her agent, and are considered confidential and are intended only for the use of the individual or entity named. If the addressee is a client, these materials may also be subject to applicable privileges. If the recipient of these materials is not the addressee, or the employee or agent responsible for the delivery of these materials to the addressee, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us at (214) 368-8300 (collect) and return the transmitted materials to us at the above address via the U.S. Postal Service. We will reimburse you any costs incurred in connection with this erroneous transmission and your return of these materials. Thank you.

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**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: SUN VALLEY HOMES

Dev. Number: 060/43

Organization Name: CENTERPOINT RESIDENT COUNCIL

Date Letter Received: 3/31/06

Reviewer Name: S. GAMBLE

Date Reviewed: 4/6/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries</u> ?  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

✓  
**4/6**

8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. More specifically:</p> <p>"Neighborhood organizations" DO include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" DO NOT include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input checked="" type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

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**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete?

Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

No Boundaries in area doc; STAMP LETTER

Date deficiency letter issued: 4/13/06

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): 4/24/06

UPS

Date deficiencies received: 4/24/06

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: SB

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
<b>FINAL SCORE (Enter from box checked above):</b>		

Has this been entered in the 2006 Database?

Yes  No

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CENTERPOINT RESIDENT COUNCIL  
3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

March 28, 2006

Mr. Bill Daly, Acting Executive Director    *Via Federal Express and E-mail and Fax*  
Attn: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

Re:    Quantifiable Community Participation Development #060143  
      Development: Sun Valley Homes, ETJ Mercedes, Hidalgo County, Texas  
                    Proposed by: Chicory Court Rose Hill II, L.P.; TDHCA #060144  
      Development Location: +/- 35 acres of Vacant Land, Mile 8.5 North and Mile 2  
      West, ETJ Mercedes, Hidalgo County, Texas; proposed sub division

Dear Mr. Daly:

I am writing as the duly elected President of the Centerpoint Resident Council to express our Council's support for an allocation of Housing Tax credits for a planned addition of new-construction single family homes designed for rent-to-ownership in Weslaco, Texas. Centerpoint Resident Council is a qualified Neighborhood Organization as further described below.

I am also providing the following information for one additional contact, Ms. Shannon Pritchard, for our organization:

Shannon S. Pritchard, Attorney at Law  
John H. Carney & Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206  
214-368-8300 Telephone  
214-363-9979 Facsimile

Enclosed is a map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries. Our boundaries were amended slightly from 2005 to make them more easily identifiable to all members of the organization and the community. Those boundaries are: E. Expressway 83 to the South; North Airport Drive to the West; Mile 2 Road W to the East and Mile 9 Road N to the North. These boundaries are clearly noted on the map attached to the organization's documentation. This organization is an organization of persons living near one another within the organization's defined boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are our bylaws

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and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization. The organization has 58 members and four officers, President, Vice President, Treasurer and Secretary. The organization reached its decision to support the proposed development by holding a series of informal meetings that culminated with a formal meeting on Friday, March 24, 2006, wherein those present voted in support of the development.

This organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit Application Round. The organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application round. The Applicant has not provided any "production" assistance for any application in the Application Round

Our organization supports the development for many reasons including:

1. It is specifically designated to serve the needs of Hidalgo County families with children. There is a well-recognized need for decent, safe and affordable housing in our area.
2. The project is planned to provide 36 three-bedroom two-bath homes with garages, which will benefit the entire RGV community. We prefer this single-family home approach over standard apartments in our area.
3. The homes and their resident families will add diversity to our community because it serves a mixed range of incomes. These will range, according to our information, from 30% of area median income to 60% of area median income.
4. Many of these homes will serve public housing residents currently living in apartments in our area. This brings added stability to our community.
5. It is our belief that our area has many apartment units and more would serve as an over concentration in our immediate area. Given the choice, we think single family homes for the same rent are better than apartments for the same rent.
6. We are very supportive of the resident's opportunity to own these homes at the end of the 15 year rental period. This is a valuable option for these families that makes sure they treat the houses like they own them even during the rental period.
7. Based upon the presentation of the developer, many of these homes will be fully equipped for special needs and disabled persons. We support the development for their efforts to provide single family homes that serve the needs of persons with disabilities.

Sincerely,



Debra Foley-Castillo, President

Telephone number (956) 565-6005

**CENTERPOINT RESIDENTS' COUNCIL OFFICERS**

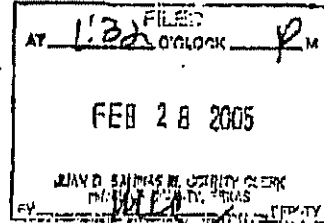
Debra L. Foley-Castillo 3718 Diamond Weslaco, TX 78596	President 956-565-6005
Pedro Medrano 3605 Diamond Weslaco, TX 78596	Vice President
Idalia Cruz 3601 Diamond Weslaco, TX 78596	Secretary
Angie Serna 3522 Diamond Weslaco, TX 78596	Treasurer



**CENTERPOINT RESIDENT COUNCIL  
3718 DIAMOND BOULEVARD  
WESLACO, TEXAS 78596**

February 26, 2005

Mr. J.D. Salinas  
Hidalgo County Clerk  
Hidalgo County Courthouse  
100 North Closer  
Edinburg, Texas 78539



RE: Registration of Neighborhood Organization

Dear Mr. Salinas:

The Centerpoint Resident Council hereby requests that our neighborhood organization be registered in Hidalgo County. Please register the Centerpoint Resident Council by file stamping this request letter.

Thank you.

Sincerely,

David Morari, Sr.  
Vice-President

## BYLAWS FOR THE CENTERPOINT RESIDENT COUNCIL

## ARTICLE I.

Name:

The name of this organization is the Centerpoint Resident Council (hereinafter referred to as the "Council"). It is a not-for-profit organization constituted and established under the laws of the State of Texas.

The registered address of the Council is at 303 W. 6th Street, Weslaco, Texas, 78596. The Council may also have offices at other such locations as the Executive Committee may from time to time determine.

## ARTICLE II.

Purpose.

The purpose of the Council is to improve life for the residents of the Centerpoint Development. In specific, the purpose of the Council shall be to:

1. maintain a viable resident organization representative of the residents who elected its officers and Executive Committee.
2. assure adequate maintenance of all units and common areas.
3. provide maximum employment and training opportunities.
4. establish and maintain courtesy patrols and public safety programs.
5. promote programs which will provide improved educational, recreational and social service opportunities.
6. inform residents of their rights and responsibilities under existing federal, state and local law, as well as under the Corporation's By-Laws.
7. receive official recognition from the Housing Authority and HUD as a resident council pursuant to the HUD regulations.
8. institute economic development programs for residents.
9. advise and assist the Housing Authority in all aspects of public housing operations.
10. cooperate with other resident councils under the Housing Authority's jurisdiction in representing the interests of all residents.

ARTICLE III.

The participation of members of the organization is crucial for its success. Members can take part in decision-making in many ways. Democratic election of the officers of the organization are an important responsibility of members.

Membership.

Membership in the organization shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization who is at least eighteen (18) years of age.

Voting Eligibility.

The eligible voting membership includes all residents at least eighteen (18) years of age whose names appear on the lease of a unit in the public housing development(s) represented by the organization. A leaseholder may vote regardless of age.

ARTICLE IV.

Meetings are the most important means of conducting the business of the organization. They should also provide the members an opportunity to understand the activities of the organization and the basis for its decisions. A published, regular schedule of meetings is, therefore, crucial to the overall success of the organization.

Meetings:

- 1. Frequency. Regular Council meetings shall be held not less than once a month, and shall be open to all residents.
- 2. Notices. Notice of all regular monthly meetings, together with an agenda of the meeting, shall be posted in a regular location and be provided to residents, in writing, at least five (5) days in advance of the meetings.
- 3. Meeting Place/Time Meetings shall be held at such place and time as shall be specified in the notice of the meeting. A regular schedule (e.g. each second Tuesday of each month) and regular location are advisable.
- 4. Special Meetings The President or any three (3) officers may at any time call a Special Meeting, provided that the written notice, including agenda, is given at least forty-eight (48) hours prior to the meeting.

54

5. Quorum At any Council meeting, three-fourths of the officers of the Council shall be necessary and sufficient to constitute a quorum.

6. Attendance Each time a member of the Executive Committee appears at a regular or special meeting, a record of the presence of that officer shall be placed in the minutes of the meeting. The board may request that a record of all those attending the meeting be recorded as well.

Any officer who misses three (3) meetings of the Council with an excuse satisfactory to the Executive Committee may be removed by the affirmative votes of a majority of the Committee present. Written notice and a hearing shall be given to the Committee members of the proposed removal.

7. Voting by Officers Each member of the Executive Committee present at a meeting shall be entitled to cast one (1) vote on any subject for which a determination is presented for consideration.

ARTICLE V.

Executive Committee members (officers) have a formal, legal responsibility to manage the affairs of the organization, to conduct its business and to consult with and inform the residents.

Officers:

1. Title and Qualifications:

a. President The President of the Council shall preside at all meetings of the organization, and shall have such other powers and duties consistent with these by-laws.

b. Vice-President The Vice-President shall perform all duties in the absence of the President.

c. Secretary The Secretary shall be the custodian of all records and documents of the Council and perform all other duties consistent with these by-laws.

d. Treasurer The Treasurer shall have the care of, receive and give receipt for monies due and payable to the Council and deposit all monies received by him/her in the name of the council in such banks, trust companies or other depositories as may be designated by the Executive Committee.

- 2. Term of Office      All officers shall be elected by the general resident population of the Centerpoint Development, and shall hold office for a period of one (1) year.
- 3. Resignations      Any officer may resign at any time by delivering a written resignation to the Executive Committee.
- 4. Removal      Any officer may be removed at any time, for just cause, by a vote of the majority of the Executive Committee.  
  
Any officer who misses three (3) meetings of the Council with an excuse satisfactory to the Executive Committee may be removed by the affirmative votes of a majority of the Committee present. Written notice and a hearing shall be given to the Committee members of the proposed removal.
- 5. Vacancies      Any vacancy in any office may be filled for the unexpired portion of the term by a decision of the Executive Committee.

ARTICLE VI

Elections.

- 1. Frequency.      All procedures must assure fair and frequent elections (at least once every year).
- 2. Terms.      The terms for all officers is one (1) year.
- 3. Notice.      Description of election and recall procedures, eligibility requirements and dates of nominations and elections must be given to all voting members at least 30 days prior to nomination and election.
- 4. Recall.      Any elected officer of the council may be recalled by a vote for removal by a majority of voting members. A recall election must be promptly conducted when a petition requesting such an election is received from not less than ten percent (10%) of the voting membership. All procedures for petitioning for a recall election shall be provided to voters for their inspection and must be included in the By-Laws.
- 5. Monitoring.      The Weslaco Housing Authority shall monitor the activities of the Resident Council, including the election process. Additionally, it shall establish a procedure to appeal any adverse action relating to failure to conform to HUD's minimum standards. Such appeal shall be submitted to a jointly selected third-party arbitrator at the local level. If costs are incurred by using a third-party arbitrator, then such costs shall be covered by the Housing Authority's resident services funds, pursuant to 24 CFR 964.150.

ARTICLE VII

Committees:

There shall be such Board Committees as the Executive Committee may, from time to time, determine to be desirable. Committees shall initially be appointed by the President, with advice and consent of the Executive Committee.

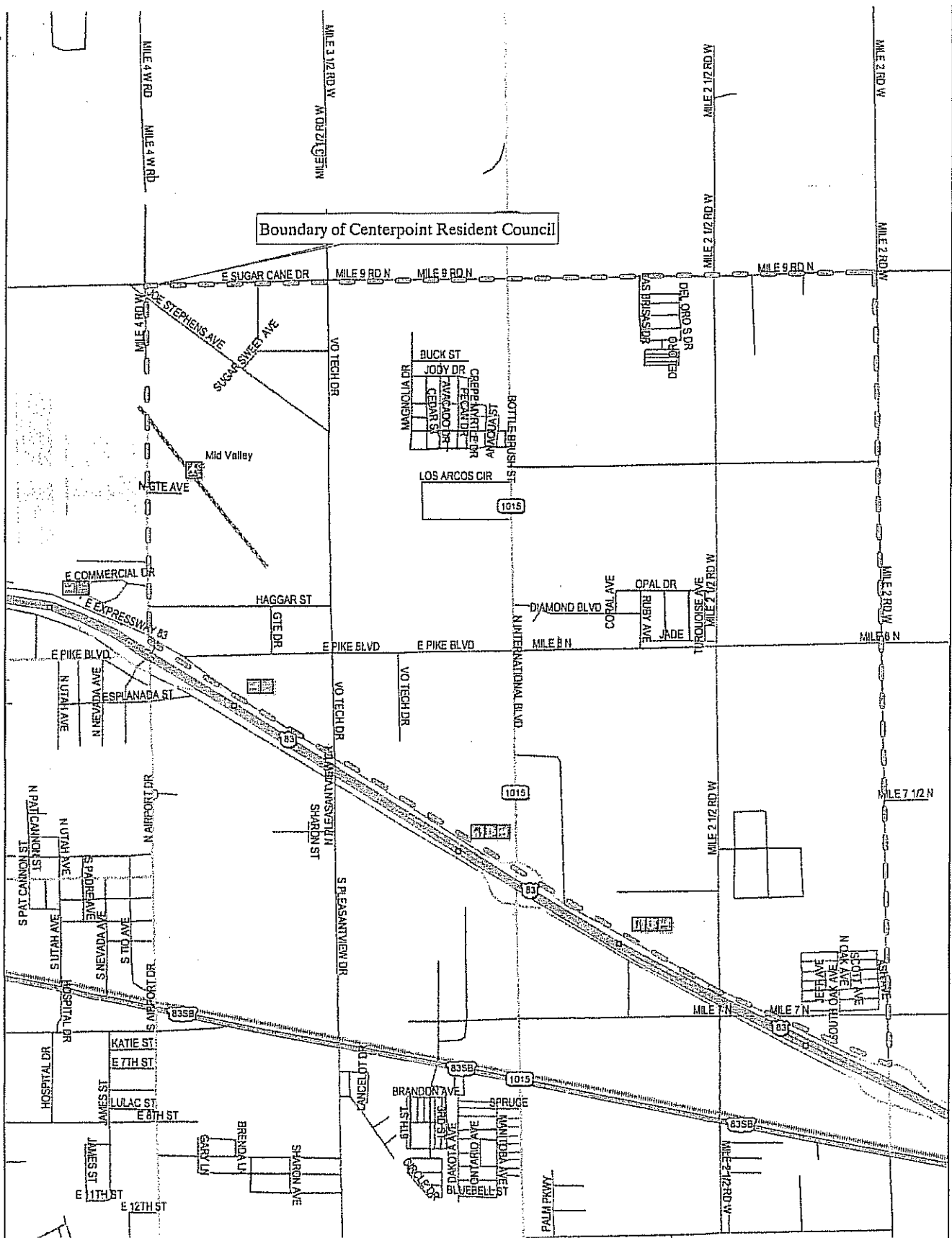
1. Standing Committees. These committees are usually chaired by an officer of the Executive Committee.
2. "Ad Hoc" Committees. An "ad hoc" committee serves a special purpose and continues for a limited period of time.

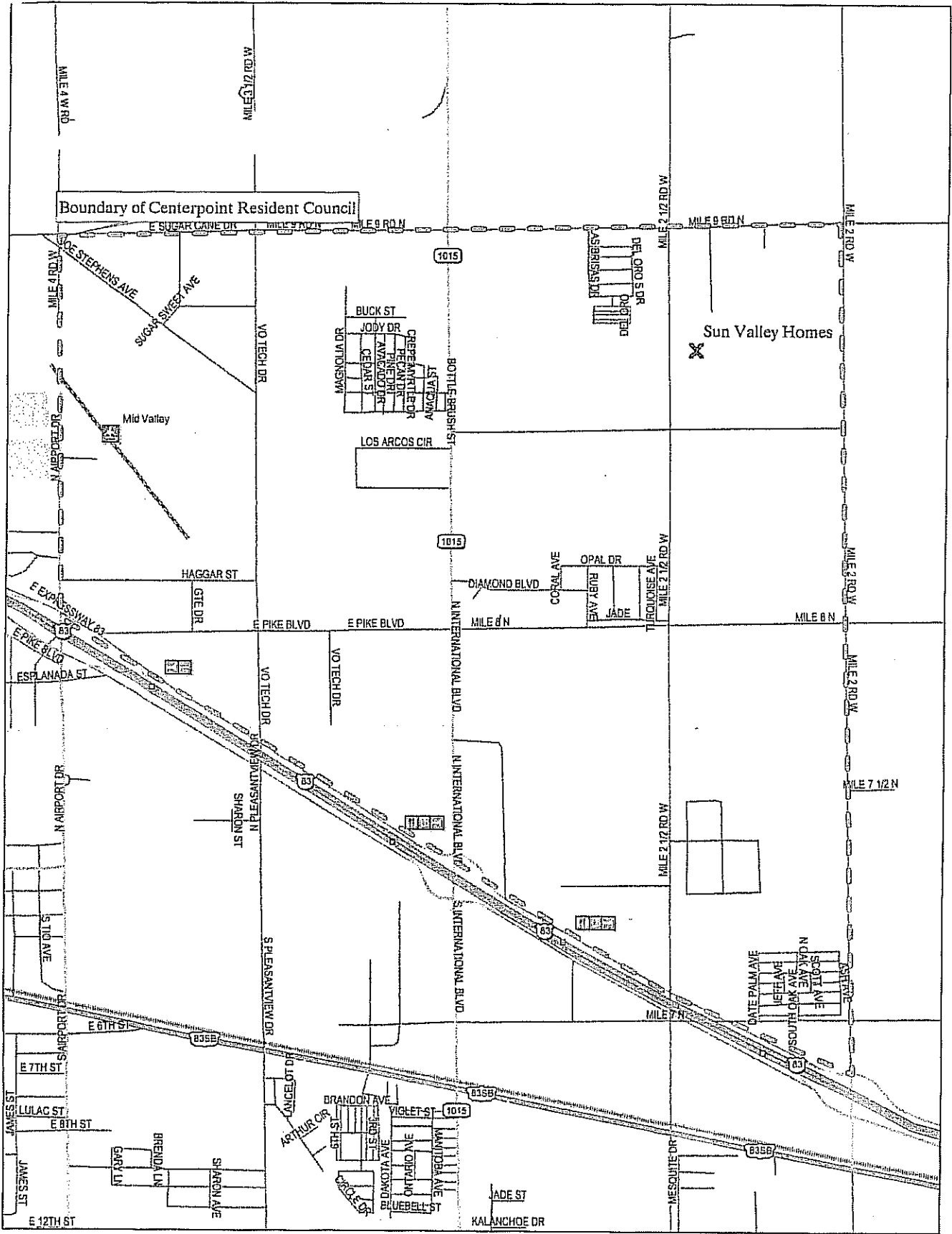
ARTICLE VIII

Fiscal Affairs.

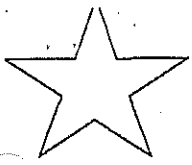
- |                  |   |
|------------------|---|
| Deposit of Funds | All funds of the council not otherwise expended, shall be promptly deposited in such banks, trust companies, credit unions or other reliable and insured depositories as the Executive Committee shall determine. |
| Checks           | All checks, drafts, endorsements, notes and evidence of debt shall be signed by at least two (2) officers as the Executive Committee may authorize.   |
| Loans            | No loans or advances or promises of payment shall be contracted or accepted on behalf of, or in the name of the Council, except those contracts authorized by the Executive Committee.                            |
| Contracts        | An officer authorized by the board of directors may, in the name and on behalf of the Council, enter into contracts which are authorized by the Executive Committee.  |

Boundary of Centerpoint Resident Council









CENTERPOINT  
RESIDENT MEETING  
MARCH 24, 2006



1. PEDRO MEDRANO 3605 Diamond	26. Blvd
2. Noomi Medrano 3605 Diamond	27
3. maria B Seina 8618 Diamond	28.
4. amador corona 3618 Diamond	29
5. Julian Salas 1006 Ruby	30
6. Delia Lynn Castillo 3521 Diamond Blvd	31.
7. ADALIA CRUZ 3601 Diamond	32.
8. Alma n moreno	33.
9. Amador Coronado	34.
10. Graciela Gonzalez	35.
11. Pedro Alvarado	36.
12. Juan Mc Cabela 1206 Ruby	37.
13. Corina Abrigo 1010 Ruby	38.
14. Veronica Jones 3609 Diamond	
15. Catalina Cavalas	40.
16.	41.
17.	42.
18.	43.
19.	44.
20.	45.
21.	46.
22.	47.
23.	48
24.	49.
25.	50.

4-15-06  
- 1a to July

60

**Robbye Meyer**

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**From:** Shannon Pritchard [sritchard@johnhcarney.com]  
**Sent:** Friday, March 31, 2006 4:36 PM  
**To:** jennifer.joyce@tdhca.state.tx.us; robbye.meyer@tdhca.state.tx.us;  
brooke.boston@tdhca.state.tx.us  
**Subject:** Second Transmission, Sun Valley Development, QCP #060143

Forgive the extra transmission, I neglected to get a "received" receipt on the first one.

<<Sun Valley.pdf>>

**Shannon Pritchard**

John H. Carney & Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206

(214) 365-4415 Direct Dial  
(214) 363-9979 Facsimile  
[www.LegalAdvisors.com](http://www.LegalAdvisors.com)

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**060147**

**Orchard Valley Homes**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Orchard Valley Homes- 060147**

By April 3, 2006, the Department received a letter from the Centerpoint Resident Council requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) and outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which they were providing comment on. They currently reside in Centerpoint single family housing development, and according to them the proposed development, Sun Valley Homes, would become part of their organization when built.

Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization.

The applicant is appealing the eligibility of the letter based on three assertions. My response to each assertion is outlined below each statement:

- (1) The applicant asserts that the members of the neighborhood organization do not live in apartments, but rather in single family homes. It is further asserted that the proposed development will be constructed on lots that are part of an existing subdivision that houses the members of the resident council and that the entire subdivision constitutes the development for purposes of the council's boundaries.

Staff Response: The QAP is explicit that the resident council may not comment on any development not proposing demolition or rehabilitation of the property occupied by the residents. The fact that the council's members live in single family homes adjacent to the proposed new construction is no different than an existing apartment complex commenting on the new construction of a second phase of the development. In either scenario, the QCP letter would be ineligible.

- (2) The applicant asserts that the QAP requirement that the resident council only comment on the property occupied by the residents automatically denies residents of single family homes the ability to comment on a proposed development within the nearby area.

Staff Response: See response #1.

- (3) The applicant asserts that the QAP restricts the definition of a neighborhood organization beyond Section 2306.6705(9)(A) and that Section 50.9(i)(2)(A)(iv) of the QAP is therefore invalid with respect to resident councils.

Staff Response: QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by HUD, which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant: Bennington, LP  
Site Location: Mile 2 W. at Mile 8 1/2 N.  
City/County: Mercedes/ Hidalgo County  
Regional Allocation Category: Rural  
Set-Aside: None  
Population Served: Family  
Region: 11  
Type of Development: New Construction/Acquisition  
Units: 36  
Credits Requested: \$521,691

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

3

## Resident Councils

### **§50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.**

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;
- (iv) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents). "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."
- (v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. ...If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"...the organization will not be considered on record with the state... As an option to be considered on record with the state...must be received by the Department no later than March 1, 2006...
- (vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).
- (vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...
- (viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.
- (ix) The boundaries in effect for the organization on March 1, 2006...Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...
- (x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.

(ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) In general, letters that meet the requirements of this paragraph and

(I) establish three or more reasons for support...( +24 points) or opposition (zero);

(II) establish two reasons...+18 points for support...

(III) establish one reason for support ... +13 points for support...;

(IV) that do not establish a reason...neutral (+12 points).

(iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.

# Board Appeal



**ODYSSEY RESIDENTIAL HOLDINGS, L.P.**  
**5420 LBJ FREEWAY, SUITE 1235**  
**TWO LINCOLN CENTRE**  
**DALLAS, TX 75240**  
**972-701-5551**  
**972-701-5562 FAX**

Ms. Jennifer Joyce  
Multifamily Housing Production  
TDHCA  
221 East 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78701

060147

May 31, 2006

RE: Sun Valley and Orchard Valley Home Ownership, TDHCA #06-0143 and #06-0147, denial of the QCP points

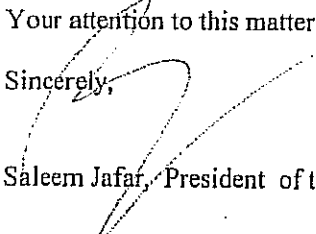
Dear Jennifer:

In follow up to your call yesterday with Mr. Fisher, this letter serves to incorporate by reference the material previously provided in appealing the QCP qualification for the Centerpointe Resident's Association in the appeal for #06-144 for these two developments. In the event the Executive Director or TDHCA board determines the organization to be eligible to comment on all the developments within the geographic boundary of the organization. We are asking the department and the Board to apply that ruling to the letters of support previously provided by Centerpointe Resident's Association to those provided to Sun Valley and Orchard Valley homes.

The TDHCA board is requested to note these are the only single family home developments with ownership rights to the residents in the rural set aside of Region 11.

Your attention to this matter is appreciated.

Sincerely,

  
Saleem Jafar, President of the G.P.

ODYSSEY RESIDENTIAL HOLDINGS, L.P.  
5420 LBJ FREEWAY, SUITE 1235  
TWO LINCOLN CENTRE  
DALLAS, TX 75240  
972-701-5551  
972-701-5562 FAX

Ms. Jennifer Joyce  
Multifamily Housing Production  
TDHCA  
221 East 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78701

060147

May 31, 2006

RE: Centerpointe Home Ownership, TDHCA #06-0144, denial of the QCP points

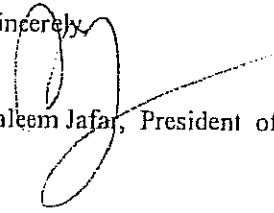
Dear Jennifer:

In follow up to your call yesterday with Mr. Fisher, I respectfully suggest the staff is missing the key issues of why the QCP letter counts for this single family home development in this platted single family sub division whether the department determines the organization to be a neighborhood organization in its fullest meaning or a resident's council with the comment restrictions. This development activity complies with the QAP under either circumstance because of the following:




1. This development to build 36 new single family homes within the existing sub-division where the existing housing stands involves demolition and new construction activity on the same site by the same development sponsor. We meet the required demolition new construction test in the QAP.
2. In the pictures already provided in the application on page 120 is a clear shot of the existing recreation facilities on several lots already owned by the housing authority and covered by the site control documentation. This entire facility is being demolished along with the under ground improvements in place on the adjacent lots to build part of the new community. This particular area will contain the clubhouse, public parking and swimming pool along with other common area amenities. All this work is duly noted in the application package including but limited to page 155 and page 403.
3. The sub-division is not entirely made up of housing authority residents participating in the public housing home ownership program. As you can see from the sub division plat attached hereto approximately +-20 of the homes and home sites are owned by third parties not affiliated with the sponsor or the developer. These home owners are part of this resident's representative organization and are not bound by the limitation for comment in the QAP. We are fully QCP supported demolition new construction development on the same site.

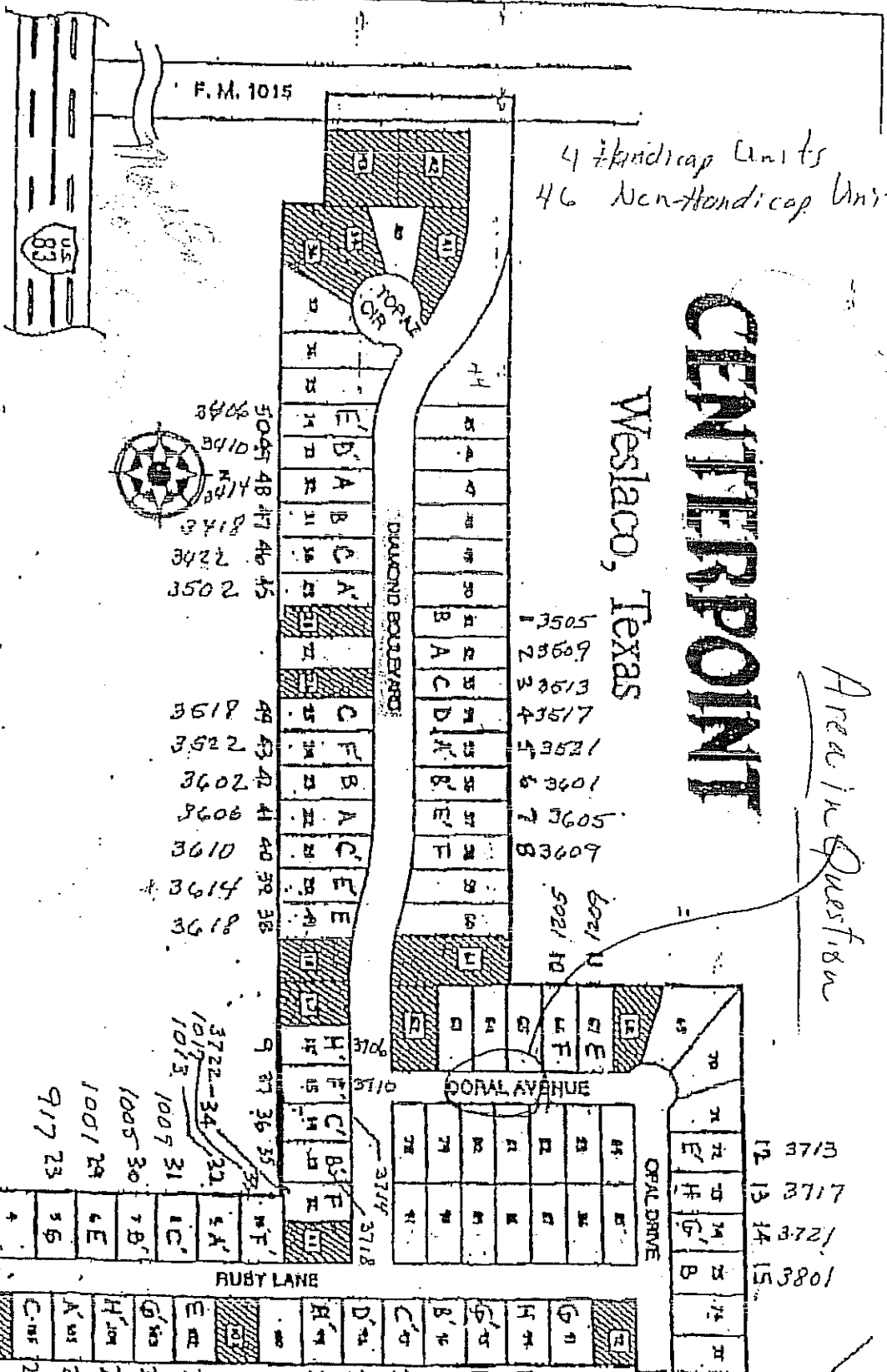
Before taking this to the TDHCA board on appeal, please check the application one more time to verify these facts. If you are determining we do not meet the demolition new construction criteria please be specific as to why we do not meet the requirement. If allowed under the site change rules, we will shift the Clubhouse to an existing home site and demolish one home in lieu of the existing area noted for demolition to clarify this issue. If this is passed to the TDHCA board for the appeal, please include this letter and attachments in the official record of appeal. Your consideration of our request is appreciated.

Sincerely,

  
Saleem Jafar, President of the G.P.

7

 LOTS OWNED BY OTHER OWNERS  
 LOTS OWNED BY P.E.A. WHICH ARE CURRENTLY UNDER CONSTRUCTION  
 LOTS OWNED BY P.E.A. WHICH ARE AVAILABLE FOR FUTURE CONSTRUCTION



4 Handicap Units  
46 Non-Handicap Units

# CENTERPOINT

Westlaco, Texas

Area in Question

5047 48 47 46 45  
 3422 3502  
 3619 49 43 42 41 40 39 38  
 3622 3602 3608 3610 3614 3618  
 3722-34 32  
 1017 1013 1007 31  
 1005 30  
 1001 29  
 917 23

3505  
 3569  
 3513  
 3574  
 3521  
 1098  
 3605  
 3609  
 6021 U  
 5021 10

37/B  
 37/L  
 372/L  
 380/L

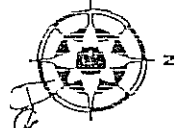
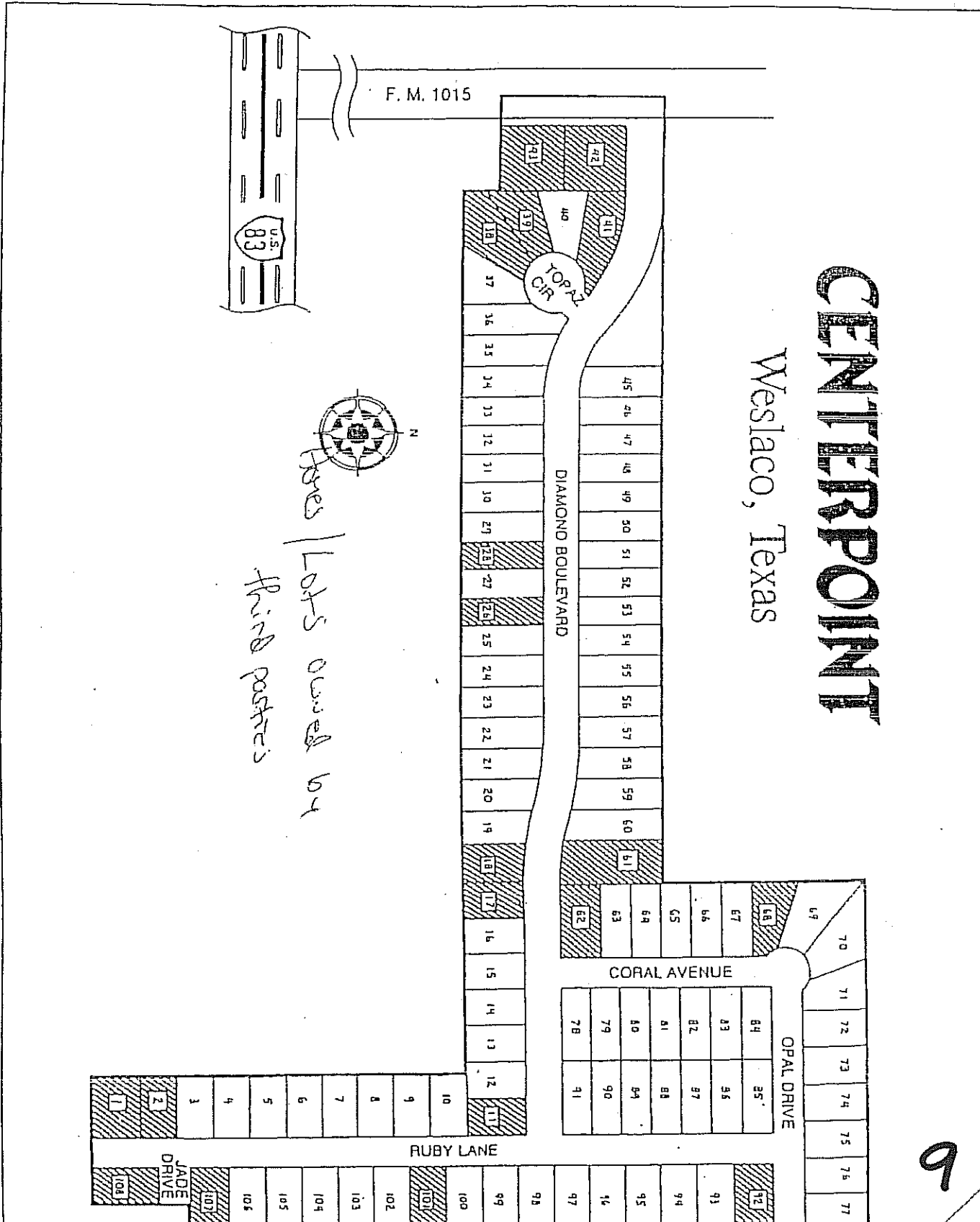
1206  
 1202  
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 1106  
 1102  
 1010  
 1008  
 918  
 914

Attachment 1  
Page 6 of 7



# CENTERPOINT

Weslaco, Texas



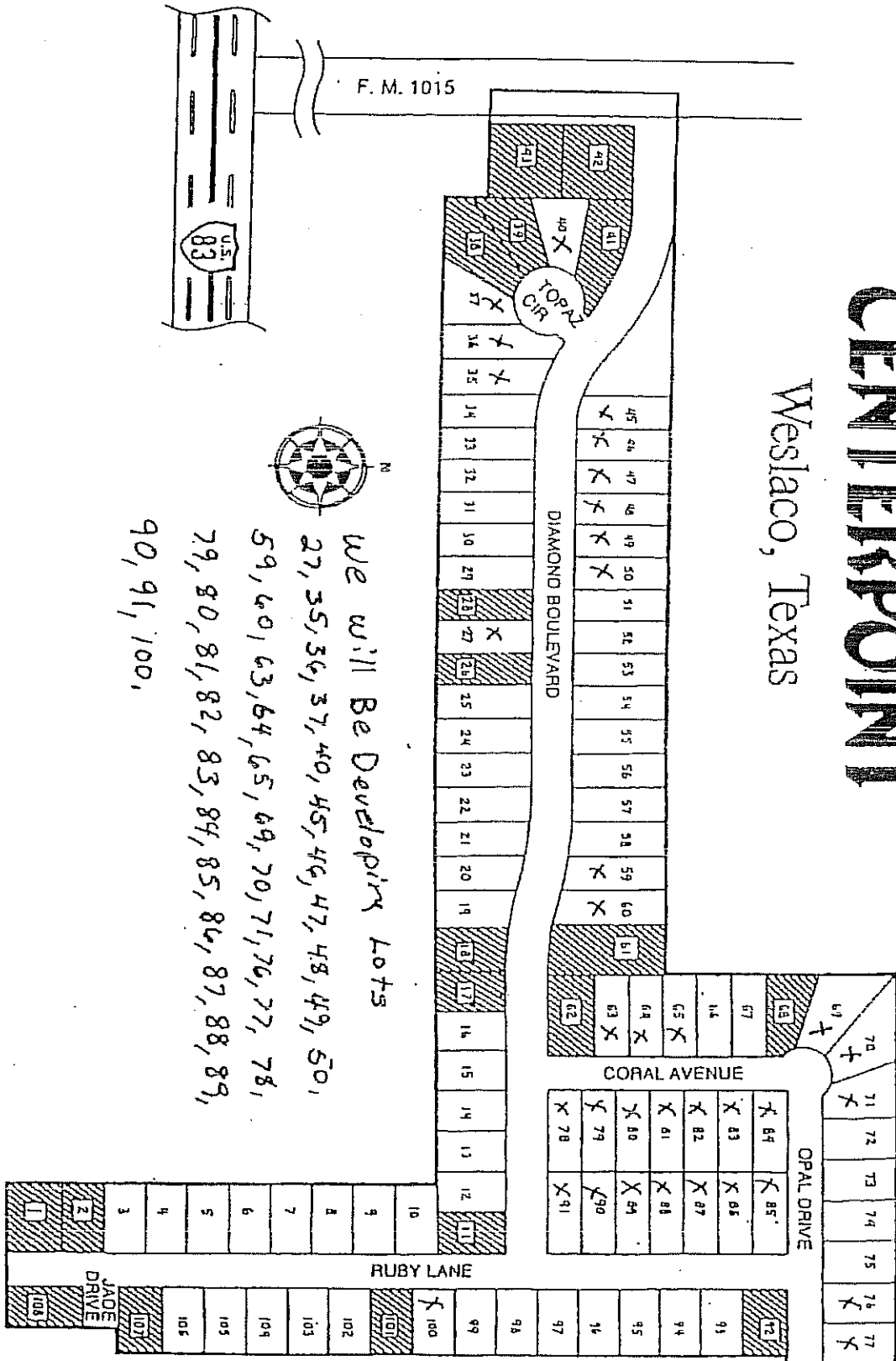
*Notes*  
 Lots owned by  
 friend partner's

9

tuant  
 (p)idicune  
 seddy  
 nuoi

# CENTTERPOINT

Westlaco, Texas



We will Be Developing Lots

- 27, 35, 36, 37, 40, 45, 46, 47, 48, 49, 50,
- 59, 60, 63, 64, 65, 69, 70, 71, 76, 77, 78,
- 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89,
- 90, 91, 100.

Principal  
Surveyor  
10

# **Executive Director Appeal**

**SHACKELFORD MELTON & MCKINLEY**  
ATTORNEYS & COUNSELORS

John C. Shackelford  
Also Admitted in Florida and Georgia  
Direct 214.780.1414  
jshack@shacklaw.net

May 22, 2006

**VIA FACSIMILE: (512) 469-9606**

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701

Re: Orchard Valley Homes; TDHCA #060147; Our File No.: 50331.4

Dear Mr. Gerber:

The purpose of this letter is to appeal the decision of the Texas Department of Housing and Community Affairs ("Department") to deny the purpose of scoring Quantifiable Community Participation ("QCP") points for the application for Orchard Valley Homes.

Orchard Valley Homes is a single family housing development located in Hidalgo County ("Project"). The owner of the Project is Bennington, LP (the "Partnership"), and the developer of the Project is ORH Development II, LLC ("Developer"), and I have been requested by Partnership and Developer to submit this appeal.

On behalf of Partnership and Developer, it is our position that the Project is entitled to QCP points. This appeal is based upon the following:

1. The deficiency notice letter from Robbye Meyer, Interim Director of Multifamily Finance Production, to Debra Foley-Castillo, President of Centerpoint Resident Council, dated May 15, 2006, inaccurately states that the members of the Centerpoint Resident Council ("Council") do not live in the development in which they are providing comment, and that they currently reside in Centerpoint Apartments. The members of the Council do not reside in apartments, but rather reside in single family homes, which are a part of a rent-to-own program. The Project will be built on lots located within the boundaries of the Council. It is possible there is some confusion by members of the staff of the Department about the nature of the Project and the members of the

3333 Luce Parkway  
Tenth Floor  
Dallas, Texas 75219  
Phone 214.780.1400  
Fax 214.780.1401  
www.shacklaw.net

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Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 2

Council which has caused the Department to deny QCP points for the Project. The members of the Council are not residents of apartments.

2. Ms. Meyer's letter further states pursuant to Section 50.9(i)(2) of the 2006 Qualified Action Plan ("QAP") that the Council only comment on property occupied by the residents and that the proposed development is not occupied by members of the organization. The position asserted by Ms. Meyer in her letter denies the right of members of a resident council that occupy single family homes from commenting on a development proposed within the boundaries of an organization in which they live. A single family home resident is automatically denied the ability to comment on the development of property within its nearby area under the Department's interpretation of Section 50.9(i)(2). It is Partnership's and Developer's position that this Section of the QAP is not intended to deny such persons such rights. The entire purpose behind this Section of the QAP is to do otherwise. It is specifically intended to give a voice to those persons that may be affected by a proposed affordable housing development project. Denying the single family home residents the right to have a voice in how nearby property next door or across the street may be developed violates the spirit and intent behind Section 50.9(i)(2) of the QAP. In addition, the philosophy behind this provision was to respect the concerns of apartment residents to the overbuilding of apartments in their community. At the time this language was included in the QAP, it was not contemplated that it would affect single family residents.

3. In the alternative, Partnership and Developer argue that Section 50.9(i)(2) of the QAP violates Section 2306.6705 of the General Government Code (the "Code") in that the legislation enabling this portion of the QAP does not provide for the stipulation that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition and new construction of the property occupied by the residents. The QAP is subject to satisfying the statutory requirements of the enabling legislation. The statutory requirements of Section 2306.6705(9)(A) of the Code provide for notification to any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site. This language in the Code does not define a neighborhood organization, and I would argue that interpretation of a neighborhood organization under the Code is to be broadly interpreted when a definition is not provided. Section 50.9(i)(2) initially complies with the enabling statute by defining a "Neighborhood Organization" as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. The Council unequivocally satisfies the QAP definition of a "Neighborhood Organization". Such definition in the QAP of a "Neighborhood Organization" is all encompassing as to the type of organizations that are included. The sentence after the definition of "Neighborhood Organization", however, attempts to explain the organizations which are included, but this language is not the definition. The Department has violated Section 2306.6705 of the Code by inserting into Section 50.9(i)(2) of the QAP this stipulation applicable only to resident councils. As such, Section 50.9(i)(2)(A)(iv) of the QAP is



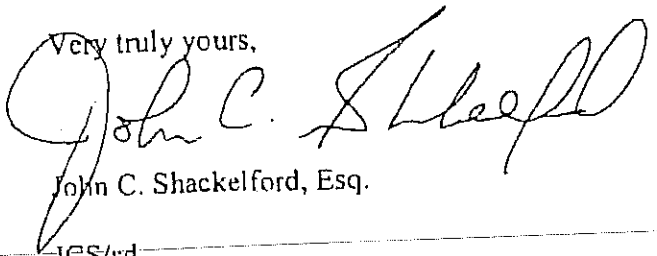
Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 3

invalid with respect to the resident council stipulation and it may not be applied to deny the scoring of QCP points.

For all of these reasons, Partnership and Developer respectfully requests the Department to recognize the letter from Council with respect to the Project and to award QCP points for the Project. If your decision is not to award QCP points for the Project, this letter constitutes Partnership's and Developer's request to appeal such decision to the Board.

Thank you for your consideration of this appeal.

Very truly yours,



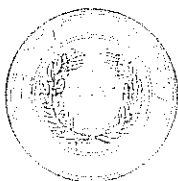
John C. Shackelford, Esq.

JCS/sd

cc: Saleem A. Jafar (via e-mail)  
Bill Fisher (via e-mail)

G:\Shacklaw\50548\TDHCA Ltr.Orchard Valley Homes.cln1.5.22.06.doc

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
Executive Director

Mr. Saleem Jafar  
Bennington, LP  
5420 LBJ Freeway Suite 1235  
Dallas, TX 75240  
Telephone: (972) 701-5550  
Telecopier: (972) 701-5562

**Re: Appeal Received for Orchard Valley Homes – 060147**

Dear Mr. Jafar:

### Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 22, 2006 regarding the eligibility of a letter from the Centerpoint Resident's Council requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because Centerpoint Resident's Council does not qualify as a "neighborhood organization" as required by the §50.9(i)(2)(A)(iv) of the Qualified Allocation Plan and Rules (QAP). This section specifically precludes resident's councils from qualifying as a "neighborhood association" unless the letter is relating to an application that is proposed for, "...Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents."

This determination was made based on the fact that on May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for QCP if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which

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Mr. Jafar  
June 1, 2006  
Page 2 of 3

they were providing comment on. They currently reside in Centerpoint Development, which is comprised of single-family homes.

Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2)(A)(iv) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization. Rather, existing single-family homes are occupied by the resident council. These homes and those proposed are located on a 80 lots owned by the Edinburg Housing Authority.

The applicant is appealing the eligibility of the letter based on three assertions. My response to each assertion is outlined below each statement:

- (1) You assert that the members of the neighborhood organization do not live in apartments, but rather in single family homes. You further assert that the proposed development will be constructed on lots that are part of an existing subdivision that houses the members of the resident council and that the entire subdivision constitutes the development for purposes of the council's boundaries.

Response: The QAP is explicit that the resident council may not comment on any development not proposing demolition or rehabilitation of the property occupied by the residents. The fact that the council's members live in single family homes adjacent to the proposed new construction is no different than an existing apartment complex commenting on the new construction of a second phase of the development. In either scenario, the QCP letter would be ineligible.

- (2) You assert that the QAP requirement that the resident council only comment on the property occupied by the residents automatically denies residents of single family homes the ability to comment on a proposed development within the nearby area.

Response: See response #1.

- (3) You assert that the QAP restricts the definition of a neighborhood organization beyond Section 2306.6705(9)(A) and that Section 50.9(i)(2)(A)(iv) of the QAP is therefore invalid with respect to resident councils.

Response: QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the

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Mr. Jafar  
June 1, 2006  
Page 3 of 3

§50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by the U. S. Department of Housing and Urban Development (HUD) , which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

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# QCP Documentation



**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

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May 15, 2006

Debra Foley-Castillo

President

Centerpoint Resident Council

3521 Diamond

Weslaco, Texas 78596

Fax: (956) 565-6005

(214) 363-9979

Email:

spritchard@johncarney.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Valley Homes, # 060147

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which they were providing comment on. They currently reside in Centerpoint apartments, and according to them that the proposed development, Orchard Valley Homes, would become part of their organization when built.

Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization.

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**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

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Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production



TRANSMISSION VERIFICATION REPORT

TIME : 05/16/2006 10:13  
NAME :  
FAX :  
TEL :  
SER. # : 000J5J563237

DATE, TIME	05/16 10:12
FAX NO./NAME	92143639979
DURATION	00:01:08
PAGE(S)	08
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Debra Foley-Castillo  
President  
Centerpoint Resident Council  
3521 Diamond  
Weslaco, Texas 78596

EMAIL + FAXED

PC 5/9 TO VERIFY. LEFT VM  
5/10 PC TO S. PRITCHARD, LEFT VM  
" PC FROM S.P. SAE IS PREPARING  
RESPONSE.

Organization Fax: (956) 565-6005

Organization Email:

5/15 PC TO S. PRITCHARD.

Second Contact:

Shannon Pritchard

SAE WILL RESPOND TO DAY.

Second Contact Fax: (214) 363-9979

Second Contact Email: spritchard@johncarney.com

(409, 143, 144, 147)

Second Contact Phone: (210) 368-8300

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Valley Homes, # 060147

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

As a Resident's Council, you are only eligible to comment on the property you occupy, meaning that you would have to be commenting about the rehabilitation or re-building of your own development. Submit evidence that the site of the new Orchard Valley Homes Development will be included in the



**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

boundaries of the existing Centerpoint Resident Council property.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by May 15.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS &amp; COUNSELORS AT LAW

ONE MEADOWS BUILDING

5005 GREENVILLE AVENUE, SUITE 200

DALLAS, TEXAS 75206

(214) 368-8300

SHANNON PRITCHARD  
Attorney  
spritchard@johnhcarney.com

DIRECT TEL. (214) 365-4415  
FACSIMILE (214) 363-9979  
WWW.LEGALADVISORS.COM

May 15, 2006

*Via Fax 800-733-5120*

Ms. Robbye Meyer  
Texas Department of Housing  
and Community Affairs  
221 E. 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78711

RE: Centerpoint Residents' Council, Deficiency Notice dated May 4, 2006  
QCP #060144; QCP #060143, QCP #060147, QCP #060049

Dear Ms. Meyer:

In response to the notice of administrative deficiency for the referenced QCP letters, please find our responses including enclosure:

Item Number One:

Notwithstanding the registered name of this organization, the Centerpoint Residents' Council functions as a neighborhood association. A letter confirming this from the President of the organization is attached. This group had met early and often to ensure their input. The members of the Centerpoint Residents' Council see themselves as an association of home-buying families and as such, consider themselves to have the same rights to comment on new development that impacts their community as any other organization of single-family neighborhoods in this state.

The proposed development #060144 is an expansion and addition of the existing Centerpoint Neighborhood that this Council represents. This proposed development includes new homes for the rent-to-own program and a community center. Clearly, these new homes and the community center would be included in the boundaries of the Residents' Council.

Proposed developments #060143 and #060147, Sun Valley and Orchard Valley Homes, are new construction of single-family homes that are adjacent to the Centerpoint project and within the Council's registered boundaries. The Centerpoint Residents' Council is in favor of these projects, as they will positively impact the growth of this area into vital, secure neighborhoods.

The proposed development #060049, the Los Milagros Apartments, is not a single-family home development and is immediately adjacent to the Centerpoint project. The members of the Council feel strongly that to allow this project to go forward will negatively impact their neighborhood. This proposed new construction is within the Council's boundaries.

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## Legal Issue:

The enabling legislation for QCP does not permit the scoring limitations you are attempting to place on our group. We are a neighborhood organization and therefore should be scored for all those purposes within our properly identified boundaries. The Attorney General has previously determined the board does not have the authority to change the legislation scoring criteria. By attempting to limit our neighborhood organization's area of comment to something other than our duly adopted boundaries is not consistent with the legislation passed for scoring these letters for ACP. Furthermore, to deny us this ability to comment on development that impacts the integrity and value of our community is unequal treatment under the law.

We believe our information as submitted meets the requirement intended in the QAP and the department submission material. We believe our letters should be scored for all purposes.

Sincerely,



Shannon Pritchard  
Attorney, Centerpoint Residents'  
Council

SP  
Enclosure

CENTERPOINT RESIDENT COUNCIL  
3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

Ms. Jennifer Joyce  
TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

May 5, 2006

RE: Centerpointe Neighborhood Organization

Dear Jennifer:

This letter confirms the following for our organization:

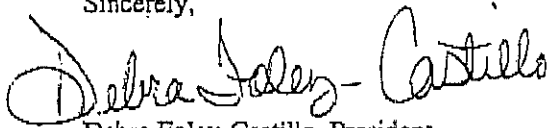
1. We are all single family homes in a single family sub division. The renters in the homes owned as public housing will participate in a home ownership program. We expect to own these homes at the end the public housing rental period.
2. The definition of our organization is no longer solely a resident's council but a neighborhood association. Our group met several times to discuss the developments we have opposed and those we supported. We changed our organization structure to meet the TDHCA requirement for public comment on all new development within our boundaries. As we discussed among our members, our groups map and organization was specifically amended to comply with your 2006 rules for public comment. We maintained the name of our organization to insure our continued recognition of organization as on record with Hidalgo County.
3. We are on record with the County and have had our opposition to Los Milagros scored in the previous year. We amended our organization in a manner necessary to have input into the TDHCA process as part of formulating our position of opposition and our positions of support. We transformed our group to a neighborhood association to accomplish this goal.
4. Any new single family homes built in our neighborhood boundaries are eligible for membership in our organization. Either the renter occupant or the owner occupant.
5. Your description of our group to limit our ability to comment on any development without neighborhood boundaries does not fit our sub division or our organization as amended by the membership. We are a neighborhood association, a sub division of single family homes. The project description involving demolition and new construction or rehabilitation applies to other types of developments, like the apartments we oppose, they are not a description of our situation.

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We conducted our meetings and membership votes around the entire premise of altering our boundaries and organization in whatever manner was needed to meet all the 2006 requirements to the best of our ability.

We hope and expect our letters to be considered and scored in this application round for Centerpoint, Sun Valley, Orchard Valley and Los Milagros.

Sincerely,

A handwritten signature in cursive script that reads "Debra Foley-Castillo". The signature is written in dark ink and is positioned above the printed name.

Debra Foley-Castillo, President

**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW

ONE MEADOWS BUILDING

5005 GREENVILLE AVENUE, SUITE 200

DALLAS, TEXAS 75206

TELE. (214) 368-8300

FAX (214) 363-9979

**FACSIMILE TRANSMITTAL SHEET**

This fax is being transmitted on a Sharp FO-DC600. If you do not receive this transmission in its entirety, please call our Receptionist at the telephone number listed above.

PAGE COUNT: 5

TO: Sharon Gamble

FACSIMILE: 800-733-5120

COMPANY: TDHCA

TELEPHONE: 512-475-4610

FROM: Shannon Pritchard

DATE: May 15, 2006

REF: Centerpoint Residents' Council's response to Def. Ltr #2, QCP #'s 060144, 060143, 060147 & 060049

COMMENTS: Original will not follow.

**IMPORTANT**

The materials transmitted by this facsimile are sent by an attorney or his/her agent, and are considered confidential and are intended only for the use of the individual or entity named. If the addressee is a client, these materials may also be subject to applicable privileges. If the recipient of these materials is not the addressee, or the employee or agent responsible for the delivery of these materials to the addressee, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us at (214) 368-8300 (collect) and return the transmitted materials to us at the above address via the U.S. Postal Service. We will reimburse you any costs incurred in connection with this erroneous transmission and your return of these materials. Thank you.

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TRANSMISSION VERIFICATION REPORT

TIME : 05/04/2006 19:05  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	05/04 19:04
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DURATION	00:01:12
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MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Debra Foley-Castillo  
President  
Centerpoint Resident Council  
3521 Diamond  
Weslaco, Texas 78596

Organization Fax: (956) 565-6005      Organization Email:

Second Contact:

Shannon Pritchard

Second Contact Fax: (214) 363-9979      Second Contact Email: spritchard@johncarney.com

Second Contact Phone: (210) 368-8300

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Centerpoint Home Ownership, # 060144, 143, 147, 049 (8 pages)

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the OAP, the Department may request that you provide additional information or documentation that it deems

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**Sharon Gamble**

---

**From:** Sharon Gamble  
**Sent:** Thursday, May 04, 2006 7:18 PM  
**To:** 'Shannon Pritchard'  
**Subject:** QCP Deficiency Letters #060049, 060143, 060144, and 060147

Here are soft copies of the four notices I faxed to you earlier. I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday. Please reply to this email as soon as you get it as confirmation of receipt.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

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**Jennifer Joyce**

**From:** Jennifer Joyce  
**Sent:** Wednesday, May 03, 2006 2:55 PM  
**To:** 'Shannon Pritchard'  
**Cc:** Sharon Gamble; 'Kevin Hamby'  
**Subject:** Centerpoint Resident's Council

*Safe w/  
Ms. Pritchard  
We'd issue def. letter  
to me now. She agreed (after  
discussing rule) that alt  
but do it if they were not alt  
as development (resident council)*

Ms. Pritchard,

We still have some issues with the boundary problems in the letters submitted by Centerpoint Resident's Council. This may seem like a technicality to you, but it is important that we ensure that all documentation possibly needed is requested from a neighborhood association before awarding points for QCP. Please note the following two points and answer the question below:

1. A new item added this year to the QAP says, "Neighborhood organizations' include...resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents)."
2. In the bylaws submitted for the Centerpoint Resident's Council, Article II says, "The purpose of the Council is to improve life for the residents of the **Centerpoint Development** [emphasis added]". Article III states that it's members, "...shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization..."

Question: What is the **Centerpoint Development** under Article II? Is it the area named "Centerpoint Development" in your boundaries, or is it actually the name of the housing authority property of apartments called, "Centerpoint". In reading this, do you believe that Centerpoint Resident's Council qualifies as a "Neighborhood Organization" under our rule? If so, please confirm all of the developments that Centerpoint Resident's Council represents. If the council truly does represent the entire area as described in the boundaries you submitted, please explain how and why this is allowable when the bylaws suggest the members are on a development basis.

At this time this is an informal request to quickly clear all of the deficiencies all four letters submitted. Please be sure to reply all to this statement as an explanation. As I said in my voicemail, I am out of the office from 3:30 pm today returning Monday and Sharon Gamble is out Friday.

Thank you!

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Shannon Pritchard [mailto:spritchard@johnhcarney.com]  
**Sent:** Thursday, April 20, 2006 4:58 PM  
**To:** Jennifer Joyce  
**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

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Thank you for this information, Jennifer. I just got the fax copy of the letters you sent - I will address the CenterPoint issues as well. I have had trouble reaching my client contact at CenterPoint, as she is a single mom who works a lot of hours, so this letter from your department is tremendously helpful.

Shannon Pritchard

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]

**Sent:** Thursday, April 20, 2006 4:29 PM

**To:** Shannon Pritchard

**Cc:** 'Robbye Meyer'; 'Sharon Gamble'

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

Ms. Pritchard,

No problem at all. I am very happy to hear the level of attention the organizations are giving this.

- 1) Actually, as I look at the bylaws, I see a date at the bottom that says, "Adopted 4/16/2003". This date was most likely missed by Sharon because it is small and at the bottom, which is why I am sure she asked for it. Please consider the issue of the date of the bylaws resolved. As far as the adoption of the map, your proposal sounds exactly like what we're hoping to get.
- 2) If the letter isn't on letterhead but is obviously from the county, it would be acceptable. I have accepted e-mails from the county to organizations in the past because their e-mail addresses indicate they are county entities. A letter on letterhead would definitely be acceptable.
- 3) Yes, the exact deficiency was sent to Centerpoint, and I thought you received this one as well based on the subject of your letter and since they were the same items, you were asking for both. I am faxing over both deficiencies to you now (centerpoint's was mailed because the primary contact's fax did not work. I am SO SORRY our staff missed you as the second contact. It was a data entry issue that we are resolving right now).

Please let me know if you have any questions,

Jen Joyce

Interim Manager of Multifamily Finance Production Division

Texas Department of Housing and Community Affairs

(512) 475-3995

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

**From:** Shannon Pritchard [mailto:spritchard@johnhcarney.com]

**Sent:** Thursday, April 20, 2006 3:39 PM

**To:** Jennifer Joyce

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

Ms. Joyce: Please forgive me if I came off as abrupt - I was simply frustrated in trying to get some answers prior to working all weekend to meet my deadline for my clients, who, you can imagine, are very concerned that we submit these documents appropriately. My clients at Alta Vista Senior Towers may be senior citizens, but they are very keenly concerned that this renovation project go forward and they do not want their misinterpretation of what must be presented to be the stumbling block.

At this time, I will only respond to those points that need further attention, if that is acceptable.

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#1 - As to the creation documents - The letter from TDHCA dated 4/13/06, to Margarita Sanchez, indented paragraph 1, states as follows:

"Submit evidence that the bylaws, articles, or organization documents were created on or before March 1, 2006 and that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document."

My interpretation of that statement was that we had to prove that our organization's bylaws were created prior to March 1, 2006 AND that the boundaries were part of those bylaws. In fact, Alta Vista has existed for some time, and their bylaws were created long before this year. I was told that they had incorporated the map to define the boundaries of the Association prior to March 1, 2006. In anticipation of the need to prove this had been done, I have requested they provide evidence of a resolution to amend, by incorporation of the map showing the physical boundaries of the property, the Constitution and By-Laws, which is, in effect, a creation document.

#2 - Evidence of being on record with the county - I will relay to my client the type of letter needed and the need that it be on the Hildalco County letterhead.

#3 - Is there a similar deficiency notice for CenterPoint?

Shannon Pritchard

[Shannon Pritchard]

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]

**Sent:** Thursday, April 20, 2006 2:50 PM

**To:** Sharon Gamble; Shannon Pritchard; 'Robbye Meyer'

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

In looking at this message, I think it would be more clear had I separated my statements better. Perhaps this version is more helpful so that you don't need to rely on the color coding.

Because time is an issue here, I will respond to your questions/ statements below.

YOU SAID: I am the attorney who has advised, prepared and subsequently submitted the QCP letters for both these Resident Associations and yet I was not copied on a recent request for clarification and further information for Alta Vista. I am very concerned that requests from your department may have gone to CenterPoint without my notification and the deadline to address deficiencies is rapidly approaching.

TDHCA COMMENT: I concur that we should have copied you on the deficiency as a courtesy. This is the first year we asked for a second contact in the letters and it is not required that we copy the second contact on all matters; but it is a reasonable request. In the future, we will copy you on all correspondence. However, it appears that you are aware of the deficiencies and that the neighborhood organizations are working on resolving the issue, and given that the items should not take long to obtain, I do not foresee

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this circumstance of not copying you to be an issue.

YOU SAID: I contacted Ms. Gamble via telephone at the number supplied in Ms. Meyer's letter to Alta Vista, only to get voicemail and be advised that she would not return calls UNTIL 4/24/06. That is too late.

TDHCA COMMENT: Her out of office message says to contact Jennifer Joyce (me) for all deficiency related issues pertaining to QCP, and she clearly states my telephone number.

YOU SAID: My client contact with Alta Vista is gathering the requested information regarding the creation of the Resident's Association (which dates back into the 1970's), and has requested a NEW letter from the county clerk's office, even though the date-stamped letter we submitted has been acceptable for this process in the past.

TDHCA COMMENT: I am unsure why your client is attempting to obtain creation documents. Please explain why. As it relates to the date-stamp being accepted in the past, it was determined by our general council that there needed to be evidence from the county clerk in addition to what was submitted. An e-mail, a fax or a document picked up from their office would all suffice as evidence that the organization is on record with the county as long as it simply states, "As of March 1, 2006 \_\_\_\_\_ neighborhood organization is on record with the county."

YOU SAID: As to the boundaries of the Resident Association, a map with clearly marked boundaries was attached to the by-laws themselves, which legally makes them an accepted addendum to the by-laws. They are accepted as part of the by-laws by incorporation, and is my further understanding that this method of identifying the boundaries has been acceptable to TDHCA in past years.

TDHCA COMMENT: As the legal council for these items I am sure that you have noted that the QCP requirements did change this year, and those requirements are very clearly outlined in the QCP packages on our website. The QAP and all information published for neighborhood organizations very clearly says that the QCP package MUST, "include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization." This entire requirement is new this year in the QAP.

The constitution & bylaws submitted in the package did not include an identification of the boundaries of the organization. It did, however, include a map (as required as a separate item) which includes the Development site. The maps submitted clearly were not part of the by-laws or constitution. What we need is language which was effective as of March 1, 2006 or prior which states the boundaries of the neighborhood organization (in other words, an organizational document that was not created for the purposes of QCP points such as the maps submitted.) Any organizational document will do that identifies the boundaries of the organization, it just needs to be effective on or before March 1, 2006. Note, if

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060147

**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW  
ONE MEADOWS BUILDING  
5005 GREENVILLE AVENUE, SUITE 200  
DALLAS, TEXAS 75206  
(214) 368-8300

SHANNON PRITCHARD  
Attorney  
spritchard@johnhcarney.com

DIRECT TEL (214) 365-4415  
FACSIMILE (214) 363-9979  
WWW.LEGALADVISORS.COM

April 24, 2006

*Via E-Mail & Fax*  
800-733-5120

Ms. Robbye Meyer  
Texas Department of Housing  
and Community Affairs  
221 E. 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78711

RE: Center Point Residents' Council QCP; Deficiency Notice dated April 10, 2006

Dear Ms. Meyer:

In response to the notice of administrative deficiency, please find our responses including enclosure:

Item Number One:

Enclosed please find a letter from Debra Foley-Castillo, President of the Center Point Resident Council, verifying that the Council considers the map submitted with their QCP packet to be part of their organizational records, and that these boundaries were established prior to March 1, 2006.

Item Number Two:

Enclosed please find a letter from the Office of the County Judge Ramon Garcia, County of Hidalgo, confirming that the Center Point Residents' Council was on record with Hidalgo County as of February, 2005. Additionally, we respectfully suggest that the State must consider the letter from the Council asking for registration with the County, which is both file stamped and initialed by County personnel, to be adequate evidence of registration with the County, notwithstanding the letter from Judge Garcia.

It is my understanding that the Department scored this Council's letter in opposition to Los Milagros last year, with only the file-stamped letter from the county as proof of registration. It is my further understanding that no new registration or new evidence of registration is required.

Furthermore, we believe the boundary and registration information as submitted meets the spirit, if not the letter, of the requirement of the QAP.

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If you need additional information please do not hesitate to contact me. Please make note this material applies to the Sun Valley, Orchard Valley and Los Milagros applications, for which the Center Point Residents' Council also provided QCP letters to your agency.

Sincerely,



Shannon Pritchard  
Attorney, Center Point Resident's  
Council

SP  
Enclosure



CENTERPOINT RESIDENT COUNCIL  
3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

Ms. Robbye Meyer  
TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: QCP Notice on Centerpointe

Dear TDHCA:

This letter hereby confirms that the boundary map provided in our QCP packet with the organization documents is the established boundary of the organization. It was the established boundary prior to March 1, 2006. They are part of our organizational records.

Sincerely,



Debra Foley-Castillo, President



OFFICE OF THE COUNTY JUDGE  
County Of Hidalgo

RAMON GARCIA  
County Judge

Centerpointe Residents' Council  
3521 Diamond  
Weslaco, TX 78596

April 20, 2006

RE: Centerpointe Residents' Council file stamped letter

Dear Centerpointe Residents' Council:

Per your request, we hereby confirm that the resident's council for the Centerpointe sub-division was filed with Hidalgo County in February 2005. Your registration letter was filed stamped on that date, a copy of which is attached. This letter confirms that registration is on record with Hidalgo County as of that date.

Sincerely,

Ramon Garcia  
Hidalgo County Judge

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**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW

ONE MEADOWS BUILDING

5005 GREENVILLE AVENUE, SUITE 200

DALLAS, TEXAS 75206

TELE. (214) 368-8300

FAX (214) 363-9979

**FACSIMILE TRANSMITTAL SHEET**

This fax is being transmitted on a Sharp FO-DC600. If you do not receive this transmission in its entirety, please call our Receptionist at the telephone number listed above.

PAGE COUNT: 5

TO: Sharon Gamble

FACSIMILE: 800-733-5120

COMPANY: TX Dept. of Housing & Com. Affairs TELEPHONE: 512-475-3995

FROM: Shannon Pritchard

DATE: April 24, 2006

REF: Center Point Residents' Council QCP; Response to Deficiency Notice dated April 10, 2006.

COMMENTS: Original will not follow, but submission via e-mail will follow.

**IMPORTANT**

The materials transmitted by this facsimile are sent by an attorney or his/her agent, and are considered confidential and are intended only for the use of the individual or entity named. If the addressee is a client, these materials may also be subject to applicable privileges. If the recipient of these materials is not the addressee, or the employee or agent responsible for the delivery of these materials to the addressee, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us at (214) 368-8300 (collect) and return the transmitted materials to us at the above address via the U.S. Postal Service. We will reimburse you any costs incurred in connection with this erroneous transmission and your return of these materials. Thank you.

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MAILED



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 13, 2006

Debra Foley-Castillo  
President  
Centerpoint Resident Council  
3521 Diamond  
Weslaco, Texas 78596

*n/c/ack*

Organization Fax: (956) 565-6005      Organization Email:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Valley Homes, # 060147

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

✓ The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. According to §50.9(i)(2)(A)(viii) of the QAP, your bylaws must "at a minimum, identify the boundaries of the organization, ..." Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document.

✓ The date-stamped letter you submitted is not sufficient evidence to prove that your organization was on record with the county as of March 1, 2006. In accordance with §50.9(i)(2)(A)(v) of the QAP, submit evidence that the organization was registered with the Secretary of State or the county in which the development is to be located on or before March 1, 2006. Evidence from the county may include a letter written on county letterhead and signed by a representative of the county clerk's office and must include the registration date of the information and that the county considers the organization to be on

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

record.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by April 24.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

**Robbye Meyer**

---

**From:** Shannon Pritchard [spritchard@johnhcarney.com]  
**Sent:** Friday, March 31, 2006 4:31 PM  
**To:** jennifer.joyce@tdhca.state.tx.us; robbye.meyer@tdhca.state.tx.us;  
brooke.boston@tdhca.state.tx.us  
**Subject:** Orchard Valley Homes, QCP #060147

Attached please find the QCP packet for Orchard Valley Homes, QCP #060147. The original to follow via Federal Express, and one was also faxed.

<<Orchard Valley.pdf>>

**Shannon Pritchard**

John H. Carney & Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206

(214) 365-4415 Direct Dial  
(214) 363-9979 Facsimile  
[www.LegalAdvisors.com](http://www.LegalAdvisors.com)

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4/3/2006

**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: ORCHARD VALLEY HOMES Dev. Number: 060147  
 Organization Name: CENTERPOINT RESIDENT COUNCIL Date Letter Received: 3/31/06  
 Reviewer Name: S. GARRIE Date Reviewed: 4/6/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? If No, do not proceed. Letter is ineligible.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries</u> ?  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization <u>of persons living near one another</u> within the organization's defined boundaries that contain the proposed Development site and that has a <u>primary purpose of working to maintain or improve the general welfare of the neighborhood</u>. More specifically:</p> <p>"Neighborhood organizations" DO include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" DO NOT include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input checked="" type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

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**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete?

Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

DoS/STAFFING; BOUND NOT IN ONE DOC

Date deficiency letter issued: 4/13/06

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): 4/24/06

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Date deficiencies received: 4/24/06

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: 86

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
<b>FINAL SCORE (Enter from box checked above):</b>		

Has this been entered in the 2006 Database?

Yes  No

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CENTERPOINT RESIDENT COUNCIL  
3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

March 28, 2006

Mr. Bill Daly, Acting Executive Director *Via Federal Express and E-mail and Fax*  
Attn: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

Re: Quantifiable Community Participation Development #060147  
Development: Orchard Valley Homes, ETJ Mercedes, Hidalgo County, Texas  
Proposed by: Bennington, L.P.; TDHCA #060147  
Development Location: +/- 35 acres of Vacant Land, Mile 8.5 North and Mile 2  
West, ETJ Mercedes, Hidalgo County, Texas; proposed sub division

Dear Mr. Daly:

I am writing as the duly elected President of the Centerpoint Resident Council to express our Council's support for an allocation of Housing Tax credits for a planned addition of new-construction single family homes designed for rent-to-ownership in Weslaco, Texas. Centerpoint Resident Council is a qualified Neighborhood Organization as further described below.

I am also providing the following information for one additional contact, Ms. Shannon Pritchard, for our organization:

Shannon S. Pritchard, Attorney at Law  
John H. Carney & Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206  
214-368-8300 Telephone  
214-363-9979 Facsimile

Enclosed is a map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries. Our boundaries were amended slightly from 2005 to make them more easily identifiable to all members of the organization and the community. Those boundaries are: E. Expressway 83 to the South; North Airport Drive to the West; Mile 2 Road W to the East and Mile 9 Road N to the North. These boundaries are clearly noted on the map attached to the organization's documentation. This organization is an organization of persons living near one another within the organization's defined boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are our bylaws

*Same as 660147*

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and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization. The organization has 58 members and four officers, President, Vice President, Treasurer and Secretary. The organization reached its decision to support the proposed development by holding a series of informal meetings that culminated with a formal meeting on Friday, March 24, 2006, wherein those present voted in support of the development.

This organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit Application Round. The organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application round. The Applicant has not provided any "production" assistance for any application in the Application Round

Our organization supports the development for many reasons including:

1. It is specifically designated to serve the needs of Hidalgo County families with children. There is a well-recognized need for decent, safe and affordable housing in our area.
2. The project is planned to provide 36 three-bedroom two-bath homes with garages, which will benefit the entire RGV community. We prefer this single-family home approach over standard apartments in our area.
3. The homes and their resident families will add diversity to our community because it serves a mixed range of incomes. These will range, according to our information, from 30% of area median income to 60% of area median income.
4. Many of these homes will serve public housing residents currently living in apartments in our area. This brings added stability to our community.
5. It is our belief that our area has many apartment units and more would serve as an over concentration in our immediate area. Given the choice, we think single family homes for the same rent are better than apartments for the same rent.
6. We are very supportive of the resident's opportunity to own these homes at the end of the 15 year rental period. This is a valuable option for these families that makes sure they treat the houses like they own them even during the rental period.
7. Based upon the presentation of the developer, many of these homes will be fully equipped for special needs and disabled persons. We support the development for their efforts to provide single family homes that serve the needs of persons with disabilities.

Sincerely,



Debra Foley-Castillo, President

Telephone number (956) 565-6005

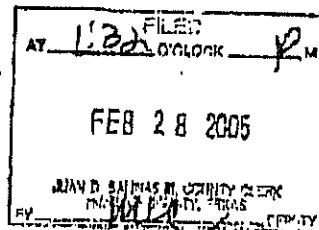
**CENTERPOINT RESIDENTS' COUNCIL OFFICERS**

Debra L. Foley-Castillo 3718 Diamond Weslaco, TX 78596	President 956-565-6005
Pedro Medrano 3605 Diamond Weslaco, TX 78596	Vice President
Idalia Cruz 3601 Diamond Weslaco, TX 78596	Secretary
Angie Serna 3522 Diamond Weslaco, TX 78596	Treasurer

**CENTERPOINT RESIDENT COUNCIL  
3718 DIAMOND BOULEVARD  
WESLACO, TEXAS 78596**

February 26, 2005

Mr. J.D. Salinas  
Hidalgo County Clerk  
Hidalgo County Courthouse  
100 North Closer  
Edinburg, Texas 78539



RE: Registration of Neighborhood Organization

Dear Mr. Salinas:

The Centerpoint Resident Council hereby requests that our neighborhood organization be registered in Hidalgo County. Please register the Centerpoint Resident Council by file stamping this request letter.

Thank you.

Sincerely,

*David Morari*

David Morari, Sr.  
Vice-President

## BYLAWS FOR THE CENTERPOINT RESIDENT COUNCIL

## ARTICLE I.

Name:

The name of this organization is the Centerpoint Resident Council (hereinafter referred to as the "Council"). It is a not-for-profit organization constituted and established under the laws of the State of Texas.

The registered address of the Council is at 303 W. 6th Street, Weslaco, Texas, 78596. The Council may also have offices at other such locations as the Executive Committee may from time to time determine.

## ARTICLE II.

Purpose.

The purpose of the Council is to improve life for the residents of the Centerpoint Development. In specific, the purpose of the Council shall be to:

1. maintain a viable resident organization representative of the residents who elected its officers and Executive Committee.
2. assure adequate maintenance of all units and common areas.
3. provide maximum employment and training opportunities.
4. establish and maintain courtesy patrols and public safety programs.
5. promote programs which will provide improved educational, recreational and social service opportunities.
6. inform residents of their rights and responsibilities under existing federal, state and local law, as well as under the Corporation's By-Laws.
7. receive official recognition from the Housing Authority and HUD as a resident council pursuant to the HUD regulations.
8. institute economic development programs for residents.
9. advise and assist the Housing Authority in all aspects of public housing operations.
10. cooperate with other resident councils under the Housing Authority's jurisdiction in representing the interests of all residents.

ARTICLE III.

The participation of members of the organization is crucial for its success. Members can take part in decision-making in many ways. Democratic election of the officers of the organization are an important responsibility of members.

Membership.

Membership in the organization shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization who is at least eighteen (18) years of age.

Voting Eligibility.

The eligible voting membership includes all residents at least eighteen (18) years of age whose names appear on the lease of a unit in the public housing development(s) represented by the organization. A leaseholder may vote regardless of age.

ARTICLE IV.

Meetings are the most important means of conducting the business of the organization. They should also provide the members an opportunity to understand the activities of the organization and the basis for its decisions. A published, regular schedule of meetings is, therefore, crucial to the overall success of the organization.

Meetings:

1. Frequency. Regular Council meetings shall be held not less than once a month, and shall be open to all residents.
2. Notices. Notice of all regular monthly meetings, together with an agenda of the meeting, shall be posted in a regular location and be provided to residents, in writing, at least five (5) days in advance of the meetings.
3. Meeting Place/Time Meetings shall be held at such place and time as shall be specified in the notice of the meeting. A regular schedule (e.g. each second Tuesday of each month) and regular location are advisable.
4. Special Meetings The President or any three (3) officers may at any time call a Special Meeting, provided that the written notice, including agenda, is given at least forty-eight (48) hours prior to the meeting.

5. Quorum

At any Council meeting, three-fourths of the officers of the Council shall be necessary and sufficient to constitute a quorum.

6. Attendance

Each time a member of the Executive Committee appears at a regular or special meeting, a record of the presence of that officer shall be placed in the minutes of the meeting. The board may request that a record of all those attending the meeting be recorded as well.

Any officer who misses three (3) meetings of the Council with an excuse satisfactory to the Executive Committee may be removed by the affirmative votes of a majority of the Committee present. Written notice and a hearing shall be given to the Committee members of the proposed removal.

7. Voting by Officers

Each member of the Executive Committee present at a meeting shall be entitled to cast one (1) vote on any subject for which a determination is presented for consideration.

ARTICLE V.

Executive Committee members (officers) have a formal, legal responsibility to manage the affairs of the organization, to conduct its business and to consult with and inform the residents.

Officers:

1. Title and Qualifications:

a. President

The President of the Council shall preside at all meetings of the organization, and shall have such other powers and duties consistent with these by-laws.

b. Vice-President

The Vice-President shall perform all duties in the absence of the President.

c. Secretary

The Secretary shall be the custodian of all records and documents of the Council and perform all other duties consistent with these by-laws.

d. Treasurer

The Treasurer shall have the care of, receive and give receipt for monies due and payable to the Council and deposit all monies received by him/her in the name of the council in such banks, trust companies or other depositories as may be designated by the Executive Committee.



BYLAWS/CENTERPOINT "COUNCIL" . . .

- 2. Term of Office      All officers shall be elected by the general resident population of the Centerpoint Development, and shall hold office for a period of one (1) year.
- 3. Resignations      Any officer may resign at any time by delivering a written resignation to the Executive Committee.
- 4. Removal      Any officer may be removed at any time, for just cause, by a vote of the majority of the Executive Committee.  
  
Any officer who misses three (3) meetings of the Council with an excuse satisfactory to the Executive Committee may be removed by the affirmative votes of a majority of the Committee present. Written notice and a hearing shall be given to the Committee members of the proposed removal.
- 5. Vacancies      Any vacancy in any office may be filled for the unexpired portion of the term by a decision of the Executive Committee.

ARTICLE VI

Elections.

- 1. Frequency. All procedures must assure fair and frequent elections (at least once every year).
- 2. Terms. The terms for all officers is one (1) year.
- 3. Notice. Description of election and recall procedures, eligibility requirements and dates of nominations and elections must be given to all voting members at least 30 days prior to nomination and election.
- 4. Recall. Any elected officer of the council may be recalled by a vote for removal by a majority of voting members. A recall election must be promptly conducted when a petition requesting such an election is received from not less than ten percent (10%) of the voting membership. All procedures for petitioning for a recall election shall be provided to voters for their inspection and must be included in the By-Laws.
- 5. Monitoring. The Westaco Housing Authority shall monitor the activities of the Resident Council, including the election process. Additionally, it shall establish a procedure to appeal any adverse action relating to failure to conform to HUD's minimum standards. Such appeal shall be submitted to a jointly selected third-party arbitrator at the local level. If costs are incurred by using a third-party arbitrator, then such costs shall be covered by the Housing Authority's resident services funds, pursuant to 24 CFR 964.150.

54

ARTICLE VII

Committees:

There shall be such Board Committees as the Executive Committee may, from time to time, determine to be desirable. Committees shall initially be appointed by the President, with advice and consent of the Executive Committee.

1. Standing Committees. These committees are usually chaired by an officer of the Executive Committee.
2. "Ad Hoc" Committees. An "ad hoc" committee serves a special purpose and continues for a limited period of time.

ARTICLE VIII

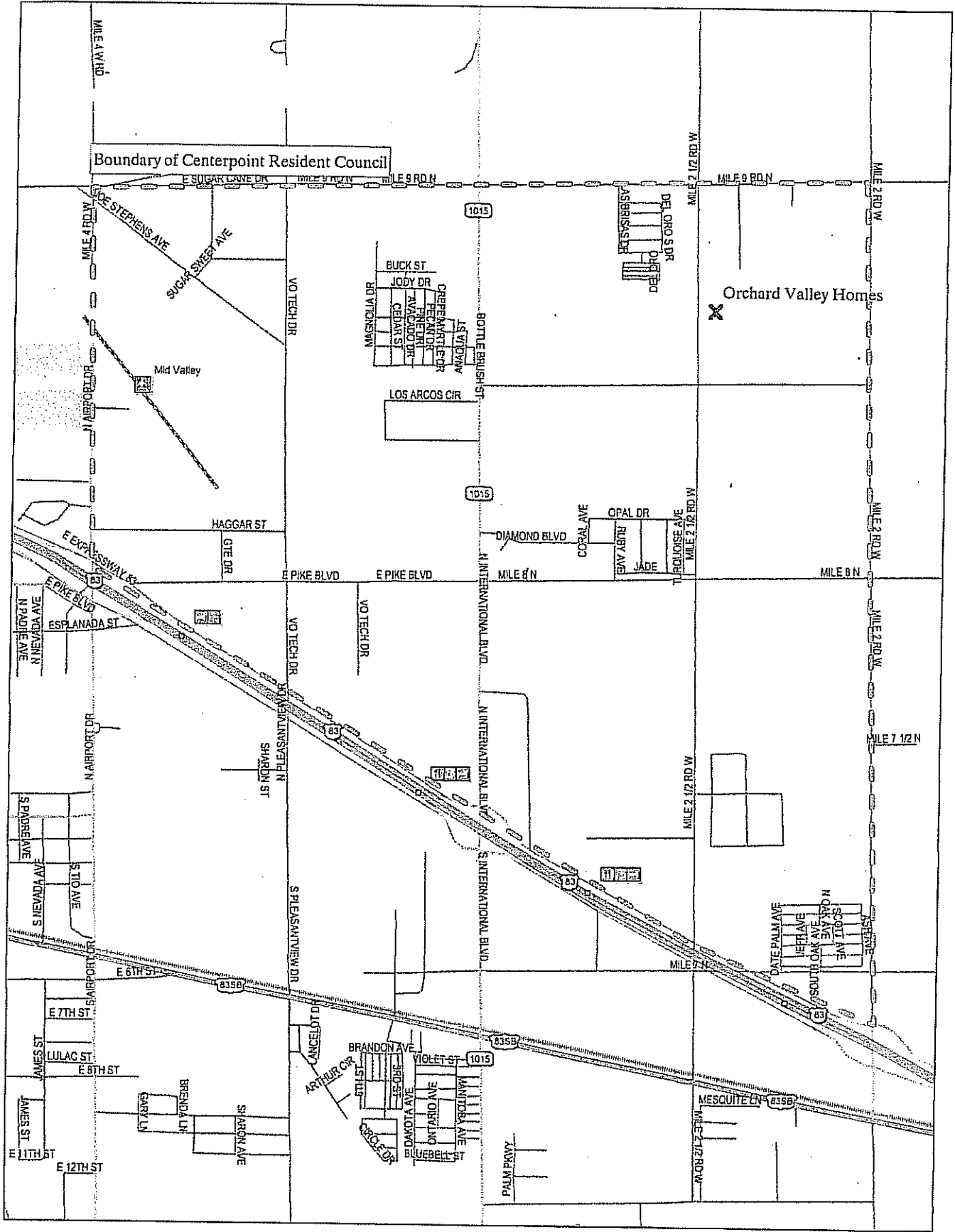
Fiscal Affairs.

Deposit of Funds All funds of the council not otherwise expended, shall be promptly deposited in such banks, trust companies, credit unions or other reliable and insured depositories as the Executive Committee shall determine.

Checks All checks, drafts, endorsements, notes and evidence of debt shall be signed by at least two (2) officers as the Executive Committee may authorize.

Loans No loans or advances or promises of payment shall be contracted or accepted on behalf of, or in the name of the Council, except those contracts authorized by the Executive Committee.

Contracts An officer authorized by the board of directors may, in the name and on behalf of the Council, enter into contracts which are authorized by the Executive Committee.







THE ENCINAS GROUP

A CALIFORNIA CORPORATION

1830 TRUXTON AVENUE, #206  
BAKERSFIELD, CA 93301  
661-328-0003  
FACSIMILE 661-328-0005

RECEIVED

MAY 8 2006

LIHTC

May 4, 2006

Mr. Bill Daly, Acting Executive Director  
Attn: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2401

*Note  
Rescinded  
May 8, 06  
JW*

Re: Quantifiable Community Participation Development  
CenterPoint Resident Council

Dear Mr. Daly;

I am writing regarding the Quantifiable Community Participation Development letters submitted by Centerpoint Resident Council for TDHCA Developments #060143, #060144, #060147 and #060049.

The Centerpoint Resident Council states it is a qualified Neighborhood. I would like to question the organizations statement that it is a Qualified Neighborhood Organization for the following reason.

The 2006 Housing Tax Credit Program Qualified Allocation Plan and Rules with Amendments (QAP) states in Section 50.9(i)(2)(A)(iv) "A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/New Construction of the property occupied by the residents)."

The by-laws of the Centerpoint Resident Council executed in 2006 clearly state that the organization is a "Resident Council".

The by-laws of the Centerpoint Resident Council also state that the "purpose of the Council is to improve life for the residents of the Centerpoint Development".

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Further, the by-laws state "Membership in the organization shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization who is at least eighteen (18) years of age."

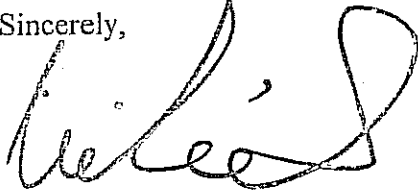
Based on the above info the Centerpoint Resident Council is a "Resident Council" and a valid Neighborhood Organization "only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/New Construction of the property occupied by the residents."

The applications submitted for TDHCA Development #060143 – Sun Valley Homes, #060144 – Centerpoint Home Ownership, #060147 – Orchard Valley Homes and #060049 are not applications for Rehabilitation or demolition with New Construction of the property occupied by the residents. The applications are for a new construction projects.

Therefore, I ask that TDHCA not award points to Applications #060143 – Sun Valley Homes, #060144 – Centerpoint Home Ownership, #060147 – Orchard Valley Homes and #060049 for Quantifiable Community Participation.

I also request that you provide me with the results of your review of the Centerpoint Resident Council and the reasons for your determination.

Sincerely,



William Encinas

cc: Brooke Boston, Interim Deputy Executive Director

**Jennifer Joyce**

---

**From:** Bob Joy [bjoy@teg-sd.com]  
**Sent:** Monday, May 08, 2006 10:10 AM  
**To:** 'Jennifer Joyce'  
**Cc:** 'Brooke Boston'  
**Subject:** RE: Resident Councils

Thank you for the information. I certainly don't want to challenge anything that isn't an issue. Therefore, I wish to rescind my inquiry. However, the inquiries were sent by Fedex to Brooke Boston and Bill Daly so you will need to pull those when they arrive. Thank you again.

---

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]  
**Sent:** Monday, May 08, 2006 8:03 AM  
**To:** 'Bob Joy'  
**Cc:** 'William Encinas'; 'Robbye Meyer'; 'Brooke Boston'  
**Subject:** RE: Resident Councils

Bob,

We are aware of the resident council issues and are handling the issue here in office as we review the letters for scoring. Unless you rescind your inquiry, I will handle this as a "Challenge" under §50.17(c) of the QAP.

However, you may wish to hold off your challenge until after we have posted all eligible letters and their subsequent scores. Please advise.

Please let me know if you have any questions,

Jen Joyce  
 Interim Manager of Multifamily Finance Production Division  
 Texas Department of Housing and Community Affairs  
 (512) 475-3995

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

**From:** Bob Joy [mailto:bjoy@teg-sd.com]  
**Sent:** Friday, May 05, 2006 10:53 AM  
**To:** 'Brooke Boston'; 'Jennifer Joyce'  
**Cc:** 'William Encinas'  
**Subject:** Resident Councils

Attached are three letters that are being send to Mr. Bill Daly and Ms. Brooke Boston from Bill Encinas. The letters and any backup will arrive on Monday. However, I wanted to provide you with advance notice of the content.

The letters point out that three Resident Councils (Sunset Terrace Resident Association, Las Milpas Resident Council and Centerpoint Resident Council) have submitted letters of support or opposition for projects in Region 11 in 2006. Due to the fact they are resident councils and the projects are not rehabilitation or demolition with new construction of the property where the residents reside they do not qualify as Neighborhood Organizations as defined by the 2006 QAP. Therefore, the letters from these Resident Councils should not be scored for the 2006 allocation.

If you have any questions feel free to contact me at 213-392-5899. Thank you for your consideration.

60

**060144**

**Centerpoint**

**Home Ownership**



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Centerpoint Home Ownership- 060144**

By April 3, 2006, the Department received a letter from the Centerpoint Resident Council requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) and outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which they were providing comment on. They currently reside in Centerpoint single family housing development, and according to them the proposed development, Centerpoint, would become part of their organization when built.

Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization.

The applicant is appealing the eligibility of the letter based on five assertions. (1) The applicant asserts that the members of the neighborhood organization do not live in apartments, but rather in single family homes. The applicant further asserts that the proposed development will be constructed on lots that are part of an existing subdivision that houses the members of the resident council and that the entire subdivision constitutes the development for purposes of the council's boundaries. (2) The applicant asserts that the QAP requirement that the resident council only comment on the property occupied by the residents automatically denies residents of single family homes the ability to comment on a proposed development within the nearby area. (3) The applicant asserts that the development includes demolition and new construction. (4) The applicant asserts that the QAP restricts the definition of a neighborhood organization beyond Section 2306.6705(9)(A) and that Section 50.9(i)(2)(A)(iv) of the QAP is therefore invalid with respect to resident councils. (5) The applicant asserts that the QAP excludes resident councils from the QCP process, thereby violating the provisions of the Fair Housing Act.

- (1) The applicant asserts that the members of the neighborhood organization do not live in apartments, but rather in single family homes. You further assert that the proposed development will be constructed on lots that are part of an existing subdivision that houses the members of the resident council and that the entire subdivision constitutes the development for purposes of the council's boundaries.

Response: The QAP is explicit that the resident council may not comment on any development not proposing demolition or rehabilitation of the property occupied by the residents. The fact that the council's members live in single family homes adjacent to the proposed new construction is no different than an existing apartment complex commenting on the new construction of a second phase of the development. In either scenario, the QCP letter would be ineligible.

- (2) The applicant asserts that the QAP requirement that the resident council only comment on the property occupied by the residents automatically denies residents of single family homes the ability to comment on a proposed development within the nearby area.

Response: See response #1.

- (3) The applicant asserts that the development includes demolition and new construction because they are demolishing a playground and storage building.

Response: §50.9(i)(2)(A)(iv) of the QAP specifically precludes residents councils from qualifying as a "neighborhood association" unless the letter is relating to an application that is proposed for, "...Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents [emphasis added]." It is clear that the council is not commenting on the demolition of playground facilities. The letter from Centerpoint submitted to the Department specifically states that the council supports the "new construction single family homes".

2

- (4) The applicant asserts that the QAP restricts the definition of a neighborhood organization beyond Section 2306.6705(9)(A) and that Section 50.9(i)(2)(A)(iv) of the QAP is therefore invalid with respect to resident councils.

Response: QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

- (5) The applicant asserts no reason is given for denying resident councils the right to comment upon the proposed affordable housing developments in the area.

Response: It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by HUD, which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

- (6) The applicant asserts that the QAP excludes resident councils whose members are public housing tenants from the QCP process, thereby violating the provisions under §816 of the Fair Housing Act.

Response: The QAP does not specifically restrict resident councils to those owned and operated by HUD whose members are public housing tenants.

- (7) The applicant asserts that 4 Units will be replacing previously demolished units.

Response: No evidence substantiating this assertion was submitted in the application, appeal or QCP deficiency responses.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Riverdale, L.P.
Site Location:	Ruby Ave. and Mile 8 N.
City/County:	Weslaco/ Hidalgo County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Family

3

Region: 11  
Type of Development: New Construction/Acquisition  
Units: 36  
Credits Requested: \$538,018

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

4

## Resident Councils

### §50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;
- (iv) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents); "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."
- (v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. ...If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"...the organization will not be considered on record with the state... As an option to be considered on record with the state...must be received by the Department no later than March 1, 2006...
- (vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).
- (vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...
- (viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.
- (ix) The boundaries in effect for the organization on March 1, 2006...Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...
- (x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

- (i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.
- (ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.
- (iii) In general, letters that meet the requirements of this paragraph and
  - (I) establish three or more reasons for support...( +24 points) or opposition (zero);
  - (II) establish two reasons...+18 points for support...
  - (III) establish one reason for support ... +13 points for support...;
  - (IV) that do not establish a reason...neutral (+12 points).
- (iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.

# Board Appeal

6

ODYSSEY RESIDENTIAL HOLDINGS, L.P.  
5420 LBJ FREEWAY, SUITE 1235  
TWO LINCOLN CENTRE  
DALLAS, TX 75240  
972-701-5551  
972-701-5562 FAX

Ms. Jennifer Joyce  
Multifamily Housing Production  
TDHCA  
221 East 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78701

Board Appeal RECEIVED  
(top) JUN 1 2006  
LHTL

May 31, 2006

RE: Centerpointe Home Ownership, TDHCA #06-0144, denial of the QCP points

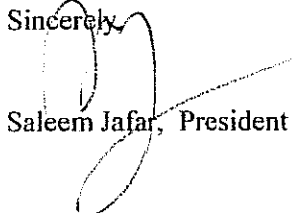
Dear Jennifer:

In follow up to your call yesterday with Mr. Fisher, I respectfully suggest the staff is missing the key issues of why the QCP letter counts for this single family home development in this platted single family sub division whether the department determines the organization to be a neighborhood organization in its fullest meaning or a resident's council with the comment restrictions. This development activity complies with the QAP under either circumstance because of the following:

1. This development to build 36 new single family homes within the existing sub-division where the existing housing stands involves demolition and new construction activity on the same site by the same development sponsor. We meet the required demolition new construction test in the QAP.
2. In the pictures already provided in the application on page 120 is a clear shot of the existing recreation facilities on several lots already owned by the housing authority and covered by the site control documentation. This entire facility is being demolished along with the under ground improvements in place on the adjacent lots to build part of the new community. This particular area will contain the clubhouse, public parking and swimming pool along with other common area amenities. All this work is duly noted in the application package including but limited to page 155 and page 403.
3. The sub-division is not entirely made up of housing authority residents participating in the public housing home ownership program. As you can see from the sub division plat attached hereto approximately +-20 of the homes and home sites are owned by third parties not affiliated with the sponsor or the developer. These home owners are part of this resident's representative organization and are not bound by the limitation for comment in the QAP. We are fully QCP supported demolition new construction development on the same site.

Before taking this to the TDHCA board on appeal, please check the application one more time to verify these facts. If you are determining we do not meet the demolition new construction criteria please be specific as to why we do not meet the requirement. If allowed under the site change rules, we will shift the Clubhouse to an existing home site and demolish one home in lieu of the existing area noted for demolition to clarify this issue. If this is passed to the TDHCA board for the appeal, please include this letter and attachments in the official record of appeal. Your consideration of our request is appreciated.

Sincerely,

  
Saleem Jafar, President of the G.P.




7

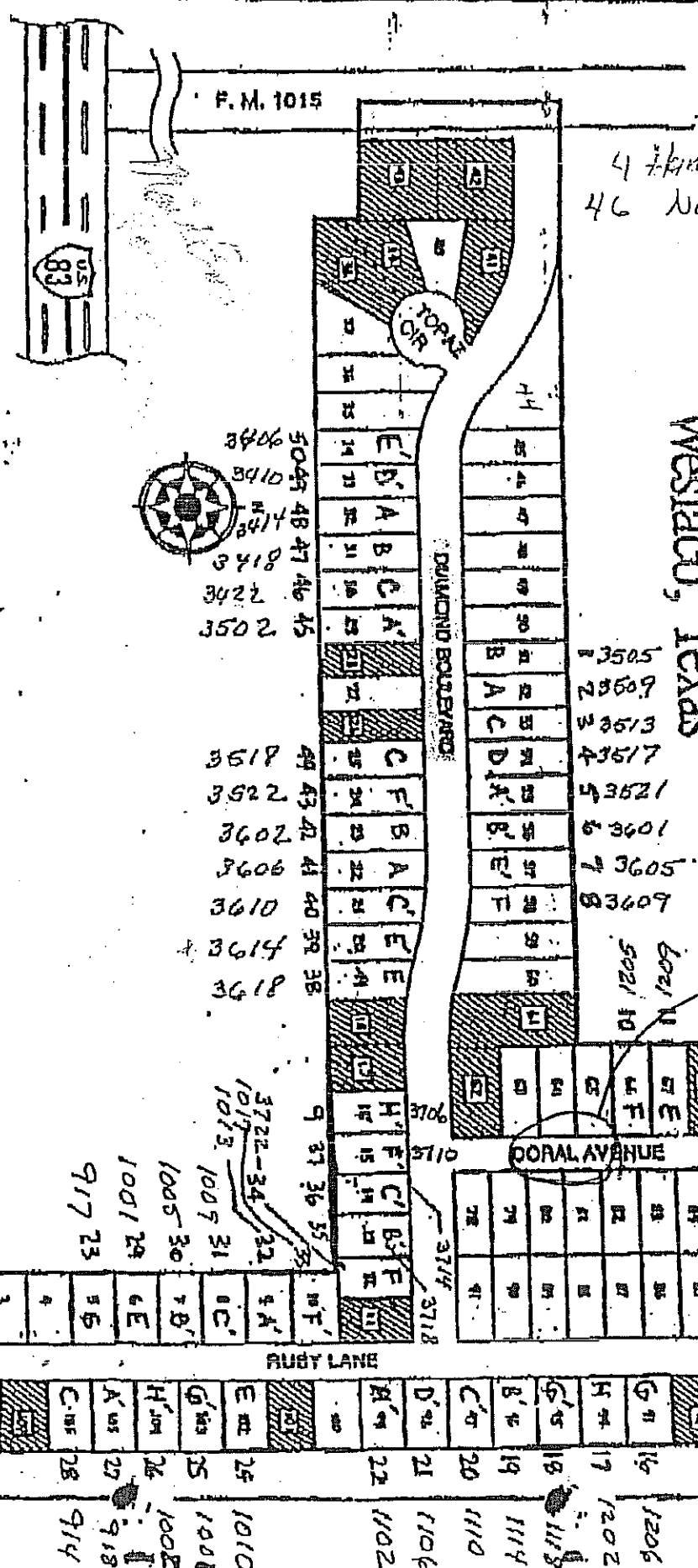
4 Handicap Units  
46 Non-Handicap Units

# CENTERPOINT

Westlaco, Texas

*Area in Question*

-  LOTS OWNED BY OTHER OWNERS
-  LOTS OWNED BY P.H.A. WHICH ARE CURRENTLY UNDER CONSTRUCTION
-  LOTS OWNED BY P.H.A. WHICH ARE AVAILABLE FOR FUTURE CONSTRUCTION

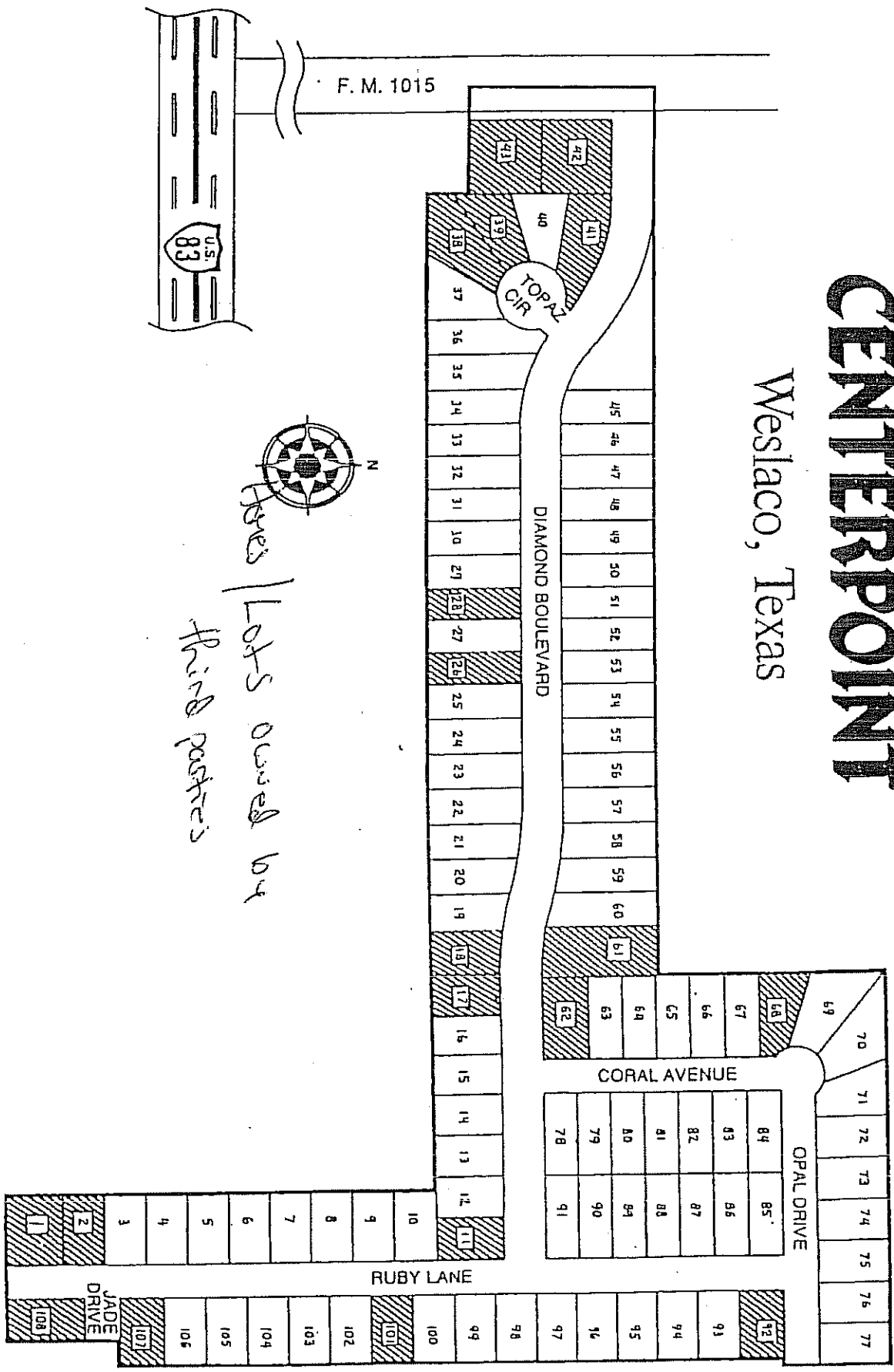


Attachment 1  
Page 6 of 7



# CENTERPOINT

Westlaco, Texas

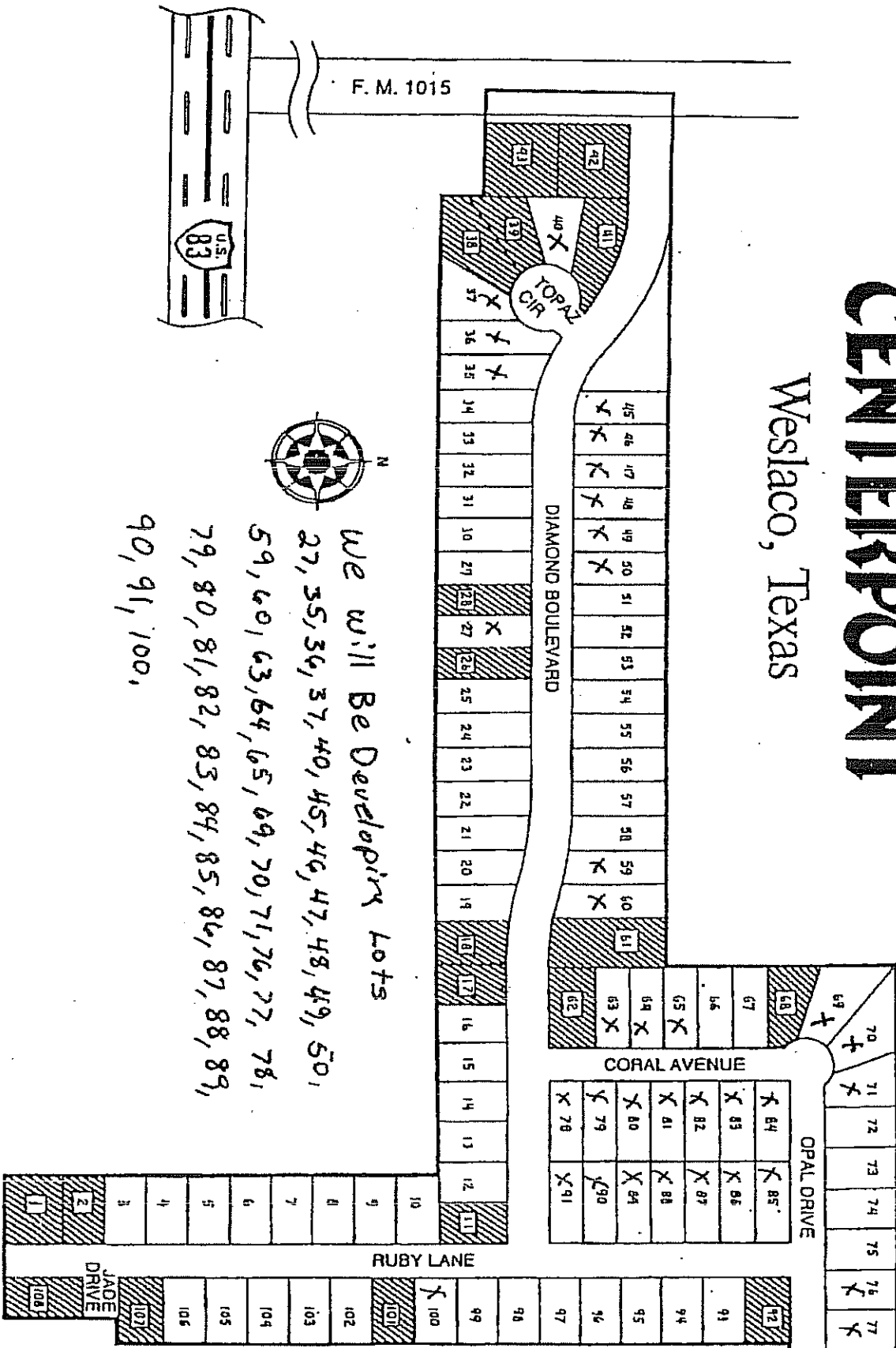


*Handwritten:* Lines / Lots owned by third parties

6

# CENTERPOINT

## Weslaco, Texas



We will Be Developing Lots

- 27, 35, 36, 37, 40, 45, 46, 47, 48, 49, 50,
- 59, 60, 63, 64, 65, 69, 70, 71, 76, 77, 78,
- 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89,
- 90, 91, 100,

Principal Settlement



*Housing Authority of the City of Weslaco*

RECEIVED

JUN 1 2006

LHCU

P. O. BOX 95  
303 W. SIXTH STREET  
WESLACO, TEXAS 78599-0095

May 31, 2006

**By Fax to (512) 469-9606**

Mr. Michael Gerber, Executive Director  
Texas Department of Housing  
and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

RE: Centerpoint Home Ownership (TDHCA # 060144) (the "Project").

Dear Mr. Gerber:

The Weslaco Housing Authority, as sponsor of the Project and on behalf of Riverdale, LP, the Applicant, hereby requests that the issue of the eligibility of the letter of support for the Project from Centerpoint Resident Council be submitted for consideration by the TDHCA Board at its June 9, 2006 meeting.

We also wish to point out that the Bylaws for the Centerpoint Resident Council (previously submitted, but also enclosed for your convenience, with maps omitted) specifically state "The purpose of the Council is to improve life for the residents of the Centerpoint Development." No distinction is made between the public housing residents and the non-public housing residents of the subdivision. The language describing eligibility for membership and voting is couched in terms of public housing tenants, but it does not limit the membership or the voting to public housing tenants. HUD regulations do not prohibit a resident council from including non-public housing members. In actuality, the non-public housing families in Centerpoint Development are participating members of the Council

Currently, Centerpoint Development includes 50 public housing homes and 19 non-public housing homes. Upon completion of the Project, there will be 54 public housing homes and 51 non-public housing homes located in Centerpoint Development. The Centerpoint Resident Council's purpose is to improve life for all of the residents of this single family home-ownership subdivision. As such, we urge the TDHCA Board to acknowledge the Council's right to provide meaningful and effective support for its residents and the Project through its letter of support. We request that the TDHCA Board award the Council's letter of support for the Project a score of 24 points.

Sincerely,

Ruben Sepulveda  
Executive Director

Enclosure



11

BYLAWS FOR THE CENTERPOINT RESIDENT COUNCIL

ARTICLE I.


Name:

The name of this organization is the Centerpoint Resident Council (hereinafter referred to as the "Council"). It is a not-for-profit organization constituted and established under the laws of the State of Texas.

The registered address of the Council is at 303 W. 6th Street, Weslaco, Texas, 78596. The Council may also have offices at other such locations as the Executive Committee may from time to time determine.

ARTICLE II.

Purpose.



The purpose of the Council is to improve life for the residents of the Centerpoint Development. In specific, the purpose of the Council shall be to:

1. maintain a viable resident organization representative of the residents who elected its officers and Executive Committee.
2. assure adequate maintenance of all units and common areas.
3. provide maximum employment and training opportunities.
4. establish and maintain courtesy patrols and public safety programs.
5. promote programs which will provide improved educational, recreational and social service opportunities.
6. inform residents of their rights and responsibilities under existing federal, state and local law, as well as under the Corporation's By-Laws.
7. receive official recognition from the Housing Authority and HUD as a resident council pursuant to the HUD regulations.
8. institute economic development programs for residents.
9. advise and assist the Housing Authority in all aspects of public housing operations.
10. cooperate with other resident councils under the Housing Authority's jurisdiction in representing the interests of all residents.

ARTICLE III.

The participation of members of the organization is crucial for its success. Members can take part in decision-making in many ways. Democratic election of the officers of the organization are an important responsibility of members.

Membership.

Membership in the organization shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization who is at least eighteen (18) years of age.

Voting Eligibility.

The eligible voting membership includes all residents at least eighteen (18) years of age whose names appear on the lease of a unit in the public housing development(s) represented by the organization. A leaseholder may vote regardless of age.

ARTICLE IV.

Meetings are the most important means of conducting the business of the organization. They should also provide the members an opportunity to understand the activities of the organization and the basis for its decisions. A published, regular schedule of meetings is, therefore, crucial to the overall success of the organization.

Meetings:

1. Frequency. Regular Council meetings shall be held not less than once a month, and shall be open to all residents.
2. Notices. Notice of all regular monthly meetings, together with an agenda of the meeting, shall be posted in a regular location and be provided to residents, in writing, at least five (5) days in advance of the meetings.
3. Meeting Place/Time Meetings shall be held at such place and time as shall be specified in the notice of the meeting. A regular schedule (e.g. each second Tuesday of each month) and regular location are advisable.
4. Special Meetings The President or any three (3) officers may at any time call a Special Meeting, provided that the written notice, including agenda, is given at least forty-eight (48) hours prior to the meeting.

⇒ \* Includes non-public housing owners & their residents

5. Quorum At any Council meeting, three/fourths of the officers of the Council shall be necessary and sufficient to constitute a quorum.
6. Attendance Each time a member of the Executive Committee appears at a regular or special meeting, a record of the presence of that officer shall be placed in the minutes of the meeting. The board may request that a record of all those attending the meeting be recorded as well.
- Any officer who misses three (3) meetings of the Council with an excuse satisfactory to the Executive Committee may be removed by the affirmative votes of a majority of the Committee present. Written notice and a hearing shall be given to the Committee members of the proposed removal.
7. Voting by Officers Each member of the Executive Committee present at a meeting shall be entitled to cast one (1) vote on any subject for which a determination is presented for consideration.

## ARTICLE V.

Executive Committee members (officers) have a formal, legal responsibility to manage the affairs of the organization, to conduct its business and to consult with and inform the residents.

Officers:

## 1. Title and Qualifications:

- a. President The President of the Council shall preside at all meetings of the organization, and shall have such other powers and duties consistent with these by-laws.
- b. Vice-President The Vice-President shall perform all duties in the absence of the President.
- c. Secretary The Secretary shall be the custodian of all records and documents of the Council and perform all other duties consistent with these by-laws.
- d. Treasurer The Treasurer shall have the care of, receive and give receipt for monies due and payable to the Council and deposit all monies received by him/her in the name of the council in such banks, trust companies or other depositories as may be designated by the Executive Committee.

2. Term of Office      All officers shall be elected by the general resident population of the Centerpoint Development, and shall hold office for a period of one (1) year.
3. Resignations      Any officer may resign at any time by delivering a written resignation to the Executive Committee.
4. Removal            Any officer may be removed at any time, for just cause, by a vote of the majority of the Executive Committee.  
  
Any officer who misses three (3) meetings of the Council with an excuse satisfactory to the Executive Committee may be removed by the affirmative votes of a majority of the Committee present. Written notice and a hearing shall be given to the Committee members of the proposed removal.
5. Vacancies          Any vacancy in any office may be filled for the unexpired portion of the term by a decision of the Executive Committee.

ARTICLE VI

Elections.

1. Frequency.      All procedures must assure fair and frequent elections (at least once every year).
2. Terms.            The terms for all officers is one (1) year.
3. Notice.            Description of election and recall procedures, eligibility requirements and dates of nominations and elections must be given to all voting members at least 30 days prior to nomination and election.
4. Recall.            Any elected officer of the council may be recalled by a vote for removal by a majority of voting members. A recall election must be promptly conducted when a petition requesting such an election is received from not less than ten percent (10%) of the voting membership. All procedures for petitioning for a recall election shall be provided to voters for their inspection and must be included in the By-Laws.
5. Monitoring.      The Waslaco Housing Authority shall monitor the activities of the Resident Council, including the election process. Additionally, it shall establish a procedure to appeal any adverse action relating to failure to conform to HUD's minimum standards. Such appeal shall be submitted to a jointly selected third-party arbitrator at the local level. If costs are incurred by using a third-party arbitrator, then such costs shall be covered by the Housing Authority's resident services funds, pursuant to 24 CFR 964.150.

## ARTICLE VII

Committees:

There shall be such Board Committees as the Executive Committee may, from time to time, determine to be desirable. Committees shall initially be appointed by the President, with advice and consent of the Executive Committee.

1. Standing Committees. These committees are usually chaired by an officer of the Executive Committee.
2. "Ad Hoc" Committees. An "ad hoc" committee serves a special purpose and continues for a limited period of time.

## ARTICLE VIII

Fiscal Affairs.

- Deposit of Funds      All funds of the council not otherwise expended, shall be promptly deposited in such banks, trust companies, credit unions or other reliable and insured depositories as the Executive Committee shall determine.
- Checks                      All checks, drafts, endorsements, notes and evidence of debt shall be signed by at least two (2) officers as the Executive Committee may authorize.
- Loans                        No loans or advances or promises of payment shall be contracted or accepted on behalf of, or in the name of the Council, except those contracts authorized by the Executive Committee.
- Contracts                 An officer authorized by the board of directors may, in the name and on behalf of the Council, enter into contracts which are authorized by the Executive Committee.



**ODYSSEY RESIDENTIAL HOLDINGS, L.P.**  
**5420 LBJ FREEWAY, SUITE 1235**  
**TWO LINCOLN CENTRE**  
**DALLAS, TX 75240**  
**972-701-5551**  
**972-701-5562 FAX**

RECEIVED  
JUN 1 2006  
LINTL

Ms. Jennifer Joyce  
Multifamily Housing Production  
TDHCA  
221 East 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78701

May 31, 2006

RE: Sun Valley and Orchard Valley Home Ownership, TDHCA #06-0143 and #06-0147, denial of the QCP points

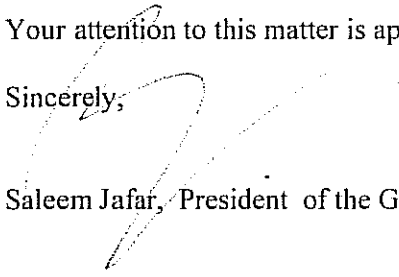
Dear Jennifer:

In follow up to your call yesterday with Mr. Fisher, this letter serves to incorporate by reference the material previously provided in appealing the QCP qualification for the Centerpointe Resident's Association in the appeal for #06-144 for these two developments. In the event the Executive Director or TDHCA board determines the organization to be eligible to comment on all the developments within the geographic boundary of the organization. We are asking the department and the Board to apply that ruling to the letters of support previously provided by Centerpointe Resident's Association to those provided to Sun Valley and Orchard Valley homes.

The TDHCA board is requested to note these are the only single family home developments with ownership rights to the residents in the rural set aside of Region 11.

Your attention to this matter is appreciated.

Sincerely,

  
Saleem Jafar, President of the G.P.

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5420 LBJ FREEWAY, SUITE 1235  
TWO LINCOLN CENTRE  
DALLAS, TX 75240  
972-701-5551  
972-701-5562 FAX**

Ms. Jennifer Joyce  
Multifamily Housing Production  
TDHCA  
221 East 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78701

060144

May 31, 2006

RE: Sun Valley and Orchard Valley Home Ownership, TDHCA #06-0143 and #06-0147, denial of the QCP points

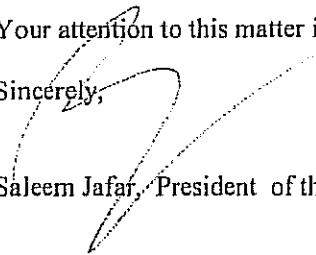
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Sincerely,

  
Saleem Jafar, President of the G.P.

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Ms. Jennifer Joyce  
Multifamily Housing Production  
TDHCA  
221 East 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78701

060144

May 31, 2006

RE: Centerpointe Home Ownership, TDHCA #06-0144, denial of the QCP points

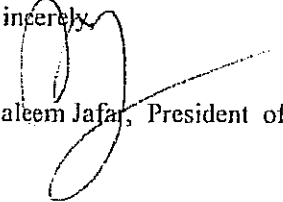
Dear Jennifer:

In follow up to your call yesterday with Mr. Fisher, I respectfully suggest the staff is missing the key issues of why the QCP letter counts for this single family home development in this platted single family sub division whether the department determines the organization to be a neighborhood organization in its fullest meaning or a resident's council with the comment restrictions. This development activity complies with the QAP under either circumstance because of the following:

1. This development to build 36 new single family homes within the existing sub-division where the existing housing stands involves demolition and new construction activity on the same site by the same development sponsor. We meet the required demolition new construction test in the QAP.
2. In the pictures already provided in the application on page 120 is a clear shot of the existing recreation facilities on several lots already owned by the housing authority and covered by the site control documentation. This entire facility is being demolished along with the under ground improvements in place on the adjacent lots to build part of the new community. This particular area will contain the clubhouse, public parking and swimming pool along with other common area amenities. All this work is duly noted in the application package including but limited to page 155 and page 403.
3. The sub-division is not entirely made up of housing authority residents participating in the public housing home ownership program. As you can see from the sub division plat attached hereto approximately +/-20 of the homes and home sites are owned by third parties not affiliated with the sponsor or the developer. These home owners are part of this resident's representative organization and are not bound by the limitation for comment in the QAP. We are fully QCP supported demolition new construction development on the same site.

Before taking this to the TDHCA board on appeal, please check the application one more time to verify these facts. If you are determining we do not meet the demolition new construction criteria please be specific as to why we do not meet the requirement. If allowed under the site change rules, we will shift the Clubhouse to an existing home site and demolish one home in lieu of the existing area noted for demolition to clarify this issue. If this is passed to the TDHCA board for the appeal, please include this letter and attachments in the official record of appeal. Your consideration of our request is appreciated.

Sincerely,

  
Saleem Jafar, President of the G.P.




19

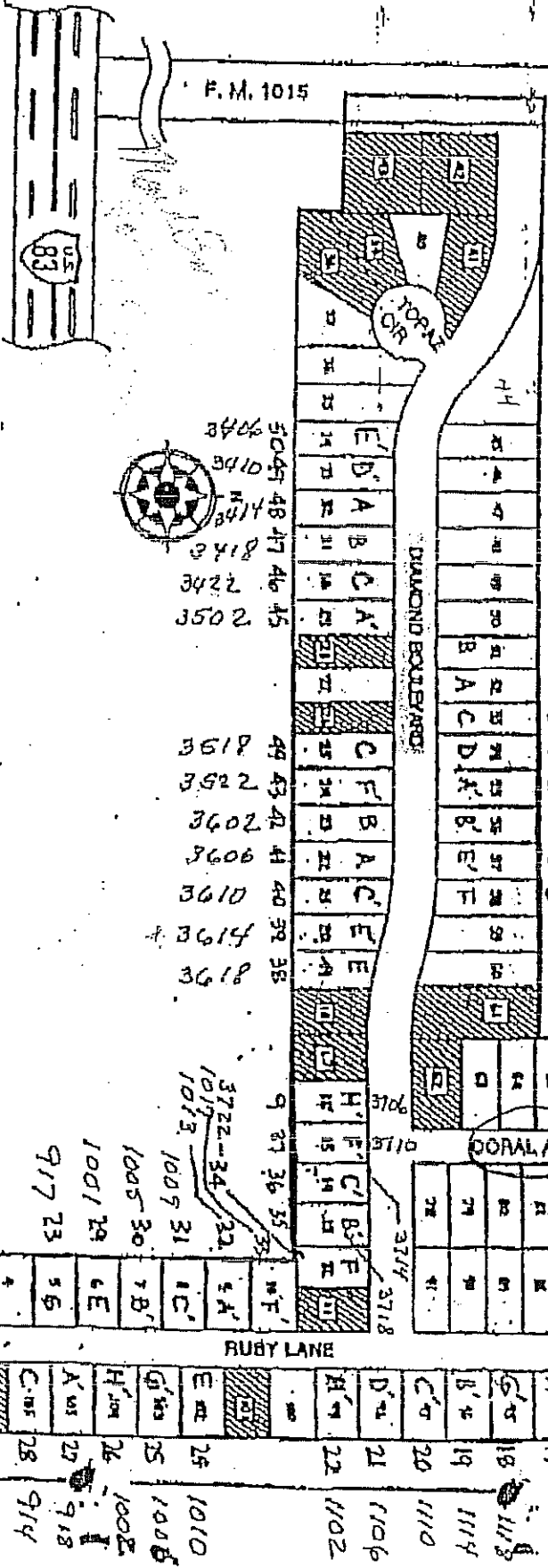
4 Handicap Units  
46 Non-Handicap Units

# CENTERPOINT

Westlaco, Texas

Area in Question

-  LOTS OWNED BY OTHER OWNERS
-  LOTS OWNED BY P.H.A. WHICH ARE CURRENTLY UNDER CONSTRUCTION
-  LOTS OWNED BY P.H.A. WHICH ARE AVAILABLE FOR FUTURE CONSTRUCTION

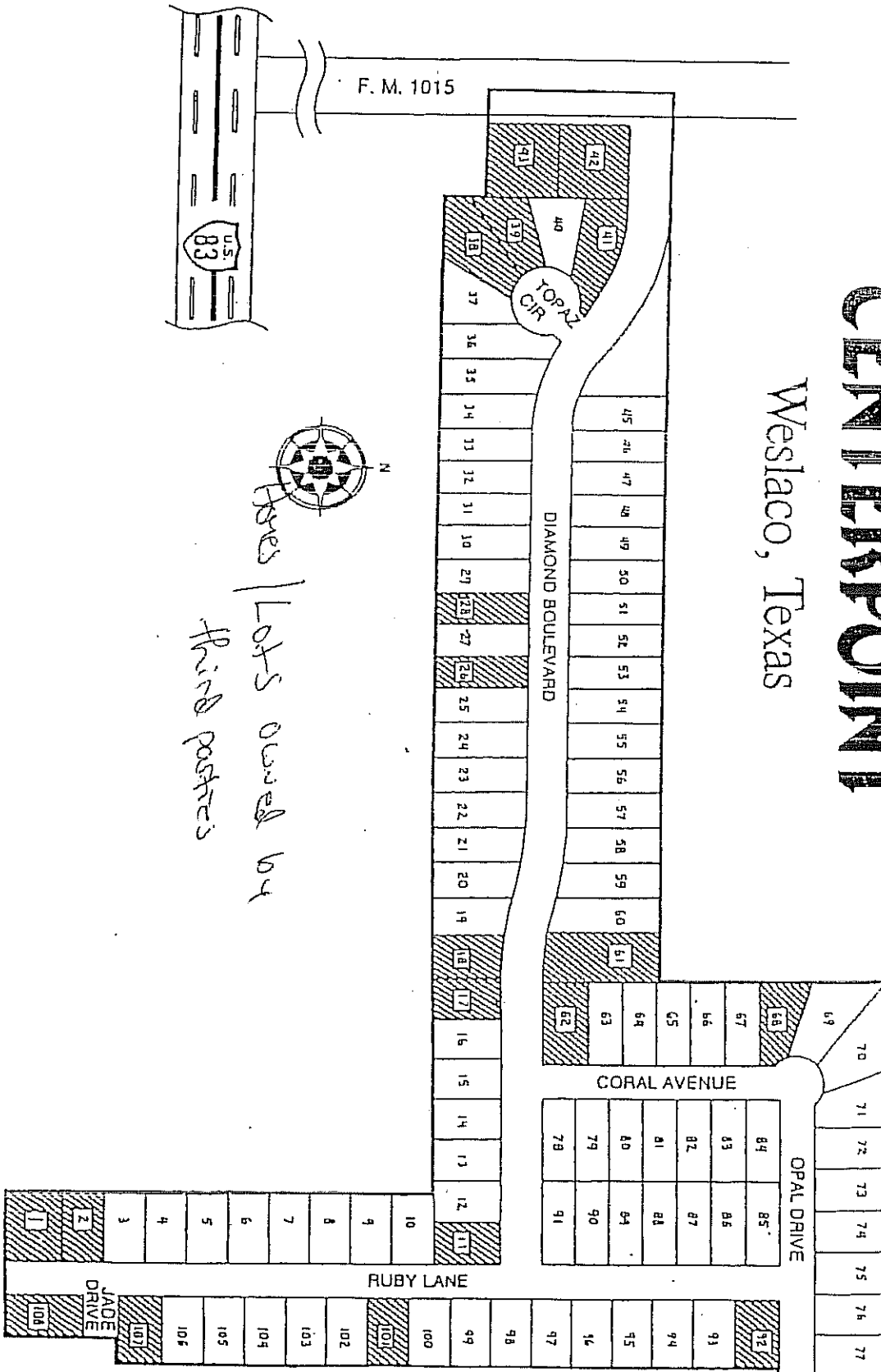



Attachment 1  
Page 6 of 7

02

# CENTERPOINT

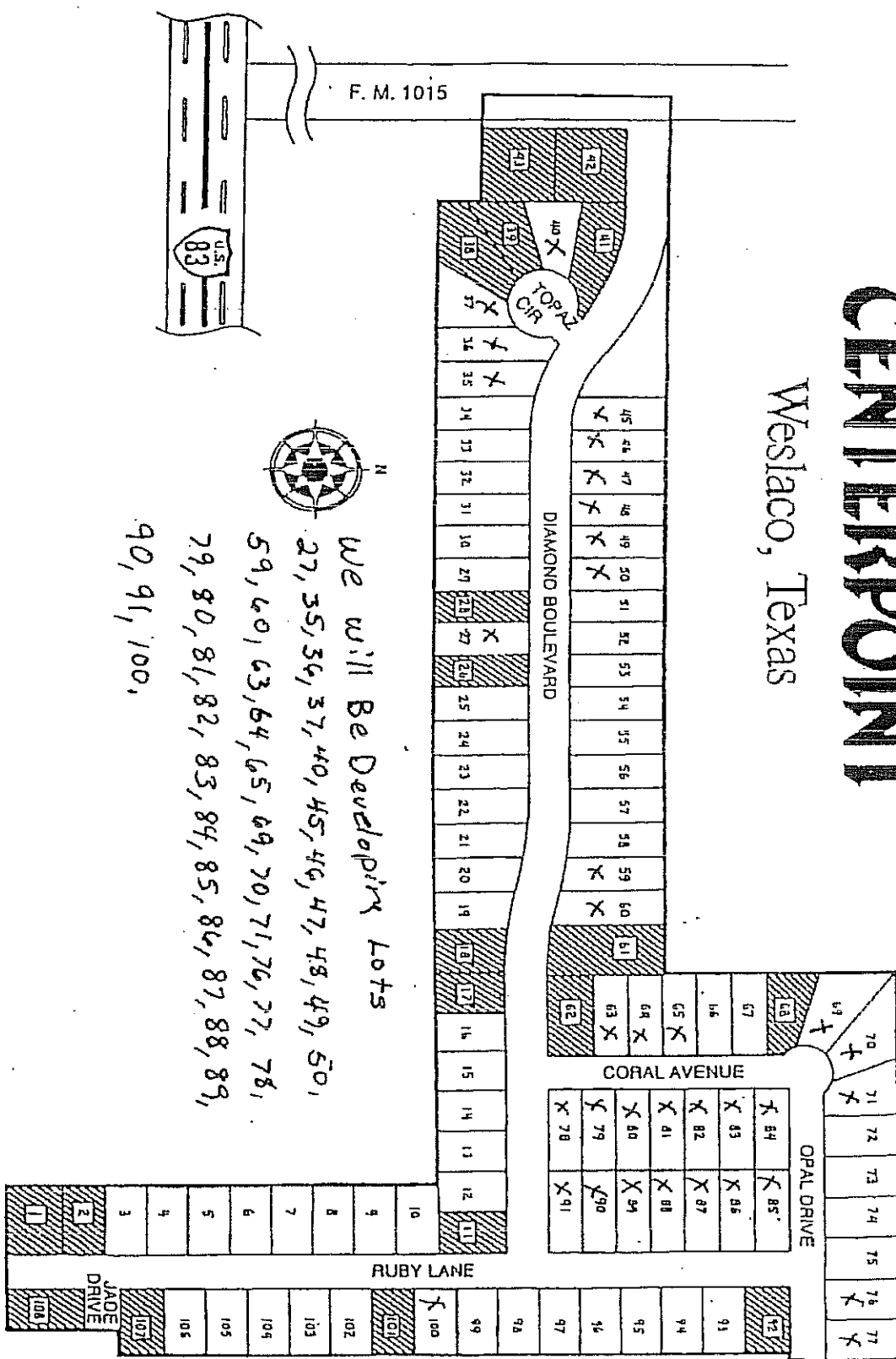
Weslaco, Texas




  
 These Lots owned by  
 friend partner's

# CENTERPOINT

Westlaco, Texas



We will be Developing Lots

- 27, 35, 36, 37, 40, 45, 46, 47, 48, 49, 50,
- 59, 60, 63, 64, 65, 69, 70, 71, 76, 77, 78,
- 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89,
- 90, 91, 100,

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**Volume 1, Tab 3. ACTIVITY OVERVIEW**

**Part A. Development Cost Schedule**

This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All applications must complete the total development cost column and the Tax Payer Identification column. Only HTC applications must complete the eligible basis columns and the requested Credit calculation below.

960144

DEVELOPMENT NAME:

--

TOTAL DEVELOPMENT SUMMARY		
Total Cost	Eligible Basis (If Applicable)	
	Acquisition	New/Rehab.

Expected Payee Taxpayer Identification Number (TIN)<sup>1</sup>  
(and % of cost if item involves multiple payees)

**ACQUISITION**

Site acquisition cost  
Existing building acquisition cost  
Closing costs & acq. legal fees  
Other<sup>c</sup> (specify)  
Subtotal Acquisition Cost

660,000		
0	0	
36,000		
\$696,000	\$0	\$0

74-1649398  
74-1649398  
42-1643966

**OFF-SITES<sup>3</sup>**

Off-site concrete  
Storm drains & devices  
Water & fire hydrants  
Off-site utilities  
Sewer lateral(s)  
Off-site paving  
Off-site electrical  
Other<sup>c</sup> (specify)  
Subtotal Off-Sites Cost

\$0	\$0	\$0

**SITE WORK<sup>4</sup>**

Demolition  
rough grading  
fine grading  
On-site concrete  
On-site electrical  
On-site paving  
On-site utilities  
Decorative masonry  
Bumper stops, striping & signs  
Landscaping  
Pool and decking  
Athletic court(s), playground(s)  
Fencing  
Other<sup>c</sup> (specify)  
Subtotal Site Work Cost

0		
0		0
50,032		40,026
1,383		1,106
1,100		880
8,799		7,039
5,000		4,000
0		0
300		240
40,000		32,000
45,000		36,000
18,848		15,078
37,759		30,207
0		0
\$208,221	\$0	\$166,577

20-3917666  
20-3917666  
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20-3917666  
20-3917666

**DIRECT CONSTRUCTION COSTS\*:**

**HARD COSTS**

Concrete  
Light weight concrete  
Masonry  
Metals  
Carpentry  
Waterproofing  
Insulation  
Roofing  
Sheet metal  
Electrical

333,000		333,000
0		0
147,600		147,600
15,063		15,063
586,790		586,790
85,000		85,000
35,975		35,975
140,312		140,312
15,075		15,075
201,813		201,813

20-3917666  
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20-3917666

23

TOTAL DEVELOPMENT SUMMARY			Expected Payee Taxpayer Identification Number (TIN) <sup>1</sup> (and % of cost if item involves multiple payees)
Total Cost	Eligible Basis (If Applicable)		
	Acquisition	New/Rehab.	

**DIRECT CONSTRUCTION COSTS (Continued):**

Roofing	189,179		189,179	20-3917666
VAC	142,678		142,678	20-3917666
Doors	21,332		21,332	20-3917666
Windows	24,927		24,927	20-3917666
Glass	5,496		5,496	20-3917666
Lath & plaster	0		0	20-3917666
Drywall	217,682		217,682	20-3917666
Tile work	18,475		18,475	20-3917666
Acoustical	0		0	20-3917666
Resilient or other flooring	15,063		15,063	20-3917666
Carpeting	58,300		58,300	20-3917666
Painting & decorating	65,865		65,865	20-3917666
Specialties	22,300		22,300	20-3917666
Cabinets	62,546		62,546	20-3917666
Appliances	57,500		57,500	20-3917666
Fireplaces	0		0	20-3917666
Carports or garages	125,000		125,000	20-3917666
Accessory buildings	165,000		165,000	20-3917666
Elevator	0		0	20-3917666
Lead-Based Paint Abatement	0		0	20-3917666
Asbestos Abatement	0		0	20-3917666
Other <sup>c</sup> (Specify)	0		0	20-3917666
<b>Subtotal Hard Costs</b>	<b>\$2,751,971</b>	<b>\$0</b>	<b>\$2,751,971</b>	

**OTHER CONSTRUCTION COSTS**

General requirements (<6%)	6.00%	175,113		175,113	20-3917666
Field supervision (within GR limit)		0		0	20-3917666
Contractor overhead (<2%)	2.00%	58,371		58,371	20-3917666
G & A Field (within overhead limit)		0		0	20-3917666
Contractor profit (<6%)	6.00%	175,113		175,113	20-3917666
Contingency		175,113		175,113	20-3917666
<b>Subtotal Direct Const. Costs</b>		<b>\$583,710</b>	<b>\$0</b>	<b>\$583,710</b>	

**INDIRECT CONSTRUCTION COSTS<sup>d</sup>**

Architectural - Design fees	115,000		115,000	74-2751988
Architectural - Supervision fees	20,000		20,000	74-2751988
Engineering fees	54,500		54,500	74-2751988
Real estate attorney/other legal fees	165,000		165,000	Various
Accounting fees	7,500		7,500	94-3408253
Impact Fees	54,000		54,000	City of Weslaco
Building permits & related costs	30,000		30,000	City of Weslaco
Appraisal	5,000		5,000	76-0128295
Market analysis	7,500		7,500	76-0128295
Environmental assessment	6,500		6,500	20-2323684
Soils report	5,500		5,500	TBD
Survey	10,000		10,000	74-2320140
Marketing	75,000		75,000	TBD
Course of construction insurance	0		0	

24



TOTAL DEVELOPMENT SUMMARY			Expected Payee Taxpayer Identification Number (TIN) <sup>1</sup> (and % of cost if item involves multiple payees)
Total Cost	Eligible Basis (If Applicable)		
	Acquisition	New/Rehab.	

**INDIRECT CONSTRUCTION COSTS (Continued)**

zard & liability insurance	75,000		75,000	TBD
Real property taxes	2,500		2,500	Hidalgo County Appraisal District
Personal property taxes			0	
Tenant relocation expenses			0	
Other 2 (specify)	0		0	
<b>Subtotal Indirect Const. Cost</b>	<b>\$633,000</b>	<b>\$0</b>	<b>\$633,000</b>	

**DEVELOPER FEES<sup>4</sup>**

Housing consultant fees <sup>5</sup>	0		0	
General & administrative	121,500		121,500	42-1643966
Profit or fee	550,000		550,000	42-1643966
<b>Subtotal Developer's Fees</b>	<b>\$671,500</b>	<b>\$0</b>	<b>\$671,500</b>	

15.00%

**FINANCING:**

**CONSTRUCTION LOAN(S)<sup>4</sup>**

Interest	197,500		98,750	93-1217823
Loan origination fees	63,000		63,000	93-1217823
Title & recording fees	25,000		25,000	TBD
Closing costs & legal fees	85,000		85,000	Various
Inspection fees	30,000		30,000	Various
Credit Report			0	
Discount Points			0	
Other <sup>2</sup> (specify)			0	

**PERMANENT LOAN(S)**

Loan origination fees	32,200			93-1217823
Title & recording fees	25,000			TBD
Closing costs & legal	15,000			Various
Bond premium				
Credit report				
Discount points				
Credit enhancement fees				
Prepaid MIP				
Other <sup>2</sup> (specify)				

**BRIDGE LOAN(S)**

Interest	15,000		0	93-1217823
Loan origination fees			0	
Title & recording fees			0	
Closing costs & legal fees			0	
Other <sup>2</sup> (specify)			0	

**OTHER FINANCING COSTS<sup>4</sup>**

Tax credit fees	21,480		0	TDHCA
Tax and/or bond counsel			0	
Payment bonds			0	
Performance bonds			0	
Credit enhancement fees	35,000		35,000	93-1217823
Mortgage insurance premiums			0	
Cost of underwriting & issuance	75,000		0	93-1217823
Syndication organizational cost	112,500			Various
Tax opinion				
Other <sup>2</sup> Compliance Fee	4,000		4,000	TDHCA
<b>Subtotal Financing Cost</b>	<b>\$735,680</b>	<b>\$0</b>	<b>\$340,750</b>	

25

TOTAL DEVELOPMENT SUMMARY		
Total Cost	Eligible Basis (If Applicable)	
	Acquisition	New/Rehab.

Expected Payee Taxpayer Identification Number (TIN)<sup>1</sup>  
(and % of cost if item involves multiple payees)

**RESERVES**

Start-up  
Operating  
Replacement  
Escrows  
Subtotal Reserves

35,000		
110,000		
\$145,000	\$0	\$0

33-1038405  
33-1038440

**TOTAL DEVELOPMENT COSTS<sup>2</sup>**

- Commercial Space Costs<sup>1</sup>  
**TOTAL RESIDENTIAL COSTS**

\$6,425,082	\$0	\$5,147,508
\$6,425,082		

\$ \_\_\_\_\_

If the contractor is guaranteeing financing for the transaction for a fee, such fees are:

The following calculations are for HTC Applications only.

**Deduct From Basis:**

Fed. grant proceeds used to finance costs in eligible basis  
Fed. B.M.R. loans used to finance costs in eligible basis  
Non-qualified non-recourse financing  
Non-qualified portion of higher quality units (42.(d)(5))  
Historic Credits (residential portion only)  
Total Eligible Basis  
High Cost Area Adjustment (100% or 130%)  
Total Adjusted Basis  
Applicable Fraction<sup>3</sup>  
Total Qualified Basis  
Applicable Percentage<sup>3</sup>  
Owner's Requested Credits

	\$0	\$5,147,508
		100%
	\$0	\$5,147,508
	100%	130%
\$6,691,760	\$0	\$6,691,760
	3.46%	8.04%
\$538,018	\$0	\$538,018

Applicant and contractor certify that, to the best of their knowledge, the provided costs and supporting information represent an accurate, uninflated estimate of the costs associated with this development. They also certify that no fees, other than for activities identified in this form, will be paid to the contractor.

Riverdale, L.P.  
Development Owner Name  
By: \_\_\_\_\_  
Signature  
Its: Pres. of L.P.  
Date: 8/23/06

ORC  
Contractor Name  
By: \_\_\_\_\_  
Signature  
Its: \_\_\_\_\_  
Date: 8/23/06

26

# **Executive Director Appeal**

**SHACKELFORD MELTON & MCKINLEY**  
ATTORNEYS & COUNSELORS

A LIMITED LIABILITY PARTNERSHIP  
INCLUDING PROFESSIONAL CORPORATIONS

3333 Leo Parkway  
Tenth Floor  
Dallas, Texas 75219  
Tel: (214) 780-1400  
Fax: (214) 780-1401

May 22, 2006

**FACSIMILE TRANSMISSION**

**TO:** Mr. Michael Gerber  
**FAX NUMBER:** (512) 469-9606  
**FROM:** Sonia De Leon-Moore on behalf of John C. Shackelford, Esq.  
**RE:** Centerpoint Homes  
**CLIENT NO.:** 50331.4  
**NO. OF PAGES:** 6  
**(including cover page)**

---

**Message:**

Please see attached.

Thank you.

**IF THIS TRANSMISSION IS INCOMPLETE, PLEASE CALL (214) 780-1400**

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. IRS CIRCULAR 230 NOTICE REQUIREMENT: THIS COMMUNICATION IS NOT GIVEN IN THE FORM OF A COVERED OPINION WITHIN THE MEANING OF CIRCULAR 230 ISSUED BY THE UNITED STATES SECRETARY OF THE TREASURY. THUS, WE ARE REQUIRED TO INFORM YOU THAT YOU CANNOT RELY UPON ANY TAX ADVICE CONTAINED IN THIS COMMUNICATION FOR THE PURPOSE OF AVOIDING UNITED STATES FEDERAL TAX PENALTIES. IN ADDITION, ANY TAX ADVICE CONTAINED IN THIS COMMUNICATION MAY NOT BE USED TO PROMOTE, MARKET OR RECOMMEND A TRANSACTION TO ANOTHER PARTY. THANK YOU.

28

**SHACKELFORD MELTON & MCKINLEY**  
ATTORNEYS & COUNSELORS

John C. Shackelford  
Also Admitted in Florida and Georgia  
Direct 214.780.1414  
jshack@shacklaw.net

May 22, 2006

**VIA FACSIMILE: (512) 469-9606**

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701

Re: Centerpoint Homes; TDHCA #060144; Our File No.: 50331.4

Dear Mr. Gerber:

The purpose of this letter is to appeal the decision of the Texas Department of Housing and Community Affairs ("Department") to deny for the purpose of scoring Quantifiable Community Participation ("QCP") points for the application for Centerpoint Homes.

Centerpoint Homes is a single family housing development located in Hidalgo County ("Project"). The owner of the Project will be Riverdale, LP (the "Partnership"), and the developer of the Project is ORH Development II, LLC ("Developer"), and I have been requested by Partnership and Developer to submit this appeal.

On behalf of Partnership and Developer, it is our position that the Project is entitled to QCP points. This appeal is based upon the following:

1. The deficiency notice letter from Robbye Meyer, Interim Director of Multifamily Finance Production, to Debra Foley-Castillo, President of Centerpoint Resident Council, dated May 15, 2006, inaccurately states that the members of the Centerpoint Resident Council ("Council") do not live in the development in which they are providing comment, and that they currently reside in Centerpoint Apartments. The members of the Council do not reside in apartments, but rather reside in single family homes, which are a part of a rent-to-own program. The Project is comprised of 43 lots out of an original 80 lots within an existing subdivision. At this time, 37 lots have houses built on them and it is persons who reside in such houses who constitute the membership of the Council. The Project will be built on the remaining lots in the subdivision. It

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Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 2

is possible there is some confusion by members of the staff of the Department about the nature of the Project and the members of the Council which has caused the Department to deny QCP points for the Project. The Project is unique in its characteristics by being single family homes to be constructed within an existing subdivision. The members of the Council are not residents of apartments. Attached please find a subdivision map of the Project which shows the location of the facilities to be demolished and the existing homes in the development.

2. Ms. Meyer's letter further states that pursuant to Section 50.9(i)(2) of the 2006 Qualified Action Plan ("QAP") the Council may only comment on property occupied by the residents and that the proposed development will not be occupied by members of the organization. Ms. Meyer's statement is accurate in once sense but inaccurate in another. Again, the Project is a single family home development within an existing subdivision of single family homes, whose members comprise the Council. The entire subdivision constitutes the development. The development is not merely the 37 houses to be constructed within the subdivision. The position asserted by Ms. Meyer in her letter denies the right of members of a resident council that occupy single family homes from commenting on a proposed development that will be located next door or across the street from the home in which they live. It is Partnership's and Developer's position that, consistent with Section 50.9(i)(2), the Council is providing comment on property occupied by the residents in which the proposed development will be located. Further, Partnership and Developer argue that Section 50.9(i)(2) of the QAP is not intended to deny these persons the right to provide comment. The entire purpose behind this Section of the QAP is to do otherwise. It is specifically intended to give a voice to those persons that may be affected by a proposed affordable housing development project. Denying the single family home residents the right to have a voice in how property next door or across the street may be developed violates the spirit and intent behind Section 50.9(i)(2) of the QAP. In addition, the philosophy behind this provision was to respect the concerns of apartment residents to the overbuilding of apartments in their community. At the time this language was included in the QAP, it was not contemplated that it would affect single family residents.

3. The Council further satisfies the requirements of Section 50.9(i)(2) of the QAP on the basis that the Project is the demolition of a playground and storage building facility and new construction. Members of the Council, as residents of the subdivision which should be considered part of the proposed development, are commenting on an application that is for the demolition with new construction of a development in accordance with the requirements of Section 50.9(i)(2) of the QAP.

4. In the alternative, Partnership and Developer argue that Section 50.9(i)(2) of the QAP violates Section 2306.6705 of the General Government Code (the "Code") in that the legislation enabling this portion of the QAP does not provide for the stipulation that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition and new construction of the property occupied by the residents. The QAP is subject to satisfying the statutory requirements of the enabling legislation. The statutory requirements of Section 2306.6705(9)(A) of the Code provide for notification to any neighborhood organizations

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Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 4

Enclosure

cc: Saleem A. Jafar (*via e-mail*)  
Bill Fisher (*via e-mail*)

G:\Shucklaw\50548\TDHCA Ltr Centerpoint.clt\5.22.06.doc

Members of the Board  
Texas Department of Housing and Community Affairs  
May 22, 2006  
Page 3

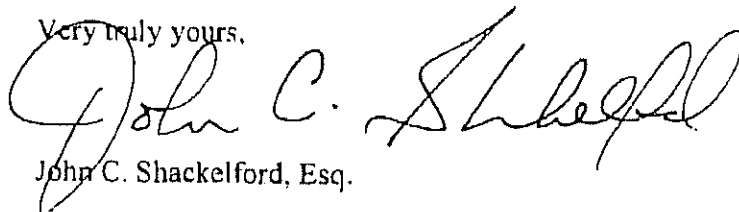
on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site. This language in the Code does not define a neighborhood organization, and I would argue that interpretation of a neighborhood organization under the Code is to be broadly interpreted when a definition is not provided. Section 50.9(i)(2) initially complies with the enabling statute by defining a "Neighborhood Organization" as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. The Council unequivocally satisfies the QAP definition of a "Neighborhood Organization". Such definition in the QAP of a "Neighborhood Organization" is all encompassing as to the type of organizations that are included. The sentence after the definition of "Neighborhood Organization", however, attempts to explain the organizations which are included, but this language is not the definition. The Department has violated Section 2306.6705 of the Code by inserting into Section 50.9(i)(2) of the QAP this stipulation applicable only to resident councils. As such, Section 50.9(i)(2)(A)(iv) of the QAP is invalid with respect to the resident council stipulation and it may not be applied to deny the scoring of QCP points.

5. Lastly, Partnership and Developer further argue that the application of Section 50.9(i)(2)(A)(iv) of the QAP violates the provisions of the Fair Housing Act by excluding residents councils from the process. Such acts and/or actions by the Department unintentionally constitute discrimination by not permitting members of residents councils to express their concerns on the same basis and under the same circumstances as other neighborhood organizations. I am confident that the Department and the conscientious members of the staff do not intend for the application of any of the provisions of the QAP to violate the Fair Housing Act. Partnership and Developer therefore request you to interpret this provision of the QAP in light of the federal mandate set forth in the Fair Housing Act.

For all of these reasons, Partnership and Developer respectfully requests the Department to recognize the letter from Council with respect to the Project and to award QCP points for the Project. If your decision is not to award QCP points for the Project, this letter constitutes Partnership's and Developer's request to appeal such decision to the Board.

Thank you for your consideration of this appeal.

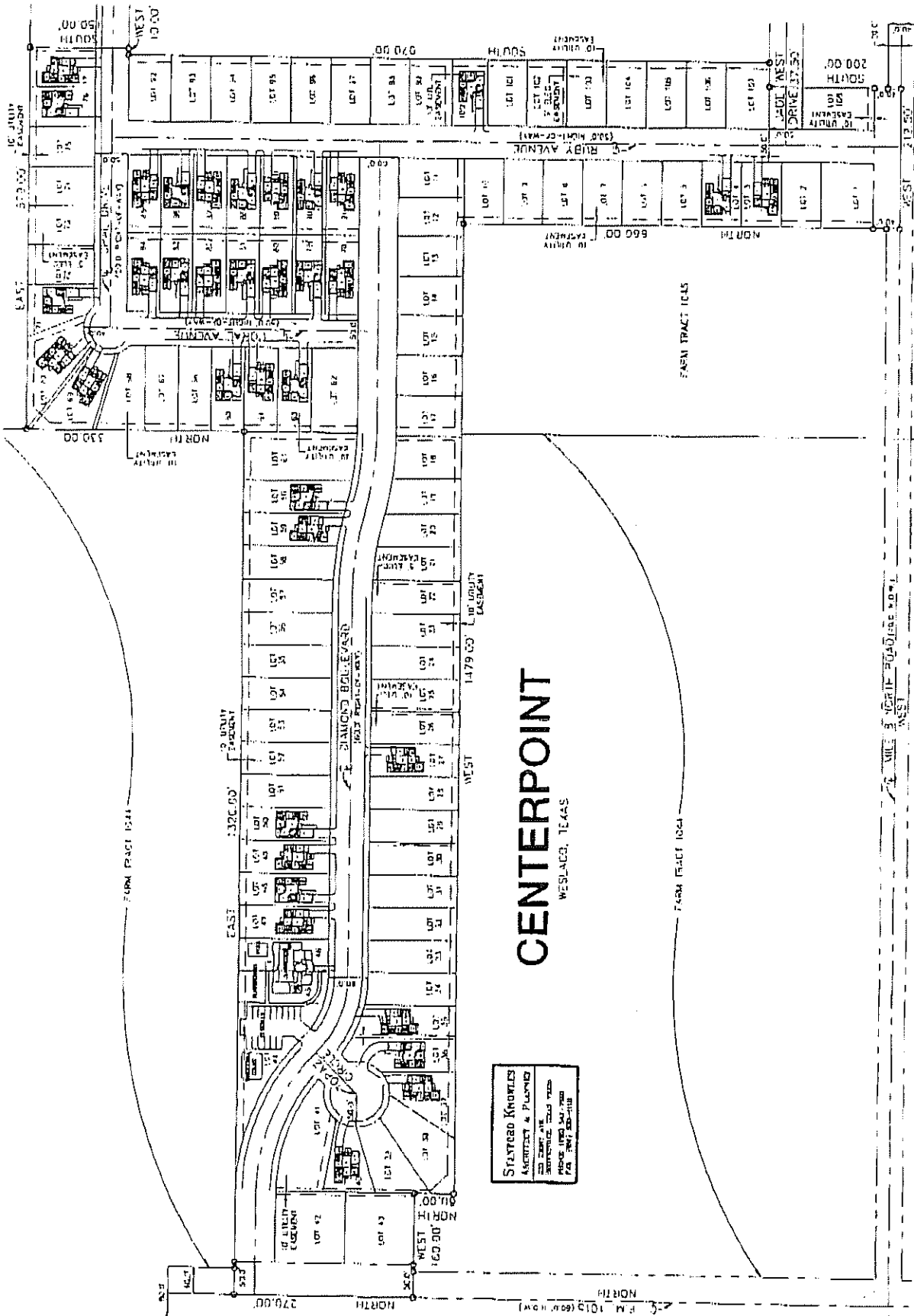
Very truly yours,



John C. Shackelford, Esq.

JCS/sd





**STAYROD KNOWLES**  
 ARCHITECT & PLANNER  
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 DENVER, COLORADO 80202  
 PHONE (303) 733-7800  
 FAX (303) 733-1118



HCA  
469-9606  
May-22-2006 16:55

Fax Call Report

Job	Date	Time	Type	Identification	Duration	Pages	Result
534	5/22/2006	16:52:40	Receive	9727164141	2:39	6	OK

MAY 22 06 (MON) 16 16 MELTON & MELTON 9727164141 PAGE 1

SHACKELFORD MELTON & MCKINLEY  
\*\*\*\*\* ATTORNEYS & COUNSELORS

A LIMITED LIABILITY PARTNERSHIP  
INCLUDING PROFESSIONAL CORPORATIONS

3333 Lco Parkway  
Tenth Floor  
Dallas, Texas 75219  
Tel: (214) 780-1400  
Fax: (214) 780-1401

May 22, 2006

FACSIMILE TRANSMISSION

TO: Mr. Michael Gerber  
 FAX NUMBER: (512) 469-9606  
 FROM: Sonia De Leon-Moore on behalf of John C. Shackelford, Esq.  
 RE: Centerpoint Homes  
 CLIENT NO.: 50331.4  
 NO. OF PAGES: 6  
 (including cover page)

Message:

Please see attached.

Thank you.

IF THIS TRANSMISSION IS INCOMPLETE, PLEASE CALL (214) 780-1400

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**Fax Transmittal**

**To:** Alyssa Carpenter

---

**Fax:** (512) 469-9606

---

**Phone:** (512) 475-3975

---

**Re:** 2006 TSHEP Application

---

**Date:** 5-22-06

---

**From:** Yvette Loya

---

**Organization:** Edinburg Housing Opportunity Corp

---

**Phone:** 956-383-3839 / 956-292-9293

---

**Fax:** 956-380-6308

---

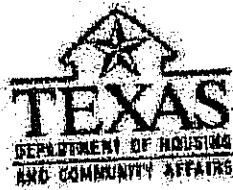
**Pages:** 2

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**Comments:**

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**Texas Department of Housing and Community Affairs  
Texas Statewide Homebuyer Education Program  
2006 Workshop Application**

**Applicant Profile**

Your Name: Yvette Loya  
 Title: \_\_\_\_\_  
 Name of Nonprofit Organization: Edinburg Housing Opportunity Corp  
 Address: 2112 W University Dr. # 902  
 City: Edinburg State: TX Zip: 78539  
 Phone: 956-383-3839 Fax: 956-380-6308 Email: edinburghousingopportunitycorp@yahoo.com  
 County(s) Served: Hidalgo

Is your organization a nonprofit? Yes:  No:   
 Is your organization currently providing homebuyer education? Yes:  No:

What types of services does your organization offer?

Service	Currently Offer	Plan to Offer
Pre-purchase homebuyer education	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Post-purchase homebuyer education	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Foreclosure prevention	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Credit counseling and repair	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Financial management	<input type="checkbox"/>	<input checked="" type="checkbox"/>
One-on-one counseling	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tenant counseling or tenant/landlord mediation	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Assistance in locating and securing housing	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Is your organization a HUD-approved housing counseling agency? Yes:  No:   
 In which languages does your organization offer services? English:  Spanish:  Other:

**Workshop Preferences**

Please Indicate Your Workshop Choice(s)

- June 12-16, Galveston: Homebuyer Education Methods: Training the Trainer
- July 17-21, San Antonio: Homebuyer Education Methods: Training the Trainer
- August 28-29, Austin: Combating Predatory Lending\*
- August 30-31, Austin: Credit Counseling for Maximum Results\*

\*This workshop is intended for previously certified TSHEP Homebuyer Education Providers or those with a strong background in homebuyer education and/or credit counseling.

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# HP LaserJet 3330



EHCA  
469-9606  
May-22-2006 16:58

## Fax Call Report

Job	Date	Time	Type	Identification	Duration	Pages	Result
535	5/22/2006	16:56:56	Receive	956 380 6308	1:53	2	OK

05/22/2006 16:40 FAX 956 380 6306

EDINBURG HOUSING AUTHORITY

001



### Fax Transmittal

To: Alyssa Carpenter

Fax: (512) 469-9606

Phone: (512) 475-3975

Re: 2006 TSHEP Application

Date: 5-22-06

From: Yvette Loya

Organization: Edinburg Housing Opportunity Corp

Phone: 956-383-3839 / 956-292-9293

Fax: 956-380-6308

Pages: 2

Comments:

37

# COATS | ROSE

*A Professional Corporation*

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Web: [www.coatsrose.com](http://www.coatsrose.com)

## FACSIMILE TRANSMITTAL PAGE

**Date:** May 22, 2006

**To:** BROOKE BOSTON

**Fax Number:** 512-475-0764

**From:** TAMEA A. DULA

**Phone:** 713-653-7322

**No. of Pages (including cover page):**

6

**Client/Matter #:** 006235-000000

**Message:** Please see the enclosed Appeal for TDHCA # 060144.



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IF YOU WISH TO RESPOND, USE FAX NO. (713) 651-0220

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# COATS | ROSE

TAMEA A. DULA  
OF COUNSEL

tdula@coatsrose.com  
Direct Dial  
(713) 653-7322  
Direct Fax  
(713) 890-3918

May 22, 2006

**By E-mail and Fax**

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing  
and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

RE: Appeal of Ineligibility of Centerpoint Resident Council Letters in Support of  
Centerpoint Home Ownership (TDHCA # 060144).

Dear Mr. Gerber:

This letter constitutes an appeal of the TDHCA staff's decision that the letter of support filed by the Centerpoint Resident Council of Weslaco, Texas, is ineligible for consideration as quantifiable community participation. This firm represents the Weslaco Housing Authority, the sponsor of the above-referenced development.

The grounds for ineligibility was the determination that the Centerpoint Resident Council is only qualified to comment for quantifiable community participation if the relevant application is for rehabilitation or demolition with new construction of the property occupied by the residents.

Section 50.0(i)(2)(iv) of the 2006 Qualified Allocation Plan provides:

... "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/New Construction of the property occupied by the residents). ...

No reason is given in the QAP for denying a resident council the right to comment upon proposed affordable housing developments in its immediate vicinity. Other neighborhood organizations that consist of residents are not restricted in the boundaries that they may adopt for

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TDULA/812246.3/WHA/006235-000000

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Mr. Michael Gerber  
Executive Director  
May 22, 2006  
Page 2

the purpose of providing qualified community participation in the tax credit allocation process, except to the extent that boundaries encompassing an entire county or larger area are prohibited from being "neighborhood organizations" and organizations whose boundaries include an entire city are "generally not 'neighborhood organizations.'" These restrictions are based upon the definition of what constitutes a "neighborhood" in terms of size.

Only resident councils, whose members are public housing tenants, are prohibited from providing qualified community participation on proposed developments that are located within the resident council's duly established boundaries designating an area of interest. Homeowner associations and property owner associations are not limited to providing qualified community participation comments only with reference to the land on which their members reside - they can set reasonable boundaries creating an "area of interest" in which any proposed development might reasonably affect the welfare of their neighborhoods. Land ownership is not the critical factor because a tenant association could designate an "area of interest" that encompasses the neighborhood surrounding their apartments, and nothing in the QAP would prohibit its input from being qualified community participation.

As a resident council, Centerpoint Resident Council was established pursuant to HUD regulations (24 CFR part 964). HUD regulations do not prohibit a resident council from having an area of interest that extends beyond the physical boundaries of the public housing site. Resident councils have basically the same interest in maintaining or improving the general welfare of their neighborhoods as do homeowner associations, property owner associations and tenant associations, but a resident council's input is treated in a very disparate manner under the TDHCA's regulations. This unequal treatment appears to be based solely upon the residents' status as public housing tenants. Under Section 816 of the Fair Housing Act, any law of a State or political subdivision or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under the Fair Housing Act shall to that extent be invalid. We suggest that the parenthetical limitation on the right of a resident council to comment in a meaningful way upon proposed affordable housing within its neighborhood constitutes "source of income discrimination" under the Fair Housing Act, similar to the discrimination experienced by a Section 8 voucher holder who is refused tenancy. Additionally, the disparate treatment of resident councils may well be a violation of the Fourteenth Amendment which provides that "... nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws."

In the case of **Centerpoint Home Ownership (TDHCA # 060144)**, the denial of qualified community participation points for the Centerpoint Resident Council's letter of support is particularly egregious. The Resident Council represents approximately 58 members who live in a single family, scattered site development and participate in a public housing lease-to-purchase program. Please note that in the QCP Letter Receipt Log, the Resident Council is erroneously characterized as representing apartment dwellers, when in actuality, the members of the Resident Council anticipate purchasing their single family homes. These residents will definitely be interested in how the use of adjoining land will benefit or detract from their homes. Interspersed among the existing single family dwellings are approximately 40 vacant lots and a



Mr. Michael Gerber  
Executive Director  
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Page 3

playground, which constitute the site for the proposed Centerpoint Home Ownership development. The degree to which the proposed development is infill construction that will affect the existing neighborhood is readily seen on the enclosed plat of Centerpoint Home Ownership. Lots with buildings shown on them are the proposed development. All other shown lots are currently improved with single family homes whose residents are members of the Centerpoint Resident Council.

The Centerpoint Home Ownership development will consist of 36 new construction single family homes which will be 100% lease-to-purchase. Four of the proposed homes will be replacement public housing units for previously demolished public housing units controlled by the Weslaco Housing Authority. The residents of those units will be voting members of the Resident Council. In addition, the existing subdivision playground, which is a fully-fenced and developed playground for the children of the Resident Council's members with child-friendly playing surface, slide, jungle gym and climbing bars, will be demolished to construct a club house and pool on that site. It is anticipated that the club house and pool will be available to the residents of the subdivision on an equal basis, unless not permitted by housing authority program rules or the terms of this appeal. A new playground for the use of the children of all the residents of the subdivision will be built on another lot in the subdivision.

Last year the Centerpoint Resident Council was able to provide qualified community participation comment on proposed developments located in the vicinity of the Centerpoint subdivision. This year, because of the change in the QAP to include the parenthetical restriction upon resident councils, the Centerpoint Resident Council is not permitted to provide qualified community participation comment upon a development which will consist of houses interspersed among the homes of its members – sharing lot lines and becoming the immediate next door neighbors of the members. Surely this is an inappropriate expansion upon the directives of the Texas Legislature, which requires in § 2306.6710(b) of the Government Code:

If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) ...

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

[emphasis added].


In conclusion, we appeal the disqualification of the Centerpoint Resident Council's letter of support on the basis of the unequal treatment that the 2006 QAP provides to a resident council, discriminating against the residents of a public housing single family development for no apparent reason other than that the residents are the recipients of public housing assistance.

Mr. Michael Gerber  
Executive Director  
May 22, 2006  
Page 4

We also appeal the discriminatory treatment on the grounds of its violation of the Fair Housing Act, to which the TDHCA is subject. Finally, we appeal the disqualification of the Centerpoint Resident Council's letter in support of the Centerpoint Home Ownership development on the grounds that the proposed development will be, in part, demolition with new construction on the site of a playground and new construction public housing that will replace previously demolished public housing under the jurisdiction of the Weslaco Housing Authority, all within the properly designated boundaries of the Resident Council's area of interest.

Thank you very much for your careful consideration of the issues raised in this appeal. In the event that the Executive Director fails to grant this appeal, or if the Executive Director fails to act prior to the next meeting of the Board of Directors of the TDHCA, then we request that this letter be further considered as an appeal to the TDHCA Board at its next meeting, currently scheduled for June 9, 2006.

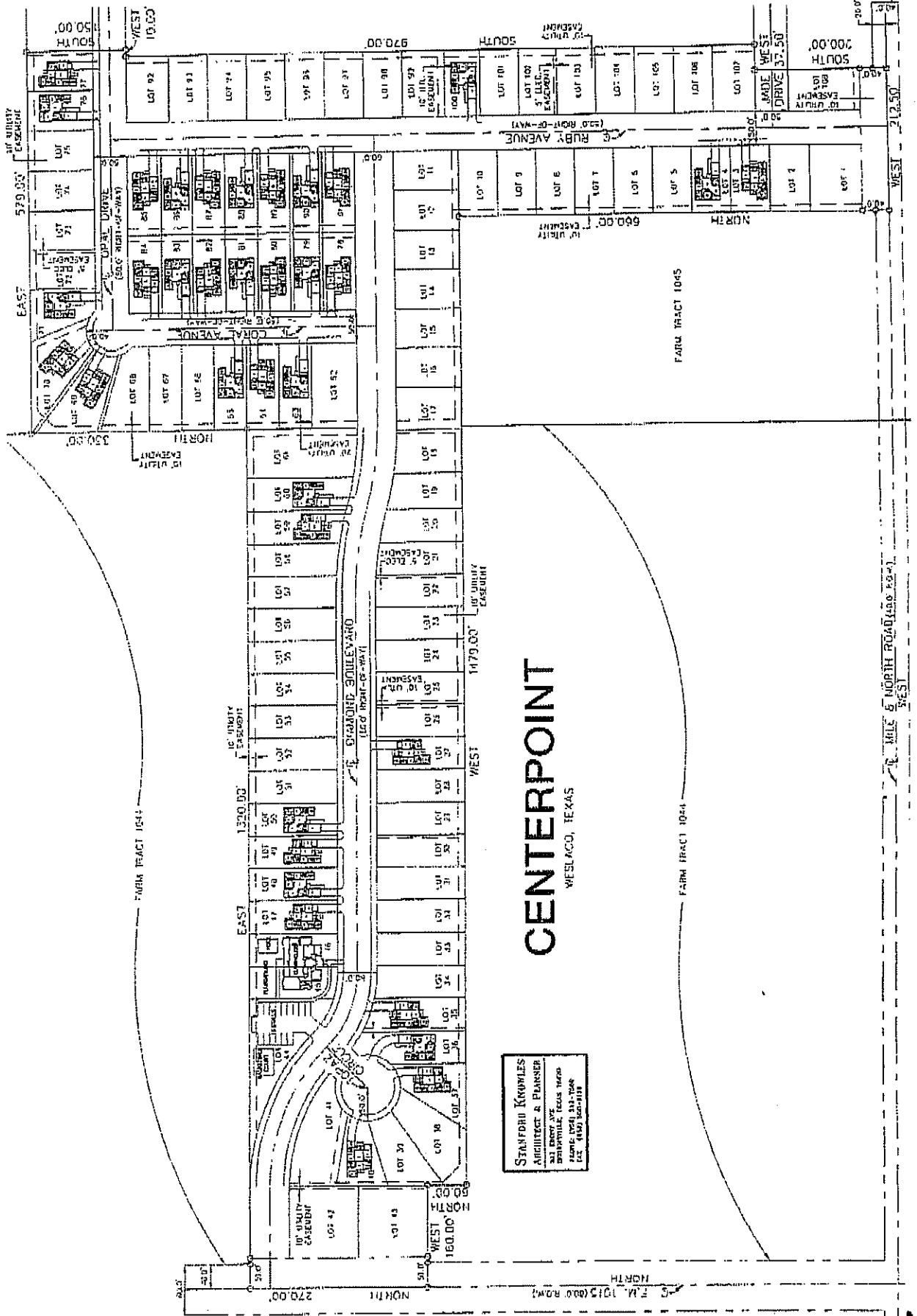
Very truly yours,



Tamea A. Dula

Enclosure

cc: Debra Foley-Castillo  
Shannon Pritchard



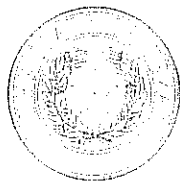
# CENTERPOINT

WESTLACO, TEXAS

**STANFORD KNOWLES**  
 ARCHITECT & PLANNER  
 2311 BRIDGE WAY  
 DALLAS, TEXAS 75201  
 PHONE (214) 343-7048  
 FAX (214) 343-7118

43

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
*Executive Director*

Mr. Saleem Jafar  
Riverdale, L.P.  
5420 LBJ Freeway Suite 1235  
Dallas, TX 75240  
Telephone: (972) 701-5550  
Telecopier: (972) 701-5562

### Re: Appeal Received for Centerpoint Home Ownership - 060144

Dear Mr. Jafar:

#### Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 22, 2006 regarding the eligibility of a letter from the Centerpoint Resident's Council requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because Centerpoint Resident's Council does not qualify as a "neighborhood organization" as required by the §50.9(i)(2)(A)(iv) of the Qualified Allocation Plan and Rules (QAP). This section specifically precludes resident's councils from qualifying as a "neighborhood association" unless the letter is relating to an application that is proposed for, "...Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction **of the property occupied by the residents.**"

This determination was made based on the fact that on May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for QCP if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which they were providing comment on. They currently reside in Centerpoint Development, which is comprised of single-family homes.

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Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2)(A)(iv) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization. Rather, existing single-family homes are occupied by the resident council. These homes and those proposed are located on a 80 lots owned by the Edinburg Housing Authority.

The applicant is appealing the eligibility of the letter based on many assertions. My response to each assertion is outlined below each statement:

- (1) You assert that the members of the neighborhood organization do not live in apartments, but rather in single family homes. You further assert that the proposed development will be constructed on lots that are part of an existing subdivision that houses the members of the resident council and that the entire subdivision constitutes the development for purposes of the council's boundaries.

Response: The QAP is explicit that the resident council may not comment on any development not proposing demolition or rehabilitation of the property occupied by the residents. The fact that the council's members live in single family homes adjacent to the proposed new construction is no different than an existing apartment complex commenting on the new construction of a second phase of the development. In either scenario, the QCP letter would be ineligible.

- (2) You assert that the QAP requirement that the resident council only comment on the property occupied by the residents automatically denies residents of single family homes the ability to comment on a proposed development within the nearby area.

Response: See response #1.

- (3) You assert that the development includes demolition and new construction because they are demolishing a playground and storage building.

Response: §50.9(i)(2)(A)(iv) of the QAP specifically precludes residents councils from qualifying as a "neighborhood association" unless the letter is relating to an application that is proposed for, "...Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents [emphasis added]." It is clear that the council is not commenting on the demolition of playground facilities. The letter from Centerpoint submitted to the Department specifically states that

the council supports the "new construction single family homes".

- (4) You assert that the QAP restricts the definition of a neighborhood organization beyond Section 2306.6705(9)(A) and that Section 50.9(i)(2)(A)(iv) of the QAP is therefore invalid with respect to resident councils.

Response: QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

- (5) No reason is given for denying resident councils the right to comment upon the proposed affordable housing developments in the area.

Response: It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by the U. S. Department of Housing and Urban Development (HUD), which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

- (6) The QAP excludes resident councils whose members are public housing tenants from the QCP process, thereby violating the provisions under §816 of the Fair Housing Act.

Response: The QAP does not specifically restrict resident councils to those owned and operated by HUD whose members are public housing tenants.

- (7) You assert that 4 Units will be replacing previously demolished units.

Response: No evidence substantiating this assertion was submitted in the application, appeal or QCP deficiency responses.

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Mr. Jafar  
June 1, 2006  
Page 4 of 4

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting. All appeal documentation submitted by 5:00 p.m. Tuesday, May 31, 2006 will be placed on the June 9, 2006 Board book.

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

Sincerely,



Michael Gerber  
Executive Director

48



# QCP Documentation



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

---

May 15, 2006

Debra Foley-Castillo

President

Centerpoint Resident Council

3521 Diamond

Weslaco, Texas 78596

Fax: (956) 565-6005

(214) 363-9979

Email:

spritchard@johncarney.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Centerpoint Home Ownership, # 060144

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On May 4, 2006 the Department issued a deficiency notice to the contact for Centerpoint Resident Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development in which they were providing comment on. They currently reside in Centerpoint apartments, and according to them that the proposed development, Centerpoint, would become part of their organization when built.

Centerpoint Resident Council's by-laws are clear that the organization is a resident's council for the current residents of "Centerpoint". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is not occupied by members of the organization.



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

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Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

---

May 15, 2006

Debra Foley-Castillo  
President

Centerpoint Resident Council

3521 Diamond

Weslaco, Texas 78596

Fax: (956) 565-6005

(214) 363-9979

Email:

spritchard@johncarney.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Centerpoint Home Ownership, # 060144

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**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

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Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

TRANSMISSION VERIFICATION REPORT

TIME : 05/16/2006 10:13  
NAME :  
FAX :  
TEL :  
SER.# : 000J5J563237

DATE, TIME	05/16 10:12
FAX NO./NAME	92143639979
DURATION	00:01:08
PAGE(S)	08
RESULT	OK
MODE	STANDARD
	ECM

**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW  
ONE MEADOWS BUILDING  
5005 GREENVILLE AVENUE, SUITE 200  
DALLAS, TEXAS 75206

TELE. (214) 368-8300

FAX (214) 363-9979

**FACSIMILE TRANSMITTAL SHEET**

This fax is being transmitted on a Sharp FO-DC600. If you do not receive this transmission in its entirety, please call our Receptionist at the telephone number listed above.

PAGE COUNT: 5

TO: Sharon Gamble FACSIMILE: 800-733-5120

COMPANY: TDHCA TELEPHONE: 512-475-4610

FROM: Shannon Pritchard DATE: May 15, 2006

REF: Centerpoint Residents' Council's response to Def. Ltr #2, QCP #'s 060144, 060143, 060147 & 060049

COMMENTS: Original will not follow.

**IMPORTANT**

The materials transmitted by this facsimile are sent by an attorney or his/her agent, and are considered confidential and are intended only for the use of the individual or entity named. If the addressee is a client, these materials may also be subject to applicable privileges. If the recipient of these materials is not the addressee, or the employee or agent responsible for the delivery of these materials to the addressee, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us at (214) 368-8300 (collect) and return the transmitted materials to us at the above address via the U.S. Postal Service. We will reimburse you any costs incurred in connection with this erroneous transmission and your return of these materials. Thank you.

55

**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS &amp; COUNSELORS AT LAW

ONE MEADOWS BUILDING

5005 GREENVILLE AVENUE, SUITE 200

DALLAS, TEXAS 75206

(214) 368-8300

SHANNON PRITCHARD  
Attorney  
spritchard@johnhcarney.comDIRECT TEL (214) 365-4415  
FACSIMILE (214) 363-9979  
WWW.LEGALADVISORS.COM

May 15, 2006

*Via Fax 800-733-5120*Ms. Robbye Meyer  
Texas Department of Housing  
and Community Affairs  
221 E. 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78711RE: Centerpoint Residents' Council, Deficiency Notice dated May 4, 2006  
QCP #060144; QCP #060143, QCP #060147, QCP #060049

Dear Ms. Meyer:

In response to the notice of administrative deficiency for the referenced QCP letters, please find our responses including enclosure:

Item Number One:

Notwithstanding the registered name of this organization, the Centerpoint Residents' Council functions as a neighborhood association. A letter confirming this from the President of the organization is attached. This group had met early and often to ensure their input. The members of the Centerpoint Residents' Council see themselves as an association of home-buying families and as such, consider themselves to have the same rights to comment on new development that impacts their community as any other organization of single-family neighborhoods in this state.

The proposed development #060144 is an expansion and addition of the existing Centerpoint Neighborhood that this Council represents. This proposed development includes new homes for the rent-to-own program and a community center. Clearly, these new homes and the community center would be included in the boundaries of the Residents' Council.

Proposed developments #060143 and #060147, Sun Valley and Orchard Valley Homes, are new construction of single-family homes that are adjacent to the Centerpoint project and within the Council's registered boundaries. The Centerpoint Residents' Council is in favor of these projects, as they will positively impact the growth of this area into vital, secure neighborhoods.

The proposed development #060049, the Los Milagros Apartments, is not a single-family home development and is immediately adjacent to the Centerpoint project. The members of the Council feel strongly that to allow this project to go forward will negatively impact their neighborhood. This proposed new construction is within the Council's boundaries.

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## Legal Issue:

The enabling legislation for QCP does not permit the scoring limitations you are attempting to place on our group. We are a neighborhood organization and therefore should be scored for all those purposes within our properly identified boundaries. The Attorney General has previously determined the board does not have the authority to change the legislation scoring criteria. By attempting to limit our neighborhood organization's area of comment to something other than our duly adopted boundaries is not consistent with the legislation passed for scoring these letters for ACP. Furthermore, to deny us this ability to comment on development that impacts the integrity and value of our community is unequal treatment under the law.

We believe our information as submitted meets the requirement intended in the QAP and the department submission material. We believe our letters should be scored for all purposes.

Sincerely,



Shannon Pritchard  
Attorney, Centerpoint Residents'  
Council

SP  
Enclosure

CENTERPOINT RESIDENT COUNCIL  
3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

Ms. Jennifer Joyce  
TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

May 5, 2006

RE: Centerpointe Neighborhood Organization

Dear Jennifer:

This letter confirms the following for our organization:

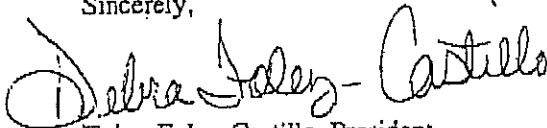
1. We are all single family homes in a single family sub division. The renters in the homes owned as public housing will participate in a home ownership program. We expect to own these homes at the end the public housing rental period.
2. The definition of our organization is no longer solely a resident's council but a neighborhood association. Our group met several times to discuss the developments we have opposed and those we supported. We changed our organization structure to meet the TDHCA requirement for public comment on all new development within our boundaries. As we discussed among our members, our groups map and organization was specifically amended to comply with your 2006 rules for public comment. We maintained the name of our organization to insure our continued recognition of organization as on record with Hidalgo County.
3. We are on record with the County and have had our opposition to Los Milagros scored in the previous year. We amended our organization in a manner necessary to have input into the TDHCA process as part of formulating our position of opposition and our positions of support. We transformed our group to a neighborhood association to accomplish this goal.
4. Any new single family homes built in our neighborhood boundaries are eligible for membership in our organization. Either the renter occupant or the owner occupant.
5. Your description of our group to limit our ability to comment on any development without neighborhood boundaries does not fit our sub division or our organization as amended by the membership. We are a neighborhood association, a sub division of single family homes. The project description involving demolition and new construction or rehabilitation applies to other types of developments, like the apartments we oppose, they are not a description of our situation.

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We conducted our meetings and membership votes around the entire premise of altering our boundaries and organization in whatever manner was needed to meet all the 2006 requirements to the best of our ability.

We hope and expect our letters to be considered and scored in this application round for Centerpoint, Sun Valley, Orchard Valley and Los Milagros.

Sincerely,



Debra Foley-Castillo, President

**Sharon Gamble**

---

**From:** Sharon Gamble  
**Sent:** Thursday, May 04, 2006 7:18 PM  
**To:** 'Shannon Pritchard'  
**Subject:** QCP Deficiency Letters #060049, 060143, 060144, and 060147

Here are soft copies of the four notices I faxed to you earlier. I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday. Please reply to this email as soon as you get it as confirmation of receipt.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

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**Jennifer Joyce**

**From:** Jennifer Joyce  
**Sent:** Wednesday, May 03, 2006 2:55 PM  
**To:** 'Shannon Pritchard'  
**Cc:** Sharon Gamble; 'Kevin Hamby'  
**Subject:** Centerpoint Resident's Council

*Copy w/  
Ms. Pritchard  
we'd issue def letter  
tomorrow, but  
discussing rule  
but not do 144  
agreed after  
that all  
residents  
not  
development  
owner*

Ms. Pritchard,

We still have some issues with the boundary problems in the letters submitted by Centerpoint Resident's Council. This may seem like a technicality to you, but it is important that we ensure that all documentation possibly needed is requested from a neighborhood association before awarding points for QCP. Please note the following two points and answer the question below:

1. A new item added this year to the QAP says, "Neighborhood organizations' include...resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents)."
2. In the bylaws submitted for the Centerpoint Resident's Council, Article II says, "The purpose of the Council is to improve life for the residents of the **Centerpoint Development** [emphasis added]". Article III states that it's members, "...shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization..."

Question: What is the **Centerpoint Development** under Article II? Is it the area named "Centerpoint Development" in your boundaries, or is it actually the name of the housing authority property of apartments called, "Centerpoint". In reading this, do you believe that Centerpoint Resident's Council qualifies as a "Neighborhood Organization" under our rule? If so, please confirm all of the developments that Centerpoint Resident's Council represents. If the council truly does represent the entire area as described in the boundaries you submitted, please explain how and why this is allowable when the bylaws suggest the members are on a development basis.

At this time this is an informal request to quickly clear all of the deficiencies all four letters submitted. Please be sure to reply all to this statement as an explanation. As I said in my voicemail, I am out of the office from 3:30 pm today returning Monday and Sharon Gamble is out Friday.

Thank you!

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Shannon Pritchard [mailto:spritchard@johnhcarney.com]  
**Sent:** Thursday, April 20, 2006 4:58 PM  
**To:** Jennifer Joyce  
**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

61

THank you for this information, Jennifer. I just got the fax copy of the letters you sent - I will address the CenterPoint issues as well. I have had trouble reaching my client contact at CenterPoint, as she is a single mom who works a lot of hours, so this letter from your department is tremendously helpful.

Shannon Pritchard

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]

**Sent:** Thursday, April 20, 2006 4:29 PM

**To:** Shannon Pritchard

**Cc:** 'Robbye Meyer'; 'Sharon Gamble'

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

Ms. Pritchard,

No problem at all. I am very happy to hear the level of attention the organizations are giving this.

- 1) Actually, as I look at the bylaws, I see a date at the bottom that says, "Adopted 4/16/2003". This date was most likely missed by Sharon because it is small and at the bottom, which is why I am sure she asked for it. Please consider the issue of the date of the bylaws resolved. As far as the adoption of the map, your proposal sounds exactly like what we're hoping to get.
- 2) If the letter isn't on letterhead but is obviously from the county, it would be acceptable. I have accepted e-mails from the county to organizations in the past because their e-mail addresses indicate they are county entities. A letter on letterhead would definitely be acceptable.
- 3) Yes, the exact deficiency was sent to Centerpoint, and I thought you received this one as well based on the subject of your letter and since they were the same items, you were asking for both. I am faxing over both deficiencies to you now (centerpoint's was mailed because the primary contact's fax did not work. I am SO SORRY our staff missed you as the second contact. It was a data entry issue that we are resolving right now).

Please let me know if you have any questions,

Jen Joyce

Interim Manager of Multifamily Finance Production Division

Texas Department of Housing and Community Affairs

(512) 475-3995

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

**From:** Shannon Pritchard [mailto:spritchard@johnhcarney.com]

**Sent:** Thursday, April 20, 2006 3:39 PM

**To:** Jennifer Joyce

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

Ms. Joyce: Please forgive me if I came off as abrupt - I was simply frustrated in trying to get some answers prior to working all weekend to meet my deadline for my clients, who, you can imagine, are very concerned that we submit these documents appropriately. My clients at Alta Vista Senior Towers may be senior citizens, but they are very keenly concerned that this renovation project go forward and they do not want their ... misinterpretation of what must be presented to be the stumbling block.

At this time, I will only respond to those points that need further attention, if that is acceptable.

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#1 - As to the creation documents - The letter from TDHCA dated 4/13/06, to Margarita Sanchez, indented paragraph 1, states as follows:

"Submit evidence that the bylaws, articles, or organization documents were created on or before March 1, 2006 and that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document."

My interpretation of that statement was that we had to prove that our organization's bylaws were created prior to March 1, 2006 AND that the boundaries were part of those bylaws. In fact, Alta Vista has existed for some time, and their bylaws were created long before this year. I was told that they had incorporated the map to define the boundaries of the Association prior to March 1, 2006. In anticipation of the need to prove this had been done, I have requested they provide evidence of a resolution to amend, by incorporation of the map showing the physical boundaries of the property, the Constitution and By-Laws, which is, in effect, a creation document.

#2 - Evidence of being on record with the county - I will relay to my client the type of letter needed and the need that it be on the Hildalco County letterhead.

#3 - Is there a similar deficiency notice for CenterPoint?

Shannon Pritchard

[Shannon Pritchard]

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]

**Sent:** Thursday, April 20, 2006 2:50 PM

**To:** Sharon Gamble; Shannon Pritchard; 'Robbye Meyer'

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

In looking at this message, I think it would be more clear had I separated my statements better. Perhaps this version is more helpful so that you don't need to rely on the color coding.

Because time is an issue here, I will respond to your questions/ statements below.

YOU SAID: I am the attorney who has advised, prepared and subsequently submitted the QCP letters for both these Resident Associations and yet I was not copied on a recent request for clarification and further information for Alta Vista. I am very concerned that requests from your department may have gone to CenterPoint without my notification and the deadline to address deficiencies is rapidly approaching.

TDHCA COMMENT: I concur that we should have copied you on the deficiency as a courtesy. This is the first year we asked for a second contact in the letters and it is not required that we copy the second contact on all matters, but it is a reasonable request. In the future, we will copy you on all correspondence. However, it appears that you are aware of the deficiencies and that the neighborhood organizations are working on resolving the issue, and given that the items should not take long to obtain, I do not foresee



this circumstance of not copying you to be an issue.

YOU SAID: I contacted Ms. Gamble via telephone at the number supplied in Ms. Meyer's letter to Alta Vista, only to get voicemail and be advised that she would not return calls UNTIL 4/24/06. That is too late.

TDHCA COMMENT: Her out of office message says to contact Jennifer Joyce (me) for all deficiency related issues pertaining to QCP, and she clearly states my telephone number.

YOU SAID: My client contact with Alta Vista is gathering the requested information regarding the creation of the Resident's Association (which dates back into the 1970's), and has requested a NEW letter from the county clerk's office, even though the date-stamped letter we submitted has been acceptable for this process in the past.

TDHCA COMMENT: I am unsure why your client is attempting to obtain creation documents. Please explain why. As it relates to the date-stamp being accepted in the past, it was determined by our general council that there needed to be evidence from the county clerk in addition to what was submitted. An e-mail, a fax or a document picked up from their office would all suffice as evidence that the organization is on record with the county as long as it simply states, "As of March 1, 2006 \_\_\_\_\_ neighborhood organization is on record with the county."

YOU SAID: As to the boundaries of the Resident Association, a map with clearly marked boundaries was attached to the by-laws themselves, which legally makes them an accepted addendum to the by-laws. They are accepted as part of the by-laws by incorporation, and is my further understanding that this method of identifying the boundaries has been acceptable to TDHCA in past years.

TDHCA COMMENT: As the legal council for these items I am sure that you have noted that the QCP requirements did change this year, and those requirements are very clearly outlined in the QCP packages on our website. The QAP and all information published for neighborhood organizations very clearly says that the QCP package MUST, "include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization." This entire requirement is new this year in the QAP.

The constitution & bylaws submitted in the package did not include an identification of the boundaries of the organization. It did, however, include a map (as required as a separate item) which includes the Development site. The maps submitted clearly were not part of the by-laws or constitution. What we need is language which was effective as of March 1, 2006 or prior which states the boundaries of the neighborhood organization (in other words, an organizational document that was not created for the purposes of QCP points such as the maps submitted.) Any organizational document will do that identifies the boundaries of the organization, it just needs to be effective on or before March 1, 2006. Note, if

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Debra Foley-Castillo  
President  
Centerpoint Resident Council  
3521 Diamond  
Weslaco, Texas 78596

EMAIL + FAX SENT 5/4

PC 5/9 TO VERIFY. VM LFT.

5/10 PC TO S PRITCHARD. LEFT VM.

" PC FROM S. PRITCHARD. SAE IS PREPARING  
RESPONSE

Organization Fax: (956) 565-6005      Organization Email:

Second Contact:

Shannon Pritchard

Second Contact Fax: (214) 363-9979      Second Contact Email: spritchard@johncarney.com

Second Contact Phone: (210) 368-8300

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Centerpoint Home Ownership, # 060144

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

As a Resident's Council, you are only eligible to comment on the property you occupy, meaning that you would have to be commenting about the rehabilitation or re-building of your own development. Submit evidence that the site of the new Centerpoint Home Ownership Development will be

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**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

included in the boundaries of the existing Centerpoint Resident Council property.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by May 15.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

66

TRANSMISSION VERIFICATION REPORT

TIME : 05/04/2006 19:05  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BROG4J729978

DATE, TIME	05/04 19:04
FAX NO. /NAME	92143639979
DURATION	00:01:12
PAGE(S)	08
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Debra Foley-Castillo

President

Centerpoint Resident Council

3521 Diamond

Weslaco, Texas 78596

Organization Fax: (956) 565-6005      Organization Email:

Second Contact:

Shannon Pritchard

Second Contact Fax: (214) 363-9979      Second Contact Email: spritchard@johncarney.com

Second Contact Phone: (210) 368-8300

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation

Centerpoint Home Ownership, # 060144, 143, 147, 049 (8 pages)

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the OAP, the Department may request that you provide additional information or documentation that it deems

67

**Jennifer Joyce**

**From:** Jennifer Joyce  
**Sent:** Thursday, April 20, 2006 4:29 PM  
**To:** 'Shannon Pritchard'  
**Cc:** 'Robbye Meyer'; 'Sharon Gamble'  
**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

Ms. Pritchard,

No problem at all. I am very happy to hear the level of attention the organizations are giving this.

06 0158  
 060158  
 060158  
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Please let me know if you have any questions,

Jen Joyce  
 Interim Manager of Multifamily Finance Production Division  
 Texas Department of Housing and Community Affairs  
 (512) 475-3995

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**To:** Jennifer Joyce  
**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

Ms. Joyce: Please forgive me if I came off as abrupt - I was simply frustrated in trying to get some answers prior to working all weekend to meet my deadline for my clients, who, you can imagine, are very concerned that we submit these documents appropriately. My clients at Alta Vista Senior Towers may be senior citizens, but they are very keenly concerned that this renovation project go forward and they do not want their misinterpretation of what must be presented to be the stumbling block.

At this time, I will only respond to those points that need further attention, if that is acceptable.

#1 - As to the creation documents - The letter from TDHCA dated 4/13/06, to Margarita Sanchez, indented paragraph 1, states as follows:

"Submit evidence that the bylaws, articles, or organization documents were created on or before March 1, 2006 and that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document."

4/20/2006

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My interpretation of that statement was that we had to prove that our organization's bylaws were created prior to March 1, 2006 AND that the boundaries were part of those bylaws. In fact, Alta Vista has existed for some time, and their bylaws were created long before this year. I was told that they had incorporated the map to define the boundaries of the Association prior to March 1, 2006. In anticipation of the need to prove this had been done, I have requested they provide evidence of a resolution to amend, by incorporation of the map showing the physical boundaries of the property, the Constitution and By-Laws, which is, in effect, a creation document.

#2 - Evidence of being on record with the county - I will relay to my client the type of letter needed and the need that it be on the Hildalco County letterhead.

#3 - Is there a similar deficiency notice for CenterPoint?

Shannon Pritchard

[Shannon Pritchard]

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]

**Sent:** Thursday, April 20, 2006 2:50 PM

**To:** Sharon Gamble; Shannon Pritchard; 'Robbye Meyer'

**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

In looking at this message, I think it would be more clear had I separated my statements better. Perhaps this version is more helpful so that you don't need to rely on the color coding.

Because time is an issue here, I will respond to your questions/statements below.

YOU SAID: I am the attorney who has advised, prepared and subsequently submitted the QCP letters for both these Resident Associations and yet I was not copied on a recent request for clarification and further information for Alta Vista. I am very concerned that requests from your department may have gone to CenterPoint without my notification and the deadline to address deficiencies is rapidly approaching.

TDHCA COMMENT: I concur that we should have copied you on the deficiency as a courtesy. This is the first year we asked for a second contact in the letters and it is not required that we copy the second contact on all matters, but it is a reasonable request. In the future, we will copy you on all correspondence. However, it appears that you are aware of the deficiencies and that the neighborhood organizations are working on resolving the issue, and given that the items should not take long to obtain, I do not foresee this circumstance of not copying you to be an issue.

YOU SAID: I contacted Ms. Gamble via telephone at the number supplied in Ms. Meyer's letter to Alta Vista, only to get voicemail and be advised that she would not return calls UNTIL 4/24/06. That is too late.

TDHCA COMMENT: Her out of office message says to contact Jennifer Joyce (me) for all deficiency related issues pertaining to QCP, and she clearly states my telephone number.

YOU SAID: My client contact with Alta Vista is gathering the requested information regarding the creation of the Resident's Association (which dates back into the 1970's), and has requested a NEW letter from the county clerk's office, even though the date-stamped letter we submitted has been acceptable for this process in the past.

TDHCA COMMENT: I am unsure why your client is attempting to obtain creation documents. Please explain why. As it relates to the date-stamp being accepted in the past, it was determined by our general council that there needed to be evidence from the county clerk in addition to what was submitted. An e-mail, a fax or a document picked up from their office would all suffice as evidence that the organization is on record with the county as long as it simply states, "As of March 1, 2006 \_\_\_\_\_ neighborhood organization is on record with the county."

YOU SAID: As to the boundaries of the Resident Association, a map with clearly marked boundaries was attached to the by-laws themselves, which legally makes them an accepted addendum to the by-laws. They are accepted as part of the by-laws by incorporation, and is my further understanding that this method of identifying the boundaries has been acceptable to TDHCA in past years.

TDHCA COMMENT: As the legal council for these items I am sure that you have noted that the QCP requirements did change this year, and those requirements are very clearly outlined in the QCP packages on our website. The QAP and all information published for neighborhood organizations very clearly says that the QCP package MUST, "include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization." This entire requirement is new this year in the QAP.

The constitution & bylaws submitted in the package did not include an identification of the boundaries of the organization. It did, however, include a map (as required as a separate item) which includes the Development site. The maps submitted clearly were not part of the by-laws or constitution. What we need is language which was effective as of March 1, 2006 or prior which states the boundaries of the neighborhood organization (in other words, an organizational document that was not created for the purposes of QCP points such as the maps submitted.) Any organizational document will do that identifies the boundaries of the organization, it just needs to be effective on or before March 1, 2006. Note, if you can't get this information because the language does not exist, I recommend that you state to that fact and request the letter to be eligible anyway and state your reasons why.

If you need me at all, as I said in my message to you via voicemail, please contact me at 512.475.3995. We have a state holiday tomorrow and I will be out but you may reach me on my cell phone at 512.797.0799.

**Shannon Pritchard**

John H. Carney & Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206

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(214) 365-4415 Direct Dial

**Jennifer Joyce**

---

**From:** Jennifer Joyce  
**Sent:** Thursday, April 20, 2006 2:50 PM  
**To:** Sharon Gamble; 'SPRITCHARD@JOHNHARNEY.COM'; 'Robbye Meyer'  
**Subject:** RE: Alta Vista Senior Tower, QCP #060158, CenterPoint Single Family, QCP #060144

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**TDHCA COMMENT:** I concur that we should have copied you on the deficiency as a courtesy. This is the first year we asked for a second contact in the letters and it is not required that we copy the second contact on all matters, but it is a reasonable request. In the future, we will copy you on all correspondence. However, it appears that you are aware of the deficiencies and that the neighborhood organizations are working on resolving the issue, and given that the items should not take long to obtain, I do not foresee this circumstance of not copying you to be an issue.

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If you need me at all, as I said in my message to you via voicemail, please contact me at 512.475.3995. We have a state holiday tomorrow and I will be out but you may reach me on my cell phone at 512.797.0799.

**Shannon Pritchard**

John H. Carney & Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206

(214) 365-4415 Direct Dial  
(214) 363-9979 Facsimile  
[www.LegalAdvisors.com](http://www.LegalAdvisors.com)

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Information contained in this transmission is intended for the use of the individual or entity named above and may contain legally privileged and/or confidential information. If the Reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please permanently delete this message and immediately notify me by telephone.

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060144

**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW  
ONE MEADOWS BUILDING  
5005 GREENVILLE AVENUE, SUITE 200  
DALLAS, TEXAS 75206  
(214) 368-8300

SHANNON PRITCHARD  
Attorney  
spritchard@johnhcarney.com

DIRECT TEL (214) 365-4415  
FACSIMILE (214) 363-9979  
WWW.LEGALADVISORS.COM

April 24, 2006

*Via E-Mail & Fax*  
800-733-5120

Ms. Robbye Meyor  
Texas Department of Housing  
and Community Affairs  
221 E. 11<sup>th</sup> Street  
Insurance Building Annex  
Austin, TX 78711

RE: Center Point Residents' Council QCP; Deficiency Notice dated April 10, 2006

Dear Ms. Meyer:

In response to the notice of administrative deficiency, please find our responses including enclosure:

Item Number One:

Enclosed please find a letter from Debra Foley-Castillo, President of the Center Point Resident Council, verifying that the Council considers the map submitted with their QCP packet to be part of their organizational records, and that these boundaries were established prior to March 1, 2006.

Item Number Two:

Enclosed please find a letter from the Office of the County Judge Ramon Garcia, County of Hidalgo, confirming that the Center Point Residents' Council was on record with Hidalgo County as of February, 2005. Additionally, we respectfully suggest that the State must consider the letter from the Council asking for registration with the County, which is both file stamped and initialed by County personnel, to be adequate evidence of registration with the County, notwithstanding the letter from Judge Garcia.


It is my understanding that the Department scored this Council's letter in opposition to Los Milagros last year, with only the file-stamped letter from the county as proof of registration. It is my further understanding that no new registration or new evidence of registration is required.

Furthermore, we believe the boundary and registration information as submitted meets the spirit, if not the letter, of the requirement of the QAP.

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If you need additional information please do not hesitate to contact me. Please make note this material applies to the Sun Valley, Orchard Valley and Los Milagros applications, for which the Center Point Residents' Council also provided QCP letters to your agency.

Sincerely,



Shannon Pritchard  
Attorney, Center Point Resident's  
Council

SP  
Enclosure

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CENTERPOINT RESIDENT COUNCIL  
3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

Ms. Robbye Meyer  
TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: QCP Notice on Centerpointe

Dear TDHCA:

This letter hereby confirms that the boundary map provided in our QCP packet with the organization documents is the established boundary of the organization. It was the established boundary prior to March 1, 2006. They are part of our organizational records.

Sincerely,



Debra Foley-Castillo, President



OFFICE OF THE COUNTY JUDGE  
County Of Hidalgo

RAMON GARCIA  
County Judge

Centerpointe Residents' Council  
3521 Diamond  
Weslaco, TX 78596

April 20, 2006

RE: Centerpointe Residents' Council file stamped letter

Dear Centerpointe Residents' Council:

Per your request, we hereby confirm that the resident's council for the Centerpointe subdivision was filed with Hidalgo County in February 2005. Your registration letter was filed stamped on that date, a copy of which is attached. This letter confirms that registration is on record with Hidalgo County as of that date.

Sincerely,

Ramon Garcia  
Hidalgo County Judge

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**JOHN H. CARNEY & ASSOCIATES**

ATTORNEYS & COUNSELORS AT LAW  
ONE MEADOWS BUILDING  
5005 GREENVILLE AVENUE, SUITE 200  
DALLAS, TEXAS 75206

TELE. (214) 368-8300

FAX (214) 363-9979

**FACSIMILE TRANSMITTAL SHEET**

This fax is being transmitted on a Sharp FO-DC600. If you do not receive this transmission in its entirety, please call our Receptionist at the telephone number listed above.

PAGE COUNT: 5

TO: Sharon Gamble FACSIMILE: 800-733-5120

COMPANY: TX Dept. of Housing & Com. Affairs TELEPHONE: 512-475-3995

FROM: Shannon Pritchard DATE: April 24, 2006

REF: Center Point Residents' Council QCP; Response to Deficiency Notice dated April 10, 2006.

COMMENTS: Original will not follow, but submission via e-mail will follow.

**IMPORTANT**

The materials transmitted by this facsimile are sent by an attorney or his/her agent, and are considered confidential and are intended only for the use of the individual or entity named. If the addressee is a client, these materials may also be subject to applicable privileges. If the recipient of these materials is not the addressee, or the employee or agent responsible for the delivery of these materials to the addressee, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us at (214) 368-8300 (collect) and return the transmitted materials to us at the above address via the U.S. Postal Service. We will reimburse you any costs incurred in connection with this erroneous transmission and your return of these materials. Thank you.

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*revised*



**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

April 13, 2006

Debra Foley-Castillo  
President  
Centerpoint Resident Council  
3521 Diamond  
Weslaco, Texas 78596

*MC/AC*

Organization Fax: (956) 565-6005      Organization Email:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Centerpoint Home Ownership, # 060144

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

✓ The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. According to §50.9(i)(2)(A)(viii) of the QAP, your bylaws must "at a minimum, identify the boundaries of the organization, ..." Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document.

*Resolved*  
The date-stamped letter you submitted is not sufficient evidence to prove that your organization was on record with the county as of March 1, 2006. In accordance with §50.9(i)(2)(A)(v) of the QAP, submit evidence that the organization was registered with the Secretary of State or the county in which the development is to be located on or before March 1, 2006. Evidence from the county may include a letter written on county letterhead and signed by a representative of the county clerk's office and must include the registration date of the information and that the county considers the organization to be on

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

record.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by April 24.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

TRANSMISSION VERIFICATION REPORT

TIME : 04/20/2006 16:25  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BR0G4J729978

DATE, TIME	04/20 16:24
FAX NO./NAME	92143639979
DURATION	00:00:51
PAGE(S)	05
RESULT	OK
MODE	STANDARD ECM

*MARLEO*



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 13, 2006  
Debra Foley-Castillo  
President  
Centerpoint Resident Council  
3521 Diamond  
Weslaco, Texas 78596

Organization Fax: (956) 565-6005      Organization Email:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Centerpoint Home Ownership, # 060144

Dear Debra Foley-Castillo:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

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**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: CENTERPOINT SINGLE FAMILY HOME OWNERSHIP Dev. Number: 060144  
 Organization Name: CENTERPOINT RESIDENTS COUNCIL Date Letter Received: 3/31/06  
 Reviewer Name: S SAMBIE Date Reviewed: 4/6/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries</u> ?  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

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8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization <u>of persons living near one another</u> within the organization's defined boundaries that contain the proposed Development site and that has a <u>primary purpose of working to maintain or improve the general welfare of the neighborhood</u>. More specifically:</p> <p>"Neighborhood organizations" <b>DO</b> include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" <b>DO NOT</b> include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input checked="" type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/></p>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

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**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete?

Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

REASONS NOT IN ONE PAGE; STAMPED LETTER

Date deficiency letter issued: 4/13/06

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): 4/24/06

UPS

Date deficiencies received: 4/24/06

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: 83

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
<b>FINAL SCORE (Enter from box checked above):</b>		

Has this been entered in the 2006 Database?

Yes  No

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CENTERPOINT RESIDENT COUNCIL

3521 DIAMOND  
WESLACO, TX 78596  
FAX: 956-565-6005

March 28, 2006

Mr. Bill Daly, Acting Executive Director *Via Federal Express and E-mail and Fax*  
Attn: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2410

Re: Quantifiable Community Participation Development #060144  
Development: CenterPoint Single Family Home Ownership, Weslaco, Texas  
Proposed by Riverdale, LP; TDHCA #060144  
Development Location: CenterPoint Neighborhood, Mile 8.5 North and FM  
Road 1015, City of Weslaco, Texas

Dear Mr. Daly:

I am writing as the duly elected President of the Centerpoint Resident Council to express our Council's support for an allocation of Housing Tax credits for a planned addition of new-construction single family homes designed for rent-to-ownership in Weslaco, Texas. Centerpoint Resident Council is a qualified Neighborhood Organization as further described below.

I am also providing the following information for one additional contact, Ms. Shannon Pritchard, for our organization:

Shannon S. Pritchard, Attorney at Law  
John H. Carney & Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206  
214-368-8300 Telephone  
214-363-9979 Facsimile

Enclosed is a map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries. Our boundaries were amended slightly from 2005 to make them more easily identifiable to all members of the organization and the community. Those boundaries are: E. Expressway 83 to the South; North Airport Drive to the West; Mile 2 Road W to the East and Mile 9 Road N to the North. These boundaries are clearly noted on the map attached to the organization's documentation. This organization is an organization of persons living near one another within the organization's defined boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are our bylaws

06014795

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and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization. The organization has 58 members and four officers, President, Vice President, Treasurer and Secretary. The organization reached its decision to support the proposed development by holding a series of informal meetings that culminated with a formal meeting on Friday, March 24, 2006, wherein those present voted in support of the development.

This organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit Application Round. The organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application round. The Applicant has not provided any "production" assistance for any application in the Application Round

Our organization supports the development for many reasons including:

1. It is specifically designated to serve the needs of Weslaco families with children. There is a well-recognized need for decent, safe and affordable housing in our area.
2. The project is planned to provide 36 three-bedroom two-bath homes with garages, which will benefit the entire community. We prefer this single-family home approach over standard apartments in our area.
3. The homes and their resident families will add diversity to our subdivision because it serves a mixed range of incomes. These will range, according to our information, from 30% of area median income to 60% of area median income.
4. Many of these homes will serve public housing residents currently living in apartments in our area. This brings added stability to our community.
5. It is our belief that our area has many apartment units and more would serve as an over concentration in our immediate area. Given the choice, we think single family homes for the same rent are better than apartments for the same rent.
6. We are very supportive of the resident's opportunity to own these homes at the end of the 15 year rental period. This is a valuable option for these families that makes sure they treat the houses like they own them even during the rental period.
7. Based upon the presentation of the developer, many of these homes will be fully equipped for special needs and disabled persons. We support the development for their efforts to provide single family homes that serve the needs of persons with disabilities.

Sincerely,



Debra Foley-Castilla, President

Telephone number (956) 365-6005

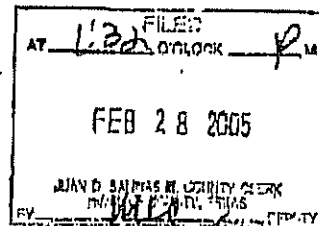
**CENTERPOINT RESIDENTS' COUNCIL OFFICERS**

Debra L. Foley-Castillo 3718 Diamond Weslaco, TX 78596	President 956-565-6005
Pedro Medrano 3605 Diamond Weslaco, TX 78596	Vice President
Idalia Cruz 3601 Diamond Weslaco, TX 78596	Secretary
Angie Serna 3522 Diamond Weslaco, TX 78596	Treasurer

**CENTERPOINT RESIDENT COUNCIL  
3718 DIAMOND BOULEVARD  
WESLACO, TEXAS 78596**

February 26, 2005

Mr. J.D. Salinas  
Hidalgo County Clerk  
Hidalgo County Courthouse  
100 North Cloaner  
Edinburg, Texas 78539



RE: Registration of Neighborhood Organization

Dear Mr. Salinas:

The Centerpoint Resident Council hereby requests that our neighborhood organization be registered in Hidalgo County. Please register the Centerpoint Resident Council by file stamping this request letter.

Thank you.

Sincerely,

David Morari, Sr.  
Vice-President

## BYLAWS FOR THE CENTERPOINT RESIDENT COUNCIL

## ARTICLE I.

Name:

The name of this organization is the Centerpoint Resident Council (hereinafter referred to as the "Council"). It is a not-for-profit organization constituted and established under the laws of the State of Texas.

The registered address of the Council is at 303 W. 6th Street, Weslaco, Texas, 78596. The Council may also have offices at other such locations as the Executive Committee may from time to time determine.

## ARTICLE II.

Purpose.

The purpose of the Council is to improve life for the residents of the Centerpoint Development. In specific, the purpose of the Council shall be to:

1. maintain a viable resident organization representative of the residents who elected its officers and Executive Committee.
2. assure adequate maintenance of all units and common areas.
3. provide maximum employment and training opportunities.
4. establish and maintain courtesy patrols and public safety programs.
5. promote programs which will provide improved educational, recreational and social service opportunities.
6. inform residents of their rights and responsibilities under existing federal, state and local law, as well as under the Corporation's By-Laws.
7. receive official recognition from the Housing Authority and HUD as a resident council pursuant to the HUD regulations.
8. institute economic development programs for residents.
9. advise and assist the Housing Authority in all aspects of public housing operations.
10. cooperate with other resident councils under the Housing Authority's jurisdiction in representing the interests of all residents.



BYLAWS/CENTERPOINT "COUNCIL" . . .

. . . PAGE 2

## ARTICLE III.

The participation of members of the organization is crucial for its success. Members can take part in decision-making in many ways. Democratic election of the officers of the organization are an important responsibility of members.

Membership.

Membership in the organization shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization who is at least eighteen (18) years of age.

Voting Eligibility.

The eligible voting membership includes all residents at least eighteen (18) years of age whose names appear on the lease of a unit in the public housing development(s) represented by the organization. A leaseholder may vote regardless of age.

## ARTICLE IV.

Meetings are the most important means of conducting the business of the organization. They should also provide the members an opportunity to understand the activities of the organization and the basis for its decisions. A published, regular schedule of meetings is, therefore, crucial to the overall success of the organization.

Meetings:

1. Frequency. Regular Council meetings shall be held not less than once a month, and shall be open to all residents.
2. Notices. Notice of all regular monthly meetings, together with an agenda of the meeting, shall be posted in a regular location and be provided to residents, in writing, at least five (5) days in advance of the meetings.
3. Meeting Place/Time Meetings shall be held at such place and time as shall be specified in the notice of the meeting. A regular schedule (e.g. each second Tuesday of each month) and regular location are advisable.
4. Special Meetings The President or any three (3) officers may at any time call a Special Meeting, provided that the written notice, including agenda, is given at least forty-eight (48) hours prior to the meeting.

BYLAWS/CENTERPOINT "COUNCIL" . . .

. . . PAGE 3

## 5. Quorum

At any Council meeting, three-fourths of the officers of the Council shall be necessary and sufficient to constitute a quorum.

## 6. Attendance

Each time a member of the Executive Committee appears at a regular or special meeting, a record of the presence of that officer shall be placed in the minutes of the meeting. The board may request that a record of all those attending the meeting be recorded as well.

Any officer who misses three (3) meetings of the Council with an excuse satisfactory to the Executive Committee may be removed by the affirmative votes of a majority of the Committee present. Written notice and a hearing shall be given to the Committee members of the proposed removal.

## 7. Voting by Officers

Each member of the Executive Committee present at a meeting shall be entitled to cast one (1) vote on any subject for which a determination is presented for consideration.

## ARTICLE V.

Executive Committee members (officers) have a formal, legal responsibility to manage the affairs of the organization, to conduct its business and to consult with and inform the residents.

Officers:

## 1. Title and Qualifications:

## a. President

The President of the Council shall preside at all meetings of the organization, and shall have such other powers and duties consistent with these by-laws.

## b. Vice-President

The Vice-President shall perform all duties in the absence of the President.

## c. Secretary

The Secretary shall be the custodian of all records and documents of the Council and perform all other duties consistent with these by-laws.

## d. Treasurer

The Treasurer shall have the care of, receive and give receipt for monies due and payable to the Council and deposit all monies received by him/her in the name of the council in such banks, trust companies or other depositories as may be designated by the Executive Committee.

## BYLAWS/CENTERPOINT "COUNCIL" . . .

. . . PAGE 4

2. Term of Office      All officers shall be elected by the general resident population of the Centerpoint Development, and shall hold office for a period of one (1) year.
3. Resignations      Any officer may resign at any time by delivering a written resignation to the Executive Committee.
4. Removal            Any officer may be removed at any time, for just cause, by a vote of the majority of the Executive Committee.  
  
Any officer who misses three (3) meetings of the Council with an excuse satisfactory to the Executive Committee may be removed by the affirmative votes of a majority of the Committee present. Written notice and a hearing shall be given to the Committee members of the proposed removal.
5. Vacancies          Any vacancy in any office may be filled for the unexpired portion of the term by a decision of the Executive Committee.

## ARTICLE VI

Elections.

1. Frequency.      All procedures must assure fair and frequent elections (at least once every year).
2. Terms.            The terms for all officers is one (1) year.
3. Notice.          Description of election and recall procedures, eligibility requirements and dates of nominations and elections must be given to all voting members at least 30 days prior to nomination and election.
4. Recall.            Any elected officer of the council may be recalled by a vote for removal by a majority of voting members. A recall election must be promptly conducted when a petition requesting such an election is received from not less than ten percent (10%) of the voting membership. All procedures for petitioning for a recall election shall be provided to voters for their inspection and must be included in the By-Laws.
5. Monitoring.      The Weslaco Housing Authority shall monitor the activities of the Resident Council, including the election process. Additionally, it shall establish a procedure to appeal any adverse action relating to failure to conform to HUD's minimum standards. Such appeal shall be submitted to a jointly selected third-party arbitrator at the local level. If costs are incurred by using a third-party arbitrator, then such costs shall be covered by the Housing Authority's resident services funds, pursuant to 24 CFR 964.150.

## ARTICLE VII

Committees:

There shall be such Board Committees as the Executive Committee may, from time to time, determine to be desirable. Committees shall initially be appointed by the President, with advice and consent of the Executive Committee.

1. Standing Committees. These committees are usually chaired by an officer of the Executive Committee.
2. "Ad Hoc" Committees. An "ad hoc" committee serves a special purpose and continues for a limited period of time.

## ARTICLE VIII

Fiscal Affairs.

- Deposit of Funds** All funds of the council not otherwise expended, shall be promptly deposited in such banks, trust companies, credit unions or other reliable and insured depositories as the Executive Committee shall determine.
- Checks** All checks, drafts, endorsements, notes and evidence of debt shall be signed by at least two (2) officers as the Executive Committee may authorize.
- Loans** No loans or advances or promises of payment shall be contracted or accepted on behalf of, or in the name of the Council, except those contracts authorized by the Executive Committee.
- Contracts** An officer authorized by the board of directors may, in the name and on behalf of the Council, enter into contracts which are authorized by the Executive Committee.







CENTERPOINT  
RESIDENT MEETING  
MARCH 24, 2006



1. PEDRO MEDRANO 3605 Diamond	26. Blvd
2. Noemi Medrano 3605 Diamond	27
3. maria B seña 8618 Diamond	28.
4. amador corona 3618 Diamond	29
5. Julian Salas 1006 Ruby	30
6. Delia Lynn Castillo 3521 Diamond Blvd	31.
7. ADALIA CRUZ 3601 Diamond	32.
8. Alma N moreno	33.
9. Amador Gonzalez	34.
10. Graciela Gonzalez	35.
11. Pedro Alvarez	36.
12. Quara Mc Cabelo 1206 Ruby	37.
13. Corina Abrigo 1010 Ruby	38.
14. Veronica Jones 3609 Diamond	39.
15. Catalina Cavalos	40.
16.	41.
17.	42.
18	43.
19.	44.
20	45.
21.	46.
22.	47.
23.	48
24.	49.
25.	50.

4-15-06  
1st July

**Robbye Meyer**

---

**From:** Shannon Pritchard [sritchard@johnhcarney.com]  
**Sent:** Friday, March 31, 2006 4:29 PM  
**To:** jennifer.joyce@tdhca.state.tx.us; robbye.meyer@tdhca.state.tx.us;  
brooke.boston@tdhca.state.tx.us  
**Subject:** Center Point Single Family, QCP #060144

Attached please find the QCP packet for Center Point Single Family Development, QCP #060144. The original to follow via Federal Express, and a copy has been faxed.

<<CenterPoint.pdf>>

**Shannon Pritchard**

John H. Carney & Associates  
One Meadows Building  
5005 Greenville Avenue, Suite 200  
Dallas, Texas 75206

(214) 365-4415 Direct Dial  
(214) 363-9979 Facsimile  
[www.LegalAdvisors.com](http://www.LegalAdvisors.com)

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# THE ENCINAS GROUP

A CALIFORNIA CORPORATION

1830 TRUXTON AVENUE, #206  
BAKERSFIELD, CA 93301  
661-328-0003  
FACSIMILE 661-328-0005

RECEIVED

MAY 8 2006

LIHTC

May 4, 2006

Mr. Bill Daly, Acting Executive Director  
Attn: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2401

Re: Quantifiable Community Participation Development  
CenterPoint Resident Council

*Noted and  
recovered  
5/1/06*

Dear Mr. Daly;

I am writing regarding the Quantifiable Community Participation Development letters submitted by Centerpoint Resident Council for TDHCA Developments #060143, #060144, #060147 and #060049.

The Centerpoint Resident Council states it is a qualified Neighborhood. I would like to question the organizations statement that it is a Qualified Neighborhood Organization for the following reason.

The 2006 Housing Tax Credit Program Qualified Allocation Plan and Rules with Amendments (QAP) states in Section 50.9(i)(2)(A)(iv) "A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/New Construction of the property occupied by the residents)."

The by-laws of the Centerpoint Resident Council executed in 2006 clearly state that the organization is a "Resident Council".

The by-laws of the Centerpoint Resident Council also state that the "purpose of the Council is to improve life for the residents of the Centerpoint Development".

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Further, the by-laws state "Membership in the organization shall include any person whose name appears on the lease of a unit in the public housing development(s) represented by the organization who is at least eighteen (18) years of age."

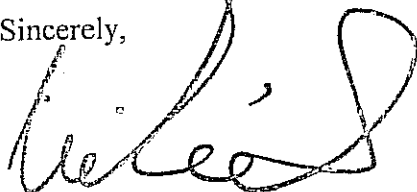
Based on the above info the Centerpoint Resident Council is a "Resident Council" and a valid Neighborhood Organization "only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/New Construction of the property occupied by the residents."

The applications submitted for TDHCA Development #060143 – Sun Valley Homes, #060144 – Centerpoint Home Ownership, #060147 – Orchard Valley Homes and #060049 are not applications for Rehabilitation or demolition with New Construction of the property occupied by the residents. The applications are for a new construction projects.

Therefore, I ask that TDHCA not award points to Applications #060143 – Sun Valley Homes, #060144 – Centerpoint Home Ownership, #060147 – Orchard Valley Homes and #060049 for Quantifiable Community Participation.

I also request that you provide me with the results of your review of the Centerpoint Resident Council and the reasons for your determination.

Sincerely,



William Encinas

cc: Brooke Boston, Interim Deputy Executive Director

**Jennifer Joyce**

---

**From:** Bob Joy [bjoy@teg-sd.com]  
**Sent:** Monday, May 08, 2006 10:10 AM  
**To:** 'Jennifer Joyce'  
**Cc:** 'Brooke Boston'  
**Subject:** RE: Resident Councils

Thank you for the information. I certainly don't want to challenge anything that isn't an issue. Therefore, I wish to rescind my inquiry. However, the inquiries were sent by Fedex to Brooke Boston and Bill Daly so you will need to pull those when they arrive. Thank you again.

---

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]  
**Sent:** Monday, May 08, 2006 8:03 AM  
**To:** 'Bob Joy'  
**Cc:** 'William Encinas'; 'Robbye Meyer'; 'Brooke Boston'  
**Subject:** RE: Resident Councils

Bob,

We are aware of the resident council issues and are handling the issue here in office as we review the letters for scoring. Unless you rescind your inquiry, I will handle this as a "Challenge" under §50.17(c) of the QAP. However, you may wish to hold off your challenge until after we have posted all eligible letters and their subsequent scores. Please advise.

Please let me know if you have any questions,

Jen Joyce  
 Interim Manager of Multifamily Finance Production Division  
 Texas Department of Housing and Community Affairs  
 (512) 475-3995

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

**From:** Bob Joy [mailto:bjoy@teg-sd.com]  
**Sent:** Friday, May 05, 2006 10:53 AM  
**To:** 'Brooke Boston'; 'Jennifer Joyce'  
**Cc:** 'William Encinas'  
**Subject:** Resident Councils

Attached are three letters that are being send to Mr. Bill Daly and Ms. Brooke Boston from Bill Encinas. The letters and any backup will arrive on Monday. However, I wanted to provide you with advance notice of the content.

The letters point out that three Resident Councils (Sunset Terrace Resident Association, Las Milpas Resident Council and Centerpoint Resident Council) have submitted letters of support or opposition for projects in Region 11 in 2006. Due to the fact they are resident councils and the projects are not rehabilitation or demolition with new construction of the property where the residents reside they do not qualify as Neighborhood Organizations as defined by the 2006 QAP. Therefore, the letters from these Resident Councils should not be scored for the 2006 allocation.

If you have any questions feel free to contact me at 213-392-5899. Thank you for your consideration.

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**060117**

**Mesquite Terrace**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Mesquite Terrace- 060117**

By April 3, 2006, the Department received a letter from the Las Milpas Resident's Council requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) which outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On May 4, 2006 the Department issued a deficiency notice to the contact for Las Milpas Resident's Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. In a May 8, 2006 response, the organization indicated that they were not living in the Development for which they were providing comment. They currently reside in single family homes and according to them the proposed development, Mesquite Terrace, would become part of their organization when built and is included in their boundaries.

Las Milpas Resident's Council's by-laws are clear that the organization is a resident's council for the residents of "Las Milpas Housing Authority development". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The

proposed development is 100% new construction and is not occupied by members of the organization.

The applicant is appealing the eligibility of the letter based on three main assertions:

- (1) The proposed development is demolition with new construction. This is based on the assertion that 75 public housing units were demolished in 1999, and 20 of the proposed units will replace 20 of those demolished in 1999;
- (2) the QAP restricts the definition of a neighborhood organization beyond Section 2306.6710(b) and the June 23, 2004 Attorney General's Opinion. You further assert that governing legislation does not limit qualifying residents' councils to only those currently living in properties applying for rehabilitation or demolition with new construction; and
- (3) the Department treats public housing residents differently from other neighborhood organizations and that the Department's change from the statutory definition of a neighborhood organization may result in a "disparate impact" and may have implications under the Fair Housing Act.

Staff has determined the proposed development is 100% new construction and is not occupied by members of Las Milpas Resident's Council. No evidence was submitted beyond a written statement in the appeal to substantiate the assertion that the application includes demolition, nor was any evidence submitted which would substantiate the assertion that 20 of the proposed New Construction units will replace some of those demolished in 1999. Additionally, Las Milpas Resident's Council's by-laws are clear that the organization is a resident's council for the residents of "Las Milpas Housing Authority development". As such, pursuant to §50.9(i)(2)(A)(iv) of the 2006 QAP, the council is ineligible to comment on New Construction.

QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by HUD, which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Mesquite Terrace, Ltd.
Site Location:	400 Block E. Thomas Rd.
City/County:	Pharr/ Hidalgo County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	Nonprofit
Population Served:	Elderly
Region:	11
Type of Development:	New Construction
Units:	106
Credits Requested:	\$590,170

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

### Resident Councils

#### **§50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.**

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;
- (iv) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/New Construction of the property occupied by the residents); "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."
- (v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. ...If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"...the organization will not be considered on record with the state... As an option to be considered on record with the state...must be received by the Department no later than March 1, 2006...
- (vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).
- (vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...
- (viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.
- (ix) The boundaries in effect for the organization on March 1, 2006...Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...
- (x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

- (i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.
- (ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.
- (iii) In general, letters that meet the requirements of this paragraph and
  - (I) establish three or more reasons for support...( +24 points) or opposition (zero);
  - (II) establish two reasons...+18 points for support...
  - (III) establish one reason for support ... +13 points for support...;
  - (IV) that do not establish a reason...neutral (+12 points).
- (iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.



**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Deny the applicant's appeal of scoring of 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Issue a determination on the appeal.

**Background and Recommendations**

**I. Mesquite Terrace- 060117**

This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On May 4, 2006 the Department issued a deficiency notice to the contact for Las Milpas Resident's Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. In a May 8 response, the organization indicated that they were not living in the Development for which they were providing comment. They currently reside in single family homes and according to them the proposed development, Mesquite Terrace, would become part of their organization when built and is included in their boundaries.

Las Milpas Resident's Council's by-laws are clear that the organization is a resident's council for the residents of "Las Milpas Housing Authority development". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is 100% new construction and is not occupied by members of the organization.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Mesquite Terrace, Ltd.
Site Location:	400 Block E. Thomas Rd.
City/County:	Pharr/ Hidalgo County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	Nonprofit
Population Served:	Elderly
Region:	11
Type of Development:	New Construction

Units: 106  
Credits Requested: \$590,170

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

6

# Board Appeal

MESQUITE TERRACE, LTD  
104 West Polk Street  
Pharr, Texas 78577

May 31, 2006

VIA FACSIMILE

Ms. Beth Anderson  
Board Chair  
Texas Department of Housing  
and Community Affairs (TDHCA)  
P.O. Box 13941  
Austin, Texas 78711

060117

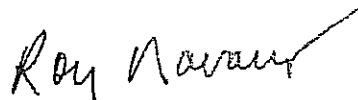
Dear Madam Chair:

This letter responds to the May 30th electronic mail and telephone call from Ms. Audrey Martin informing me that the TDHCA staff officially denied our appeal and offering us a chance to submit additional materials regarding our appeal for the Mesquite Terrace (#060117) application. The staff denied the application 12 points for Quantifiable Community Participation. We have not yet received staff's formal letter of denial.

In addition to the original appeal letter, which outlines three reasons for our appeal of the staff's decision, the enclosed chart more clearly presents evidence that the Las Milpas Resident Council was treated differently than other neighborhood organizations.

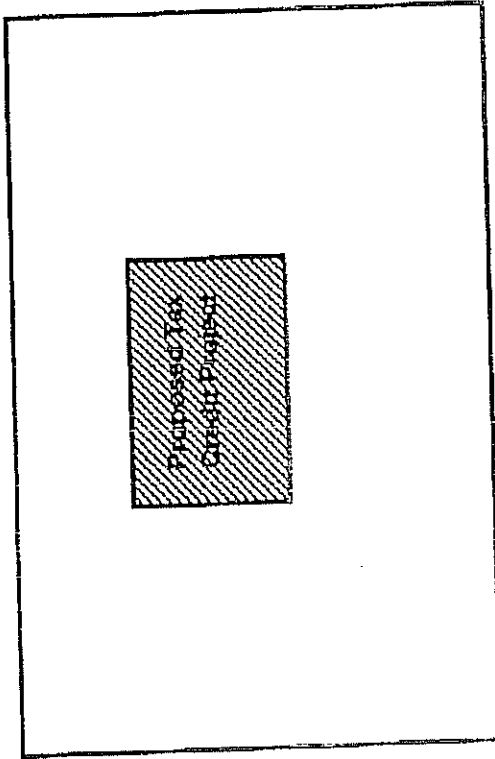
We look forward to presenting our case in person at the June 9, 2006 Board meeting.

Sincerely,



Roy Navarro  
Manager, Mesquite Terrace GP, LLC  
Its General Partner

**Public Housing Resident Council Boundaries**



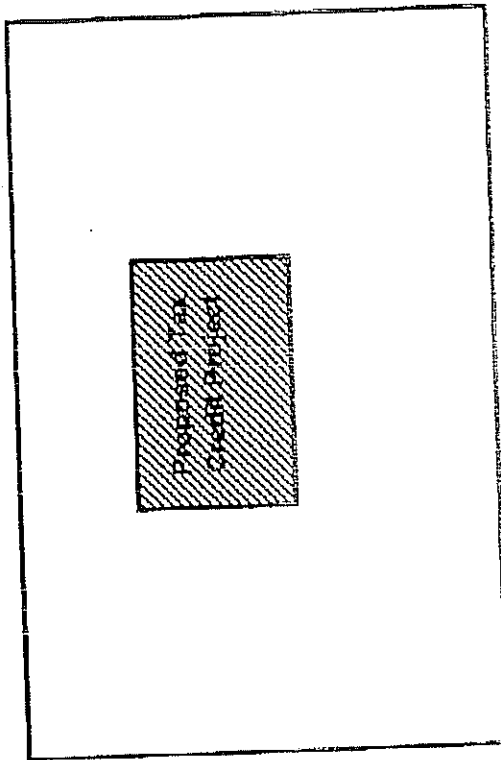
Under this set of facts, the Resident Council does not have the right to prepare a letter supporting or not supporting the proposed Tax Credit Project and have that letter qualify for QCP points that could affect whether the project received an award or not.

It denies Public Housing Residents their constitutional right to equal protection under the law.

By specifically excluding Resident Councils from the the Legislature's approved definition of Neighborhood Organizations, staff has specifically exceeded its limits, as defined in the June, 2004 Attorney General's Opinion.

By specifically excluding Resident's Councils from the Legislature's approved definition of Neighborhood Organizations, an apparent disparate impact has been created, possibly creating a violation of the Federal Fair Housing Law.

**Homeowner Association Boundaries**



Under this set of facts, a Homeowner's Association has the right to prepare a letter of supporting or not supporting the proposed Tax Credit Project and that letter would qualify for QCP points that could affect whether the project received an award or not.

# **Executive Director Appeal**

**MESQUITE TERRACE, LTD.  
104 WEST POLK  
PHARR, TEXAS 78577  
956.783.1315**

May 18, 2006

060117 - Mesquite Terrace

Michael Gerber, Director  
Texas Department of Housing  
and Community Affairs  
P.O. Box 13941  
Austin TX, 78711-3941

Dear Mr. Gerber:

In response to Ms. Robbye Meyer's letter to Ms. Marina Lerma, President of Las Milpas Resident Council and the final scoring notice, both dated May 15th, I respectfully appeal the TDHCA staff's decision to not award 12 points for Ms. Lerma's support letter as Quantifiable Community Participation for Application #060117, Mesquite Terrace. Your response states that the Las Milpas Residents Council letter will not be considered for scoring because of the following deficiencies were not satisfied:

*"On May 4, 2006, the Department issued a deficiency notice to the contact for Las Milpas Resident Council. The letter explained that Section 50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. In a May 8 response, the Las Milpas Resident's Council organization indicated their organization was not solely a Resident's Council made up of residents of public housing. They currently reside in single-family homes and according to them that the proposed development, Mesquite Terrace, would become part of their organization when built and is included in their boundaries.*

*Las Milpas Resident Council's by-laws are clear that the organization is a resident's council for the residents of Las Milpas development". As such, pursuant to Section 50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is 100% new construction and is not occupied by members of the organization.*

We believe that the Las Milpas Resident's Council is a legitimate neighborhood organization as defined by the 2006 Qualified Allocation Plan. Our reasons are as follows:

1. RECONSTRUCTION OF UNITS (Demolition with New Construction). The Pharr Housing Authority demolished 75 public housing units, known as Villa de la Esperanza, in 1999, when HUD determined that it was obsolete and had environmental problems including its proximity to the expansion of State Highway 83. HUD would not permit reconstruction at that location. At that time the Villa de la Esperanza Resident's Council was dissolved and thus it would be impossible to get a letter that would conform to the QAP requirements. Mesquite Terrace will include 20 public housing units which replace, in part, these demolished units. Thus, under the QAP, the Mesquite Terrace application is not "100% new construction" but a reconstruction project (Demolition with New Construction).

2. DEFINITION OF NEIGHBORHOOD ORGANIZATION. State law that directs the QAP defines a neighborhood organization for the purposes of scoring and rank as follows: "any neighborhood organization on record with the State or County in which the development is to be located and whose boundaries contain the proposed development." (Section 2306.6710(b)). In addition, the June 23, 2004 Attorney General's Opinion states that to score and rank applications priority is given to financial feasibility first and then "quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organization on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site".

By these guiding principles, Las Milpas Resident's Council clearly meets the definition of a neighborhood organization. It has provided proof that it was on record with Cameron County and has provided maps and other legal documents showing the proposed development site is within its organizational boundaries.

The Department in the QAP restricts the definition of a neighborhood organization, beyond the governing legislation. By limiting qualifying residents' councils to only those currently

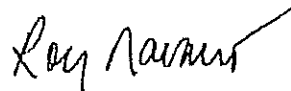


living in properties specifically applying for rehabilitation or demolition with new construction, the Department is denying participation by residents of properties slated for reconstruction on a second site, which is allowed by the law and Attorney's General Opinion.

3. RESIDENT COUNCIL STATUS. In restricting which resident councils may participate in the application process, the Department treats public housing residents differently from other neighborhood residents. The Mesquite Terrace site is located in the neighborhood of Las Milpas, which is within the boundaries of the Las Milpas Resident's Council. If the Council was a private homeowners' association, their support letter would have qualified under the 2006 QAP for the full 24 points. But because it is a public housing resident council -- despite the fact that the proposed units are in part a reconstruction of demolished public housing -- it is denied scoring and a voice in the application process. We cannot understand this discrepancy between organizations simply because of their organizational structure and/or the income of their members. While it is not the intent of staff when amending the statutory definition of a neighborhood organization, the change may result in a "disparate impact" and may have implications under the Fair Housing Act.

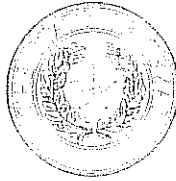
Based on these arguments, we respectfully request that the staff reconsider their scoring of the support letter from Las Milpas Resident's Council and award the full 24 points allowed.

Sincerely,



Roy Navarro  
Manager, Mesquite Terrace GP, LLC  
Its General Partner

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
Executive Director

Mr. Roy Navarro  
Mesquite Terrace, Ltd.  
104 West Polk  
Pharr, TX 78577  
Telephone: (956) 783-1316  
Telecopier: (956) 783-0955

**Re: Appeal Received for Mesquite Terrace - 060117**

Dear Mr. Navarro:

### Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 18, 2006 regarding the eligibility of a letter from the Las Milpas Resident's Council requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because Las Milpas Resident's Council does not qualify as a "neighborhood organization" as required by the §50.9(i)(2)(A)(iv) of the Qualified Allocation Plan and Rules (QAP). This section specifically precludes residents councils from qualifying as a "neighborhood association" unless the letter is relating to an application that is proposed for, "...Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the **property occupied by the residents.**"

This determination was made based on the fact that on May 4, 2006, the Department issued a deficiency notice to the contact for Las Milpas Resident's Council. The letter explained that QAP specifies that resident councils may only comment for QCP if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. In a May 8, 2006 response, the organization indicated that they were not living in the Development for which they were providing comment. The council is comprised of single family homes owned by the Pharr Housing Authority.

WWW.TDHC.A.STATE.TX.US

221 EAST 11<sup>th</sup> ▪ P.O. BOX 13941 ▪ AUSTIN, TEXAS 78711-3941 ▪ (800) 525-0657 ▪ (512) 475-3800

15

You are appealing the eligibility of the letter based on three main assertions:

- (1) The proposed development is demolition with new construction. This is based on the assertion that 75 public housing units were demolished in 1999, and 20 of the proposed units will replace 20 of those demolished in 1999;
- (2) the QAP restricts the definition of a neighborhood organization beyond Section 2306.6710(b) and the June 23, 2004 Attorney General's Opinion. You further assert that governing legislation does not limit qualifying residents' councils to only those currently living in properties applying for rehabilitation or demolition with new construction; and
- (3) the Department treats public housing residents differently from other neighborhood organizations and that the Department's change from the statutory definition of a neighborhood organization may result in a "disparate impact" and may have implications under the Fair Housing Act.

My review has determined the proposed development is 100% new construction and is not occupied by members of Las Milpas Resident's Council. No evidence was submitted beyond a written statement in the appeal to substantiate the assertion that the application includes demolition, nor was any evidence submitted which would substantiate the assertion that 20 of the proposed New Construction units will replace some of those demolished in 1999. Additionally, Las Milpas Resident's Council's by-laws are clear that the organization is a resident's council for the residents of "Las Milpas Housing Authority development". As such, pursuant to §50.9(i)(2)(A)(iv) of the 2006 QAP, the council is ineligible to comment on New Construction.

QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by the U. S. Department of Housing and Urban Development (HUD), which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition,

Mr. Navarro  
June 1, 2006  
Page 3 of 3

the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

# QCP Documentation



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

---

May 15, 2006

Marina Lerma

President

Las Milpas Resident's Council

6905 Galaxy Drive

Pharr, Texas 78577

Fax: (956) 702-5363

Email: [hpedraza@cityofpharr.com](mailto:hpedraza@cityofpharr.com)

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Mesquite Terrace, # 060117

Dear Marina Lerma:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On May 4, 2006 the Department issued a deficiency notice to the contact for Las Milpas Resident's Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. In a May 8 response, the organization indicated that they were not living in the Development for which they were providing comment. They currently reside in single family homes and according to them that the proposed development, Mesquite Terrace, would become part of their organization when built and is included in their boundaries.

Las Milpas Resident's Council's by-laws are clear that the organization is a resident's council for the residents of "Las Milpas Housing Authority development". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is 100% new construction and is not occupied by members of the organization.



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

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Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production



TRANSMISSION VERIFICATION REPORT

TIME : 05/15/2006 17:03  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BROG4J729978

DATE, TIME  
FAX NO./NAME  
DURATION  
PAGE(S)  
RESULT  
MODE

05/15 17:02  
99567025363  
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02  
OK  
STANDARD



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 15, 2006

Marina Lerma  
President  
Las Milpas Resident's Council  
6905 Galaxy Drive  
Pharr, Texas 78577  
Fax:  
Email:

(956) 702-5363  
hpedraza@cityofpharr.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Mesquite Terrace, # 060117

Dear Marina Lerma:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

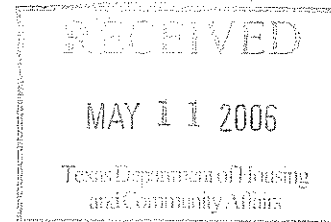
On May 4, 2006 the Department issued a deficiency notice to the contact for Las Milpas Resident's Council. The letter explained that §50.9(i)(2) of the QAP specifies that resident participation may only comment for quantifiable community participation if the application is for units provided by the residents.

Las Milpas Resident Council  
215 Universal Drive  
Pharr, Texas 78577

RECEIVED  
MAY 11 2006  
LIHTC

May 8, 2006

Ms. Sharon Gamble, Multifamily Housing Specialist  
Texas Department of Housing and Community Affairs  
Multifamily Finance Production  
P.O. Box 13941  
Austin Texas 78711-3941



Mailed and Faxed to No. 542-475-4610 / 800-733-5120

Re: Mesquite Terrace, Pharr, Texas  
TDHCA No. 060117

Dear Sharon Gamble:

This letter is our response to the TDHCA letter requesting information by May 10, 2006, for Mesquite Terrace.

1. **TDHCA:** As a Resident's Council, you are only eligible to comment on the property you occupy, meaning that you would have to be commenting about the rehabilitation of your own development. According to your map, the Las Milpas Single Family Residential Development is not the same as the proposed Mesquite Terrace Development. It would appear that your council is not eligible to comment on the new development. If you disagree with our finding, submit proof that the residents of the Las Milpas development are eligible to comment on this new development.

**RESPONSE:** The name of our Neighborhood Organization includes "resident council" but as shown on the map attached as part of our bylaws and maps included in our submission to TDHCA, the boundaries of our Neighborhood Organization include more than only the single family homes we occupy. There are 34 single-family homes owned by the Pharr Housing Authority and 8 single-family homes owned by the Pharr Housing Development Corporation (PHDC). As explained below in our response to Item 2 and as shown in the map submitted to TDHCA, our Neighborhood Organization includes a tract of about 15 acres on which Las Canteras Apartments is being built with 2004 tax credits and the proposed Mesquite Terrace. Las Canteras has 100 apartments and 40 are to replace demolished Public Housing. The proposed Mesquite Terrace includes 30 Public Housing Units to replace previously demolished Public Housing. The TDHCA Board determined in 2004 as part of the tax credits that our Neighborhood Organization includes the 15 acres site for Las Canteras and Mesquite Terrace.

There should not be a question about the site for Mesquite Terrace being within the boundaries of our Neighborhood Organization. Also, we do not understand why TDHCA wants to restrict our right to express support or opposition for an activity on our neighborhood simply because we are renters. We believe we have the same right as a property owner to support or oppose an activity in our neighborhood.

2. **TDHCA:** The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document. If the bylaws do not contain a boundary description, please submit the following certification statement with your signature if the statement is accurate. If the statement is not accurate, please call me.

"This certification confirms that the boundary map provided in our QCP packet with the organization document is a map of the established boundaries of the organization. The boundaries were established prior March 1, 2006, and the map is part of our organizational records."

**RESPONSE:** The bylaws we submitted included as an attachment a map that shows the boundaries of our Neighborhood Organization. The boundaries include the site of the proposed Mesquite Terrace. The bylaws show they were approved in 1989. In 1998, the Pharr Housing Authority demolished a 75-unit Public Housing project that would be replaced at a different location. In 1998, the Pharr Housing Authority acquired a 15-acre tract for building apartments that will include the Public Housing that was demolished, and at that time this land became part of our Neighborhood Organization. The first project was the 100-unit Las Canteras with 2004 tax credits and includes 40 public Housing apartments to replace demolished Public Housing. The second project is Mesquite Terrace that will include 30 Public Housing apartments to replace demolished Public Housing.

Please note that in 2004 as part of the Las Canteras tax credits application, the TDHCA Board determined that this property was part of our Neighborhood Organization. Your records will show the determination by the TDHCA Board.

The requested certification is part of this letter but it is also enclosed separately.

We hope this letter provides you the information you need to correctly score our support for Mesquite Terrace. Please let us know if you need additional information.

Sincerely,

Marina Lerma  
President  
726101311708

cc: Hilda Pedraza

**Las Milpas Resident Council  
Pharr, Texas**

This certification confirms that the boundary map provided in our QCP packet with the organization documents is a map of the established boundaries of the organization. The boundaries were established prior March 1, 2006 and the map is part of our organizational records.

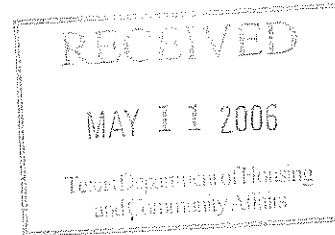
Marina Lerma  
President  
*Marina Lerma*

Re: Mesquite Terrace  
TDHCA No. 060117



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006  
Marina Lerma  
President  
Las Milpas Resident's Council  
6905 Galaxy Drive  
Pharr, Texas 78577



Organization Fax: Organization Email:  
Second Contact:

Hilda Pedraza

Second Contact Fax: (956) 702-5363 Second Contact Email: [hpedraza@cityofpharr.com](mailto:hpedraza@cityofpharr.com)  
Second Contact Phone: (956) 702-5367

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Mesquite Terrace, # 060117

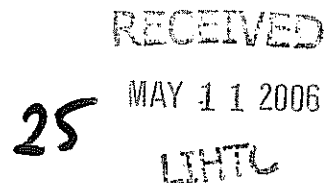
Dear Marina Lerma:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

As a Resident's Council, you are only eligible to comment on the property you occupy, meaning that you would have to be commenting about the rehabilitation or re-building of your own development. According to your map, the Las Milpas Single Family Residential Development is not the same as the





Texas Department of Housing and Community Affairs  
 Multifamily Finance Production Division  
 2006 Quantifiable Community Participation

proposed Mesquite Terrace Development. It would appear that your comment is not eligible to comment on the new development. If you disagree with our finding, submit proof that the residents of the Las Milpas development are eligible to comment on this new development.

The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document. If the bylaws do not contain a boundary description, please submit the following certification statement with your signature if the statement is accurate. If the statement is not accurate, please call me.

"This certification confirms that the boundary map provided in our QCP packet with the organization documents is a map of the established boundaries of the organization. The boundaries were established prior to March 1, 2006 and the map is part of our organizational records."

Please sign and date.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tshca.state.tx.us](mailto:sharon.gamble@tshca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 12941, Austin TX 78711-2941. Note that the documents must be received, not merely postmarked, by May 15.

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.

Sincerely,

*Robblye Meyer*

Robblye Meyer

Interim Director of Multifamily Finance Production

RECEIVED  
 MAY 11 2006  
 26  
 LIHTC

COPY

Las Milpas Resident Council  
215 Universal Drive  
Pharr, Texas 78577

RECEIVED

MAY 15 2006

LIHTC

May 8, 2006

Ms. Sharon Gamble, Multifamily Housing Specialist  
Texas Department of Housing and Community Affairs  
Multifamily Finance Production  
P.O. Box 13941  
Austin, Texas 78711-3941

Mailed and Faxed to No. 512-475-4610

Re: Mesquite Terrace, Pharr, Texas  
TDHCA No. 060117

Dear Sharon Gamble:

This letter is our response to the TDHCA letter requesting information by May 15, 2006, for Mesquite Terrace.

1. **TDHCA:** As a Resident's Council, you are only eligible to comment on the property you occupy, meaning that you would have to be commenting about the rehabilitation of your own development. According to your map, the Las Milpas Single Family Residential Development is not the same as the proposed Mesquite Terrace Development. It would appear that your council is not eligible to comment on the new development. If you disagree with our finding, submit proof that the residents of the Las Milpas development are eligible to comment on this new development.

**RESPONSE:** The name of our Neighborhood Organization includes "resident council" but as shown on the map attached as part of our bylaws and maps included in our submission to TDHCA, the boundaries of our Neighborhood Organization include more than only the single family homes we occupy. There are 34 single-family homes owned by the Pharr Housing Authority and 8 single-family homes owned by the Pharr Housing Development Corporation (PHDC). As explained below in our response to Item 2 and as shown in the map submitted to TDHCA, our Neighborhood Organization includes a tract of about 15 acres on which Las Canteras Apartments is being built with 2004 tax credits and the proposed Mesquite Terrace. Las Canteras has 100 apartments and 40 are to replace demolished Public Housing. The proposed Mesquite Terrace includes 30 Public Housing Units to replace previously demolished Public Housing. The TDHCA Board determined in 2004 as part of the tax credits that our Neighborhood Organization includes the 15 acres site for Las Canteras and Mesquite Terrace.

There should not be a question about the site for Mesquite Terrace being within the boundaries of our Neighborhood Organization. Also, we do not understand why TDHCA wants to restrict our right to express support or opposition for an activity on our neighborhood simply because we are renters. We believe we have the same right as a property owner to support or oppose an activity in our neighborhood.

2. **TDHCA:** The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document. If the bylaws do not contain a boundary description, please submit the following certification statement with your signature if the statement is accurate. If the statement is not accurate, please call me.

"This certification confirms that the boundary map provided in our QCP packet with the organization document is a map of the established boundaries of the organization. The boundaries were established prior March 1, 2006, and the map is part of our organizational records."

**RESPONSE:** The bylaws we submitted included as an attachment a map that shows the boundaries of our Neighborhood Organization. The boundaries include the site of the proposed Mesquite Terrace. The bylaws show they were approved in 1989. In 1998, the Pharr Housing Authority demolished a 75-unit Public Housing project that would be replaced at a different location. In 1998, the Pharr Housing Authority acquired a 15-acre tract for building apartments that will include the Public Housing that was demolished, and at that time this land became part of our Neighborhood Organization. The first project was the 100-unit Las Canteras with 2004 tax credits and includes 40 public Housing apartments to replace demolished Public Housing. The second project is Mesquite Terrace that will include 30 Public Housing apartments to replace demolished Public Housing.

Please note that in 2004 as part of the Las Canteras tax credits application, the TDHCA Board determined that this property was part of our Neighborhood Organization. Your records will show the determination by the TDHCA Board.

The requested certification is part of this letter but it is also enclosed separately.

We hope this letter provides you the information you need to correctly score our support for Mesquite Terrace. Please let us know if you need additional information.

Sincerely,

Marina Lerma  
President  
*Marina Lerma*

cc: Hilda Pedraza



**Las Milpas Resident Council  
Pharr, Texas**

This certification confirms that the boundary map provided in our QCP packet with the organization documents is a map of the established boundaries of the organization. The boundaries were established prior March 1, 2006 and the map is part of our organizational records.

Marina Lerma  
President  
*Marina Lerma*

Re: Mesquite Terrace  
TDHCA No. 060117



Texas Department of Housing and Community Affairs  
 Multifamily Finance Production Division  
 2006 Quantifiable Community Participation

May 4, 2006

Marina Lerma  
 President  
 Las Milpas Resident's Council  
 6905 Galaxy Drive  
 Pharr, Texas 78577

Organization Fax:

Organization Email:

Second Contact:

Hilda Pedraza

Second Contact Fax: (956) 702-5363      Second Contact Email: [hpdrza@cityofpharr.com](mailto:hpdrza@cityofpharr.com)

Second Contact Phone: (956) 702-5367

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
 Mesquite Terrace, # 060117

Dear Marina Lerma:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

As a Resident's Council, you are only eligible to comment on the property you occupy, meaning that you would have to be commenting about the rehabilitation or re-building of your own development. According to your map, the Las Milpas Single Family Residential Development is not the same as the



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

proposed Mesquite Terrace Development. It would appear that your council is not eligible to comment on the new development. If you disagree with our finding, submit proof that the residents of the Las Milpas development are eligible to comment on this new development.

The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document. If the bylaws do not contain a boundary description, please submit the following certification statement with your signature if the statement is accurate. If the statement is not accurate, please call me.

"This certification confirms that the boundary map provided in our QCP packet with the organization documents is a map of the established boundaries of the organization. The boundaries were established prior to March 1, 2006 and the map is part of our organizational records."

Please sign and date.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist: at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be received, not merely postmarked, by May 15.

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

**Sharon Gamble**

---

**From:** Hilda Pedraza [hpedraza@cityofpharr.com]  
**Sent:** Friday, May 05, 2006 8:46 AM  
**To:** Sharon Gamble  
**Subject:** Re: QCP Deficiency Letter #060117

email confirmation receipt.

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

**From:** Sharon Gamble  
**To:** 'hpedraza@cityofpharr.com'  
**Sent:** Thursday, May 04, 2006 5:53 PM  
**Subject:** QCP Deficiency Letter #060117

I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday. Please reply to this email as soon as you get it as confirmation of receipt.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

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**Sharon Gamble**

---

**From:** Sharon Gamble  
**Sent:** Thursday, May 04, 2006 5:54 PM  
**To:** 'hpedraza@cityofpharr.com'  
**Subject:** QCP Deficiency Letter #060117

I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday. Please reply to this email as soon as you get it as confirmation of receipt.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

*FAK + EMAILED*

*5/10 PC TO M. LERMA. LEFT VM w/ 800 #*

Marina Lerma  
President  
Las Milpas Resident's Council  
6905 Galaxy Drive  
Pharr, Texas 78577

*5/10 PC TO H. PEDRAZA. # DISCONNECTED.*

*Intelligible -  
Ref Kevin -  
3 prop in  
residential  
but still not elig  
w/ com NCC in  
res com 1*

Organization Fax:

Organization Email:

Second Contact:

Hilda Pedraza

Second Contact Fax: (956) 702-5363

Second Contact Email: [hpedraza@cityofpharr.com](mailto:hpedraza@cityofpharr.com)

Second Contact Phone: (956) 702-5367

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Mesquite Terrace, # 060117

Dear Marina Lerma:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

As a Resident's Council, you are only eligible to comment on the property you occupy, meaning that you would have to be commenting about the rehabilitation or re-building of your own development. According to your map, the Las Milpas Single Family Residential Development is not the same as the



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

proposed Mesquite Terrace Development. It would appear that your council is not eligible to comment on the new development. If you disagree with our finding, submit proof that the residents of the Las Milpas development are eligible to comment on this new development.

The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document. If the bylaws do not contain a boundary description, please submit the following certification statement with your signature if the statement is accurate. If the statement is not accurate, please call me.

"This certification confirms that the boundary map provided in our QCP packet with the organization documents is a map of the established boundaries of the organization. The boundaries were established prior to March 1, 2006 and the map is part of our organizational records."

Please sign and date.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be received, not merely postmarked, by May 15.

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production



**Emily Price**

---

**From:** QuantumView [QuantumViewNotify@ups.com]  
**Sent:** Wednesday, April 19, 2006 4:58 PM  
**To:** Emily.Price@tdhca.state.tx.us  
**Subject:** UPS Delivery Notification, Tracking Number 1ZR397A20293038316

060117

\*\*\*Do not reply to this e-mail. UPS and TDHCAMultifamily Finance Production will not receive your reply.

**At the request of TDHCAMultifamily Finance Production, this notice is to confirm that the following shipment has been delivered.**

**Important Delivery Information**

---

**Delivery Date / Time:** 19-April-2006 / 2:46 PM  
**Delivery Location Left At:** RESIDENTIAL  
**Signed by:** RODRIGUEZ

**Shipment Detail**

---

**Ship To:**  
Marina Lerma  
Las Milpas Resident's Council  
6905 Galaxy Drive  
PHARR  
TX  
785779112  
US

**UPS Service:** 2ND DAY AIR  
**Shipment Type:** Letter

**Tracking Number:** 1ZR397A20293038316

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\_\_\_\_2@@2@@@2X8H9MGAmi08zR7y0pw5FLhuTRQFTFmRFcR3Q\_\_\_\_

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Shipping Resources

Shipping

Welcome, Emily Price | [Logout](#)

[My Set](#)

[Begin Your Shipment](#)  
[Help](#)

## Track by Tracking Number

### View Details

**Status:** Exception  
**Rescheduled Delivery:** 04/19/2006  
**Shipped to:** LAS MILPAS RESIDENT'S COUNCIL  
 MARINA LERMA  
 6905 GALAXY DRIVE  
 PHARR, TX, US 785779112  
**Shipped or Billed on:** 04/13/2006  
**Tracking Number:** 1Z R39 7A2 02 9303 831 6  
**Service Type:** 2ND DAY AIR

Information and services provided to My UPS users.

### Package Progress:

Location	Date	Local Time	Activity
MC ALLEN, TX, US	04/18/2006	2:34 P.M.	THE RECEIVER WAS NOT AVAILABLE TO SIGN ON THE 2ND DELIVERY ATTEMPT. A 3RD DELIVERY ATTEMPT WILL BE MADE
MC ALLEN, TX, US	04/17/2006	2:21 P.M.	THE RECEIVER WAS UNAVAILABLE TO SIGN ON THE 1ST DELIVERY ATTEMPT. A 2ND DELIVERY ATTEMPT WILL BE MADE
	04/17/2006	2:21 P.M.	A CORRECT STREET NUMBER IS NEEDED FOR DELIVERY. UPS IS ATTEMPTING TO OBTAIN THIS INFORMATION;THE ADDRESS HAS BEEN CORRECTED. THE DELIVERY HAS BEEN RESCHEDULED
MC ALLEN, TX, US	04/14/2006	12:48 P.M.	A CORRECT COMPANY OR RECEIVER NAME NEEDED FOR DELIVERY. UPS IS ATTEMPTING TO OBTAIN THIS INFORMATION
	04/14/2006	12:47 P.M.	
	04/14/2006	9:25 A.M.	OUT FOR DELIVERY
	04/14/2006	8:30 A.M.	ARRIVAL SCAN
HARLINGEN, TX, US	04/14/2006	7:39 A.M.	DEPARTURE SCAN
	04/14/2006	7:19 A.M.	ARRIVAL SCAN
SAN ANTONIO, TX, US	04/14/2006	6:27 A.M.	DEPARTURE SCAN
	04/14/2006	6:03 A.M.	ARRIVAL SCAN
LOUISVILLE, KY, US	04/14/2006	4:36 A.M.	DEPARTURE SCAN
	04/14/2006	1:05 A.M.	ARRIVAL SCAN
AUSTIN, TX, US	04/13/2006	9:47 P.M.	DEPARTURE SCAN
	04/13/2006	9:27 P.M.	ORIGIN SCAN

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	04/13/2006	7:52 P.M.	PICKUP SCAN
US	04/13/2006	6:38 P.M.	BILLING INFORMATION RECEIVED

Tracking results provided by UPS: 04/18/2006 5:33 P.M. Eastern Time (USA)

**NOTICE:** UPS authorizes you to use UPS tracking systems solely to track shipments tendered by for you to UPS for delivery and for no other purpose. Any other use of UPS tracking systems and information is strictly prohibited.

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 13, 2006

Marina Lerma

President

Las Milpas Resident's Council

6905 Galaxy Drive

Pharr, Texas 78577

NC

Organization Fax:

Organization Email: [hpedraza@cityofpharr.com](mailto:hpedraza@cityofpharr.com)

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Mesquite Terrace, # 060117

Dear Marina Lerma:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

✓ The QCP letter you submitted did not contain an email address and/or fax number for the primary contact person for your organization. Per §50.9(i)(2)(A)(ii) of the QAP, submit an email address and/or fax number for the primary contact.

The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. According to §50.9(i)(2)(A)(viii) of the QAP, your bylaws must "at a minimum, identify the boundaries of the organization, ..." Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document.



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by April 24.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

**Sharon Gamble**

---

**From:** Sharon Gamble  
**Sent:** Friday, April 14, 2006 4:21 PM  
**To:** 'hpedraza@cityofpharr.com'  
**Subject:** Quantifiable Community Participation Deficiency Letter



2006 QCP Def Letter.html (13 K... LetterPage2.html ...

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

-----Original Message-----  
From: Sharon Gamble  
Sent: Thursday, April 13, 2006 5:12 PM  
To: 'hpedraza@cityofpharr.com'  
Subject: Quantifiable Community Participation Deficiency Letter

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**Sharon Gamble**

---

**From:** Sharon Gamble  
**ant:** Thursday, April 13, 2006 5:12 PM  
**fo:** 'hpedraza@cityofpharr.com'  
**Subject:** Quantifiable Community Participation Deficiency Letter



2006 QCP Def Letter.html (13 K...



2006 QCP Def LetterPage2.html ...

**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: MESQUITE TERRACE

Dev. Number: 060117

Organization Name: LAS MILPAS RESIDENTS COUNCIL

Date Letter Received: 3/31/06

Reviewer Name: J. GARBLE

Date Reviewed: 4/5/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries</u> ?  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>



8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization <u>of persons living near one another</u> within the organization's defined boundaries that contain the proposed Development site and that has a <u>primary purpose of working to maintain or improve the general welfare of the neighborhood</u>. More specifically:</p> <p>"Neighborhood organizations" <b>DO</b> include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" <b>DO NOT</b> include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input checked="" type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete?

Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

Bonus NOT IN org doc

Date deficiency letter issued: 4/13/06

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): 4/24/06

Date deficiencies received: NO RESPONSE

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: 86

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
FINAL SCORE (Enter from box checked above):		

Has this been entered in the 2006 Database?

Yes  No

RECEIVED

MAR 31 2006

LIHTC

Las Milpas Residents Council  
215 Universal Drive  
Pharr, Texas 78577

*Handwritten signature*

RECEIVED

MAR 31 2006

EXECUTIVE

March 22, 2006

Mr. Bill Dally  
Acting Executive Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Quantifiable Community Participation  
TDHCA No. 060117  
Mesquite Terrace  
400 Block of East Thomas Road  
Pharr, Texas 78577

As President of Las Milpas Resident Council (Neighborhood Organization), I am writing to provide the organization's support for the above referenced development which is located at the 400 Block of East Thomas Road, Pharr, Texas 78577. Las Milpas Resident Council is a qualified Neighborhood Organization as further described below.

As the signee of this letter, I am providing the following required information:

Marina Lerma  
6905 Galaxy Drive  
Pharr, Texas 78577  
Telephone: (956) 787-3520

I am also providing the following information for one additional contact, Hilda Pedraza, for our organization:

Hilda Pedraza  
118 S. Cage Boulevard  
Pharr, Texas 78577  
Telephone: (956) 702-5367  
Fax: (956) 702-5363  
email address: hpedraza@cityofpharr.com

The boundaries of this organization are from 420 East Thomas Road to 6601 through 7002 Galaxy Drive, 6903 through 7003 Mars Lane, and 215 Universal Drive (our Community Buildings) in the City of Pharr, Texas. The proposed Mesquite Terrace covered by TDHCA Application No. 060117 is within those boundaries. Enclosed is a site map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries.

This organization is an organization of persons living near one another within the organization's defined boundaries. The organization has a primary purpose of working to maintain and improve the general welfare of the neighborhood. Attached are our

bylaws created on or before March 1, 2006. The organization has 42 members and will have an additional 100 members later this year when Las Canteras Apartments are completed and occupied. There are 11 officers in our organization. The organization reached a decision to **support** Mesquite Terrace by a vote of the members present at a meeting on March 22, 2006, and signing a petition of support by the members.

This organization is on record as of March 1, 2006, with Hidalgo County, in which the development is proposed to be located. (See enclosed letter to the county requesting we be on record.)

The organization was not formed by any Applicant, Developer or any employee or agent of any applicant in the 2006 Housing Tax Credit application round, nor has the organization or any member of the organization accepted money or a gift to cause the organization to take it's position of support or opposition to this development. The applicant has not provided any assistance, other than education or information sharing, to the neighborhood organization. The applicant has not provided any production assistance.

The organization **supports** the proposed development for the following reasons:

1. The proposed development will include replacement units for previously demolished Public Housing and assure preservation of our affordable housing and the Public Housing rental assistance.
2. The proposed development will provide safe, decent and sanitary affordable housing in a quality living environment.
3. The proposed development will provide needed amenities that currently do not exist.
4. There is a need of affordable housing for senior citizens.

Sincerely,



Marina Lerma  
6905 Galaxy Drive  
Pharr, Texas 78577  
(956) 787-3520

Attachments: Petition signed by residents/members  
Site map  
Bylaws  
Letter to County Clerk  
Letters from State Senator and State Representative

Las Milpas Resident Council  
215 E. Universal Drive  
Pharr, Texas 78577

WHEREAS, we the members of Las Milpas Resident Council have been informed of Application No. 060117 to the Texas Department of Housing and Community Affairs for an allocation of 2006 low income housing tax credits (LIHTC) for Mesquite Terrace, a proposed new 106 unit affordable housing development for senior citizens, and

WHEREAS, we have been informed that the proposed Mesquite Terrace LIHTC housing development will include some Public Housing units to replace Public Housing units previously demolished by the Pharr Housing Authority, and

WHEREAS, the proposed Mesquite Terrace LIHTC housing development will provide much needed affordable housing for low income senior citizens of the City of Pharr; and

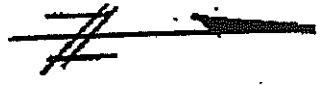
WHEREAS, the Honorable Eddie Lucio, Jr., our State Senator, and the Honorable Ismael "Kino" Flores, our State Representative, have submitted letters to TDHCA supporting the application for an allocation of 2006 LIHTC for the new 106-unit development, and

WHEREAS, the proposed Mesquite Terrace is located within the boundaries of our neighborhood organization;

NOW THEREFORE, WE THE MEMBERS OF LAS MILPAS RESIDENT COUNCIL:

1. Support TDHCA Application No. 060117 for an allocation of LIHTC for Mesquite Terrace, in the 400 block of East Thomas Road in Pharr, Texas.
2. Authorize the President of the Resident Council of Las Milpas to submit a letter of support to TDHCA for the application for LIHTC.
3. Authorize the Resident Advisory Board of the Pharr Housing Authority to submit a letter of support to TDHCA for the application for LIHTC.
4. Welcome the cooperation and support of the City Council, State Senator Lucio, State Representative Martinez, and the Pharr Housing Authority to develop much needed affordable housing for our benefit and the benefit of other low income residents and the revitalization of the community.
5. Urge the TDHCA to make an allocation of LIHTC for TDHCA Application No. 060117 for Mesquite Terrace, Pharr Texas.

ADDRESS	NAME	SIGNATURE
6601 Galaxy Dr.	Aida Zamora	Aida Zamora
6603 Galaxy Dr.	Nora E. Ramirez	Nora E. Ramirez
6605 Galaxy Dr.	Bianca Lopez	Bianca Lopez
6607 Galaxy Dr.	Ismael Ramos	Ismael Ramos
6609 Galaxy Dr.	Maribel Quiroz	Maribel Quiroz
6611 Galaxy Dr.	Jose Mata	Jose Mata
6701 Galaxy Dr.	Donna Garcia	Donna Garcia
6703 Galaxy Dr.	Laura C. Guerrero	Laura C. Guerrero
6705 Galaxy Dr.	Lorena De La Cruz	Lorena De La Cruz
6707 Galaxy Dr.	Dalia Lopez	Dalia Lopez
6801 Galaxy Dr.	Rosalina Alvarado	Rosalina Alvarado
6803 Galaxy Dr.	Estanislao Rodriguez	Estanislao Rodriguez
6805 Galaxy Dr.	Ramiro Lerma	Ramiro Lerma
6807 Galaxy Dr.	Francisco Salas	Francisco Salas
6809 Galaxy Dr.	Maria Chavez	Maria Chavez
6811 Galaxy Dr.	Maria E. Hernandez	Maria E. Hernandez
6903 Galaxy Dr.	Irma Montes	Irma Montes
6905 Galaxy Dr.	Marisela Palacios	Marisela Palacios
6907 Galaxy Dr.	Maria Caudillo	Maria Caudillo
6909 Galaxy Dr.	Rogelio Navarro	Rogelio Navarro
6902 Galaxy Dr.	Olga Echarte	Olga Echarte
6903 Mars Lane	Zulema Rios	Zulema Rios
6904 Galaxy Dr.	Maria Solis	Maria Solis
6905 Mars Lane	Alicia Macias	Alicia Macias
6906 Galaxy Dr.	Braulio Salazar	Braulio Salazar
6907 Mars Lane	Maria De La Paz Cantu	Maria De La Paz Cantu
6908 Galaxy Dr.	Maricela Garcia	Maricela Garcia
6909 Mars Lane	Elizabeth Velasquez	Elizabeth Velasquez
6910 Galaxy Dr.	Emma Llanas	Emma Llanas
6911 Mars Lane	Leticia Olvera	Leticia Olvera
7000 Galaxy Dr.	Genoveva Mendoza	Genoveva Mendoza
7001 Mars Lane	Trinidad Peña	Trinidad Peña
7002 Galaxy Dr.	Araceli Camacho	Araceli Camacho
7003 Mars Lane	Hector Perez	Hector Perez
6911 Galaxy Dr.	Raquel Arevalo	Raquel Arevalo
7001 Galaxy Dr.	Devida Ibarra	Devida Ibarra
7003 Galaxy Dr.	Elizabeth Rodriguez	Elizabeth Rodriguez
7005 Galaxy Dr.	Sara Tenorio	Sara Tenorio
7007 Galaxy Dr.	Susana Maciel	Susana Maciel
7009 Galaxy Dr.	Juan E. Guerra	Juan E. Guerra
7011 Galaxy Dr.	Ricardo Mariscal	Ricardo Mariscal
7013 Galaxy Dr.	Silvia Calvillo	Silvia Calvillo



U.S. 281 (CAGE BLVD.)

THOMAS RD.

UNIVERSAL DRIVE

14-UNITS

LAS MILPAS COMM. BLDG.

MARS LANE

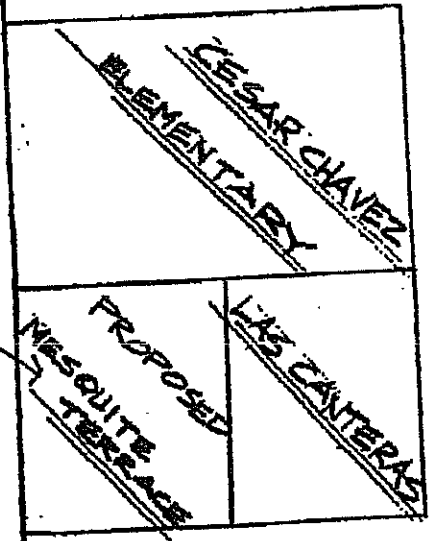
GALAXY DRIVE

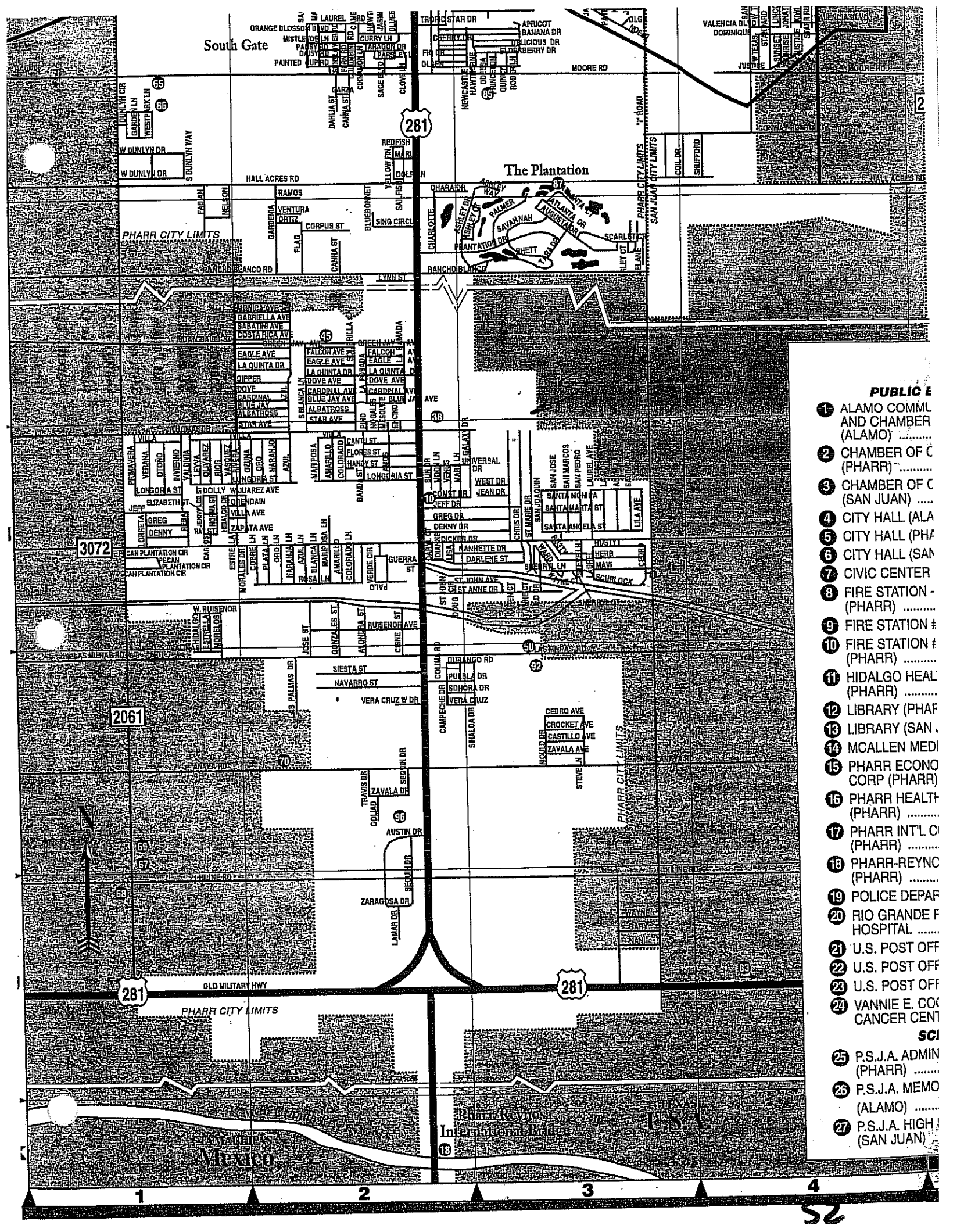
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SINGLE FAMILY RESIDENTIAL - 42 HOUSES

20-UNITS

8-UNITS





- PUBLIC FACILITIES**
- 1 ALAMO COMMUNITY CENTER AND CHAMBER OF COMMERCE (ALAMO)
  - 2 CHAMBER OF COMMERCE (PHARR)
  - 3 CHAMBER OF COMMERCE (SAN JUAN)
  - 4 CITY HALL (ALAMO)
  - 5 CITY HALL (PHARR)
  - 6 CITY HALL (SAN JUAN)
  - 7 CIVIC CENTER
  - 8 FIRE STATION - (PHARR)
  - 9 FIRE STATION # 1
  - 10 FIRE STATION # 2
  - 11 HIDALGO HEALTH CENTER (PHARR)
  - 12 LIBRARY (PHARR)
  - 13 LIBRARY (SAN JUAN)
  - 14 MCALLEN MEDICAL CENTER
  - 15 PHARR ECONOMIC DEVELOPMENT CORP (PHARR)
  - 16 PHARR HEALTH CENTER (PHARR)
  - 17 PHARR INTERNATIONAL CENTER (PHARR)
  - 18 PHARR-REYNOLDS CENTER (PHARR)
  - 19 POLICE DEPARTMENT
  - 20 RIO GRANDE FEDERAL HOSPITAL
  - 21 U.S. POST OFFICE
  - 22 U.S. POST OFFICE
  - 23 U.S. POST OFFICE
  - 24 VANNIE E. COOPER CANCER CENTER
- SCS**
- 25 P.S.J.A. ADMINISTRATION (PHARR)
  - 26 P.S.J.A. MEMORIAL CENTER (ALAMO)
  - 27 P.S.J.A. HIGH SCHOOL (SAN JUAN)



# Model By-Laws for Resident Councils

## ARTICLE I

### Name:

The name of this organization is the Las Milpas Resident Council [give exact and complete legal name as incorporated] Council (hereinafter referred to as the "Council"). It is a not-for-profit organization constituted and established under the laws of the State of Texas.

The registered address of the Council is at 215 Universal Drive Pharr, Texas [give full and complete street address, including ZIP code]. 78577  
The Council may also have offices at other such locations as the Board of Directors may from time to time determine.

## ARTICLE II

### Purpose:

The purpose of the Council is to improve life for the residents of Las Milpas Housing Authority [name the development or legal community name if possible, e.g. the Bremen Township]. In specific, the purpose of the Council shall be to:

1. maintain a viable resident organization representative of the residents who elected its officers and Board of Directors.
2. assure adequate maintenance of all units and common areas.
3. provide maximum employment and training opportunities.
4. establish and maintain security and public safety programs.
5. promote programs which will provide improved educational, recreational and social service opportunities.
6. inform residents of their rights and responsibilities under existing federal, state and local law, as well as under the Corporation's By-Laws.
7. receive official recognition from the Housing Authority and HUD as a resident council pursuant to the HUD regulations.
8. institute economic development programs for residents.
9. advise and assist the Housing Authority in all aspects of public housing operations.

advisable.

4. Special Meetings. The President or any four (4) directors may at any time call a Special Meeting provided that the written notice including agenda is given at least forty-eight (48) hours prior to the meeting.
5. Quorum. At any Council meeting, two-thirds (2/3) of the directors of the Council shall be necessary and sufficient to constitute a quorum.
6. Attendance. Each time a member of the Board of Directors appears at a regular or special meeting, a record of the presence of that director shall be placed in the minutes of the meeting. The board may request that a record of all those attending the meeting to be recorded as well.
7. Voting by Directors. Each member of the Council present at a meeting shall be entitled to cast one (1) vote on any subject for which a determination is presented for considerations.

#### ARTICLE V

Directors have a formal, legal responsibility to manage the affairs of the organization, to conduct its business and to consult with and inform the residents. To insure continuity, board members' terms should be overlapping, starting and ending during different years. Special arrangements should be made for the first board of directors to provide for these staggered terms of office.

#### Board of Directors:

1. Number. The Board of Directors of the Council shall consist of at least five (5) Directors. Not more than three (3) additional alternate members shall be elected by the members. Each director and alternate must be at least eighteen (18) years of age. Each director must be a head of household on the lease.
2. Term of Office. Members of a Board of Directors shall be elected at each annual meeting. Four (4) members of the first Board of Directors shall be elected for a term of one (1) year. Three (3) members of the first elected Board of Directors shall be elected for a term of two (2) years. The remaining three (3) members of the first elected Board of Directors shall be elected for a term of three

11. Annual Meeting

The Board of Directors shall convene an annual meeting before the end of each fiscal year and shall present a report annually to the members.

12. Annual Reports

The Board of Directors shall present, at each annual meeting of the members of the Council, an annual report of the Council's activities during the preceding fiscal year. It shall also present such reports as may be required by the Pharr Housing Authority, or any other funding agency. The annual report shall include a detailed financial statement of the costs incurred and funds received by the Council and during the preceding fiscal year.

13. Attendance

Any director who misses three (3) meetings of the Board of consecutively without an excuse satisfactory to the Board may be removed by the affirmative votes of a majority of the Directors present at a meeting of the Board. Written notice and a hearing shall be given to the directors of the proposed removal.

Article VI

Officers:

1. Title and Qualifications:

- a. President The President of the Board shall preside at all meetings of the organization, including those of the Board of Directors, and shall have such other powers have such other powers and duties consistent with these by-laws.
- b. Vice-President The Vice-President shall perform all duties in the absence of the President.
- c. Secretary The Secretary shall be the custodian of all records and documents of the Council and perform all other duties consistent with these by-laws.

Examples of standing committees may include the following:

Executive Committee  
Personnel Committee  
Security Committee  
Grievance Panel  
Modernization Committee  
Screening/Welcome Committee  
Laundry Facility Management Committee  
Beautification/Garden Committee  
Recreation Committee  
Youth Activities Committee  
Elderly and Disabled Concerns Committee  
Borrowed Committee  
Education/School Coordination Committee  
Spiritual Uplift Committee  
Training and Employment Committee

Examples of ad hoc committees may include the following:

Graduation Committee  
Disaster Victim Assistance Committee  
Sick and Shut-in Help Committee  
College Scholarship Committee

#### ARTICLE IX

#### Fiscal Affairs (Deposits, Checks, Loans, Contracts, etc.)

Deposit of Funds	All funds of the Council not otherwise expended shall be promptly deposited in such banks, trust companies, credit unions or other reliable and insured depositories as the Board shall determine.
Checks	All checks, drafts, endorsements, notes and evidence of debt shall be signed by at least two (2) officers as the Board of Directors may authorize.
Loans	No loans or advances or promises of payment shall be contracted or accepted on behalf of, or in the name of the Council, except those contracts authorized by the Board of Directors.
Contracts	An officer authorized by the board of directors may, in the name of and on behalf of the Council, enter into contracts which are authorized by the Board of Directors.

ARTICLE X

Amendments:

These by-laws may be amended by an affirmative vote of two-thirds (2/3) of the eligible members present at a meeting provided that at least three (3) weeks written notice of the proposed changes have been given to all members.

ARTICLE XI

Adoption:

These By-laws shall become effective and the Council established upon the signing of these By-laws by at least two-thirds (2/3) [quorum] of all eligible members.

It is important to note that all the persons authorized on the Board to approve this document should be signers of it.

Approved and ratified at the Membership meeting of the 1ST day of JANUARY, 1991.

Signatures:

Loy Ann 1-1-91

Madel Rosario Perez President 01-1-91

Maria Caudillo, Vice president 01-1-91

LAS MILPAS RESIDENT COUNCIL  
215 Universal Drive  
Pharr, Texas 78577

FILED
AT 2:50 O'CLOCK P M
MAR - 1 2004
JUAN D. SALINAS N. COUNTY CLERK HIDALGO COUNTY TEXAS
BY [Signature] DEPUTY

February 29, 2004

Mr. J.D. Salinas  
Hidalgo County Clerk  
Hidalgo County Courthouse  
100 North Clossner  
Edinburg, Texas 78539

Re: Registration of Neighborhood Organization

Dear Mr. Salinas:

The Las Milpas Resident Council is hereby requesting that our organization be registered in Hidalgo County. Please register Las Milpas by file stamping this request letter.

*Resident Council (en)*

Thank you for your cooperation.

Sincerely,

*Rosario Perez*  
Rosario Perez  
President

ASSUMED NAME CERTIFICATE

THE STATE OF TEXAS }  
COUNTY OF HIDALGO }

KNOW ALL MEN BY THESE PRESENTS: 1582777

THAT LAS MIPAS RESIDENT COUNCIL, the undersigned, for the purpose of complying with Chapter 36, Title 4, Business and Commerce Code of the State of Texas, do hereby certify to the following facts:

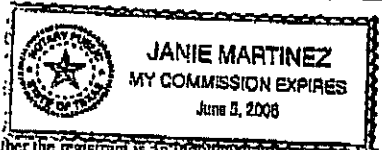
- LAS MIPAS RESIDENT COUNCIL is the assumed name under which the business or professional services is or is to be conducted or rendered.
- Registrant: \_\_\_\_\_
- Names and Addresses: <sup>2</sup>

Name	<u>ROSARIO PEREZ</u>	<u>7003 MARS LANE</u>
Title <sup>1</sup>	<u>PRESIDENT</u>	Address <u>PHARR, TEXAS 78577</u>
Name	_____	_____
Title	_____	Address _____
Name	_____	_____
Title	_____	Address _____
Name	_____	_____
Title	_____	Address _____

Said Company was duly associated under the laws of Texas and its registered or similar office address there is  
 Corporation incorporated  
104 W. POLK, PHARR, TEXAS 78577  
 County or counties within the State of Texas where the business or professional services are being or are to be conducted or rendered under said assumed name: HIDALGO COUNTY

4. The business or professional service is a: NON-PROFIT NEIGHBORHOOD ORGANIZATION  
 The corporation is a:         

5. The period, not to exceed ten (10) years, during which the assumed name will be used is from the 23RD day of FEBRUARY, 2006, until the 23RD day of FEBRUARY, 2016.  
 IN TESTIMONY WHEREOF, I have hereunto set MY hand &, this the 23RD day of FEBRUARY, 2006.



Rosario Perez  
ROSARIO PEREZ, PRESIDENT

- Indicate whether the registrant is an individual; a Partnership; an Estate; a Real Estate Investment Trust; a Company; a Corporation.
- If the registrant is:
  - An individual, full name and residence address;
  - A Partnership, the venture or partnership name, the venture or partnership office address, the full name of each joint venturer or general partner and their residence address if an individual, or its office address if not an individual;
  - An Estate, the name of the estate, the estate's office address, if any, and the full name of each representative of the estate, residence address, if an individual, or its office address if not an individual;
  - A Real Estate Investment Trust, the name of the trust, the address of the trust, the full name of each trustee manager, residence address, if an individual, or its office address if not an individual;
  - A Company, other than a real estate investment trust, or a corporation, the name of the company or corporation, the state, county or other jurisdiction under the laws of which it was organized, incorporated or associated, and its office address;
  - A Corporation, the name of the corporation as stated in its articles of incorporation or association or comparable document, the state, county, or other jurisdiction under the laws of which it was incorporated or associated and address of its registered or similar office in that state, county or jurisdiction, if required to maintain a registered office in this state, the address of such registered office and the name of its registered agent at such address, and the address of its principal office if not the same as that of its registered office in this state; if the corporation is not required to or does not maintain a registered office in this state, its office address in this state or if the corporation is not incorporated, organized or associated under the laws of this state, the address of its place of business in this state or its office address elsewhere, if any.
- Insert titles as: individual, general partner, joint venturer, representative, trustee manager, company/corporate office, attorney in fact and registered agent and/or indicate registered office address, etc.
- Strike if not applicable.
- Insert form of business/corporation as proprietorship, sole practitioner, joint venture, general partnership, limited partnership, real estate investment trust, joint-stock company, or some other form of unincorporated business or professional association or entity, or for corporations: business corporation, nonprofit corporation, professional corporation, or some other type of incorporated business, professional or other association, or legal entity.

(Acknowledgment Under Oath)

THE STATE OF TEXAS }  
COUNTY OF HIDALGO }

BEFORE ME, the undersigned authority, on this day personally appeared ROSARIO PEREZ who having been by me first duly sworn upon oath, deposed and said: "I have been duly authorized in writing by my principal to execute and acknowledge this legal instrument."

SUBSCRIBED AND SWORN TO BEFORE ME by \_\_\_\_\_  
this the 23RD day of FEBRUARY, A.D. 2006

Janie Martinez JANIE MARTINEZ, Notary Public  
Hidalgo County, Texas. My commission expires JUNE 5, 2006

THE STATE OF TEXAS }  
COUNTY OF HIDALGO }



Before me, the undersigned authority, on this day personally appeared ROSARIO PEREZ

known to me to be the person whose name ROSARIO PEREZ subscribed to the foregoing instrument, and acknowledged to me that s he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 23RD day of FEBRUARY, A.D. 2006

Janie Martinez JANIE MARTINEZ, Notary Public  
Hidalgo County, Texas. My commission expires JUNE 5, 2006

(Corporate/Partnership Acknowledgment)



THE STATE OF TEXAS }  
COUNTY OF HIDALGO }

Before me, the undersigned authority, on this day personally appeared ROSARIO PEREZ PRESIDENT of LAS MILPAS RESIDENT COUNCIL

partnership: Known 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, in the capacity therein stated and as the act and deed of said partnership.  
a corporation: corporation.

Given under my hand and seal of office on this the 23RD day of FEBRUARY, A.D. 2006

Janie Martinez JANIE MARTINEZ, Notary Public  
Hidalgo County, Texas. My commission expires JUNE 5, 2006



Filed for Record in:  
by  
Hidalgo County  
County Clerk  
On: Feb 24, 2006 at 09:57A  
As a Recording  
Document Number: 1582777  
Total Fees 13.50  
Receipt Number - 744984  
By: Anna Smith, Deputy

69



Las Milpas Residents Council  
215 Universal Drive  
Pharr, Texas 78577

March 22, 2006

Mr. Bill Dally  
Acting Executive Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Quantifiable Community Participation  
TDHCA No. 060117  
Mesquite Terrace  
400 Block of East Thomas Road  
Pharr, Texas 78577

RECEIVED

MAR 29 2006

LIHTC

As President of Las Milpas Resident Council (Neighborhood Organization), I am writing to provide the organization's support for the above referenced development which is located at the 400 Block of East Thomas Road, Pharr, Texas 78577. Las Milpas Resident Council is a qualified Neighborhood Organization as further described below.

As the signee of this letter, I am providing the following required information:

Marina Lerma  
6905 Galaxy Drive  
Pharr, Texas 78577  
Telephone: (956) 787-3520

I am also providing the following information for one additional contact, Hilda Pedraza, for our organization:

Hilda Pedraza  
118 S. Cage Boulevard  
Pharr, Texas 78577  
Telephone: (956) 702-5367  
Fax: (956) 702-5363  
email address: hpedraza@cityofpharr.com

The boundaries of this organization are from 420 East Thomas Road to 6601 through 7002 Galaxy Drive, 6903 through 7003 Mars Lane, and 215 Universal Drive (our Community Buildings) in the City of Pharr, Texas. The proposed Mesquite Terrace covered by TDHCA Application No. 060117 is within those boundaries. Enclosed is a site map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries.

This organization is an organization of persons living near one another within the organization's defined boundaries. The organization has a primary purpose of working to maintain and improve the general welfare of the neighborhood. Attached are our

bylaws created on or before March 1, 2006. The organization has 42 members and will have an additional 100 members later this year when Las Canteras Apartments are completed and occupied. There are 11 officers in our organization. The organization reached a decision to **support** Mesquite Terrace by a vote of the members present at a meeting on March 22, 2006, and signing a petition of support by the members.

This organization is on record as of March 1, 2006, with Hidalgo County, in which the development is proposed to be located. (See enclosed letter to the county requesting we be on record.)

The organization was not formed by any Applicant, Developer or any employee or agent of any applicant in the 2006 Housing Tax Credit application round, nor has the organization or any member of the organization accepted money or a gift to cause the organization to take it's position of support or opposition to this development. The applicant has not provided any assistance, other than education or information sharing, to the neighborhood organization. The applicant has not provided any production assistance.

The organization **supports** the proposed development for the following reasons:

1. The proposed development will include replacement units for previously demolished Public Housing and assure preservation of our affordable housing and the Public Housing rental assistance.
2. The proposed development will provide safe, decent and sanitary affordable housing in a quality living environment.
3. The proposed development will provide needed amenities that currently do not exist.
4. There is a need of affordable housing for senior citizens.

Sincerely,



Marina Lerma  
6905 Galaxy Drive  
Pharr, Texas 78577  
(956) 787-3520

Attachments: Petition signed by residents/members  
Site map  
Bylaws  
Letter to County Clerk  
Letters from State Senator and State Representative

Las Milpas Resident Council  
215 E. Universal Drive  
Pharr, Texas 78577

WHEREAS, we the members of Las Milpas Resident Council have been informed of Application No. 060117 to the Texas Department of Housing and Community Affairs for an allocation of 2006 low income housing tax credits (LIHTC) for Mesquite Terrace, a proposed new 106 unit affordable housing development for senior citizens, and

WHEREAS, we have been informed that the proposed Mesquite Terrace LIHTC housing development will include some Public Housing units to replace Public Housing units previously demolished by the Pharr Housing Authority, and

WHEREAS, the proposed Mesquite Terrace LIHTC housing development will provide much needed affordable housing for low income senior citizens of the City of Pharr; and

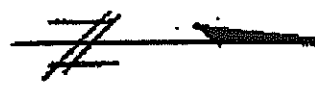
WHEREAS, the Honorable Eddie Lucio, Jr., our State Senator, and the Honorable Ismael "Kino" Flores, our State Representative, have submitted letters to TDHCA supporting the application for an allocation of 2006 LIHTC for the new 106-unit development, and

WHEREAS, the proposed Mesquite Terrace is located within the boundaries of our neighborhood organization;

NOW THEREFORE, WE THE MEMBERS OF LAS MILPAS RESIDENT COUNCIL:

1. Support TDHCA Application No. 060117 for an allocation of LIHTC for Mesquite Terrace, in the 400 block of East Thomas Road in Pharr, Texas.
2. Authorize the President of the Resident Council of Las Milpas to submit a letter of support to TDHCA for the application for LIHTC.
3. Authorize the Resident Advisory Board of the Pharr Housing Authority to submit a letter of support to TDHCA for the application for LIHTC.
4. Welcome the cooperation and support of the City Council, State Senator Lucio, State Representative Martinez, and the Pharr Housing Authority to develop much needed affordable housing for our benefit and the benefit of other low income residents and the revitalization of the community.
5. Urge the TDHCA to make an allocation of LIHTC for TDHCA Application No. 060117 for Mesquite Terrace, Pharr Texas.

ADDRESS	NAME	SIGNATURE
6601 Galaxy Dr.	Aida Zamora	Aida Zamora
6603 Galaxy Dr.	Nora E. Ramirez	Nora E. Ramirez
6605 Galaxy Dr.	Blanca Lopez	Blanca Lopez
6607 Galaxy Dr.	Ismael Ramos	Ismael Ramos
6609 Galaxy Dr.	Maribel Quiroz	Maribel Quiroz
6611 Galaxy Dr.	Jose Mata	Jose Mata
6701 Galaxy Dr.	Donna Garcia	Donna Garcia
6703 Galaxy Dr.	Laura C. Guerrero	Laura C. Guerrero
6705 Galaxy Dr.	Lorena De La Cruz	Lorena De La Cruz
6707 Galaxy Dr.	Dalia Lopez	Dalia Lopez
6801 Galaxy Dr.	Rosalina Alvarado	Rosalina Alvarado
6803 Galaxy Dr.	Estanislao Rodriguez	Estanislao Rodriguez
6805 Galaxy Dr.	Ramiro Lerma	Ramiro Lerma
6807 Galaxy Dr.	Francisco Salas	Francisco Salas
6809 Galaxy Dr.	Maria Chavez	Maria Chavez
6811 Galaxy Dr.	Maria E. Hernandez	Maria E. Hernandez
6903 Galaxy Dr.	Irma Montes	Irma Montes
6905 Galaxy Dr.	Marisela Palacios	Marisela Palacios
6907 Galaxy Dr.	Maria Caudillo	Maria Caudillo
6909 Galaxy Dr.	Rogelio Navarro	Rogelio Navarro
6902 Galaxy Dr.	Olga Echarte	Olga Echarte
6903 Mars Lane	Zulema Rios	Zulema Rios
6904 Galaxy Dr.	Maria Solis	Maria Solis
6905 Mars Lane	Alicia Macias	Alicia Macias
6906 Galaxy Dr.	Braulio Salazar	Braulio Salazar
6907 Mars Lane	Maria De La Paz Cantu	Maria De La Paz Cantu
6908 Galaxy Dr.	Maricela Garcia	Maricela Garcia
6909 Mars Lane	Elizabeth Velasquez	Elizabeth Velasquez
6910 Galaxy Dr.	Emma Llanas	Emma Llanas
6911 Mars Lane	Leticia Olvera	Leticia Olvera
7000 Galaxy Dr.	Genoveva Mendoza	Genoveva Mendoza
7001 Mars Lane	Trinidad Peña	Trinidad Peña
7002 Galaxy Dr.	Araceli Camacho	Araceli Camacho
7003 Mars Lane	Hector Perez	Hector Perez
6911 Galaxy Dr.	Raquel Arevalo	Raquel Arevalo
7001 Galaxy Dr.	Devida Ibarra	
7003 Galaxy Dr.	Elizabeth Rodriguez	
7005 Galaxy Dr.	Sara Tenorio	
7007 Galaxy Dr.	Susana Maciel	
7009 Galaxy Dr.	Juan E. Guerra	
7011 Galaxy Dr.	Ricardo Mariscal	
7013 Galaxy Dr.	Silvia Calvillo	



U. S. 281 (CAGE BLVD)

THOMAS RD

UNIVERSAL DRIVE

14-UNITS

LAS MILPAS COMM. BLDG.

MARS LANE

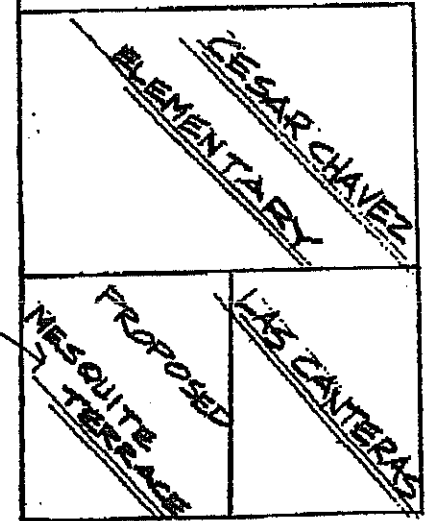
GALAXY DRIVE

6601	6602	6605	6607	6609	6611	6701	6703	6705	6707	6801	6803	6805	6807	6809	6811		6903	6905	6907	6909	6911	7001	7003	7005	7007	7009	7011	7012
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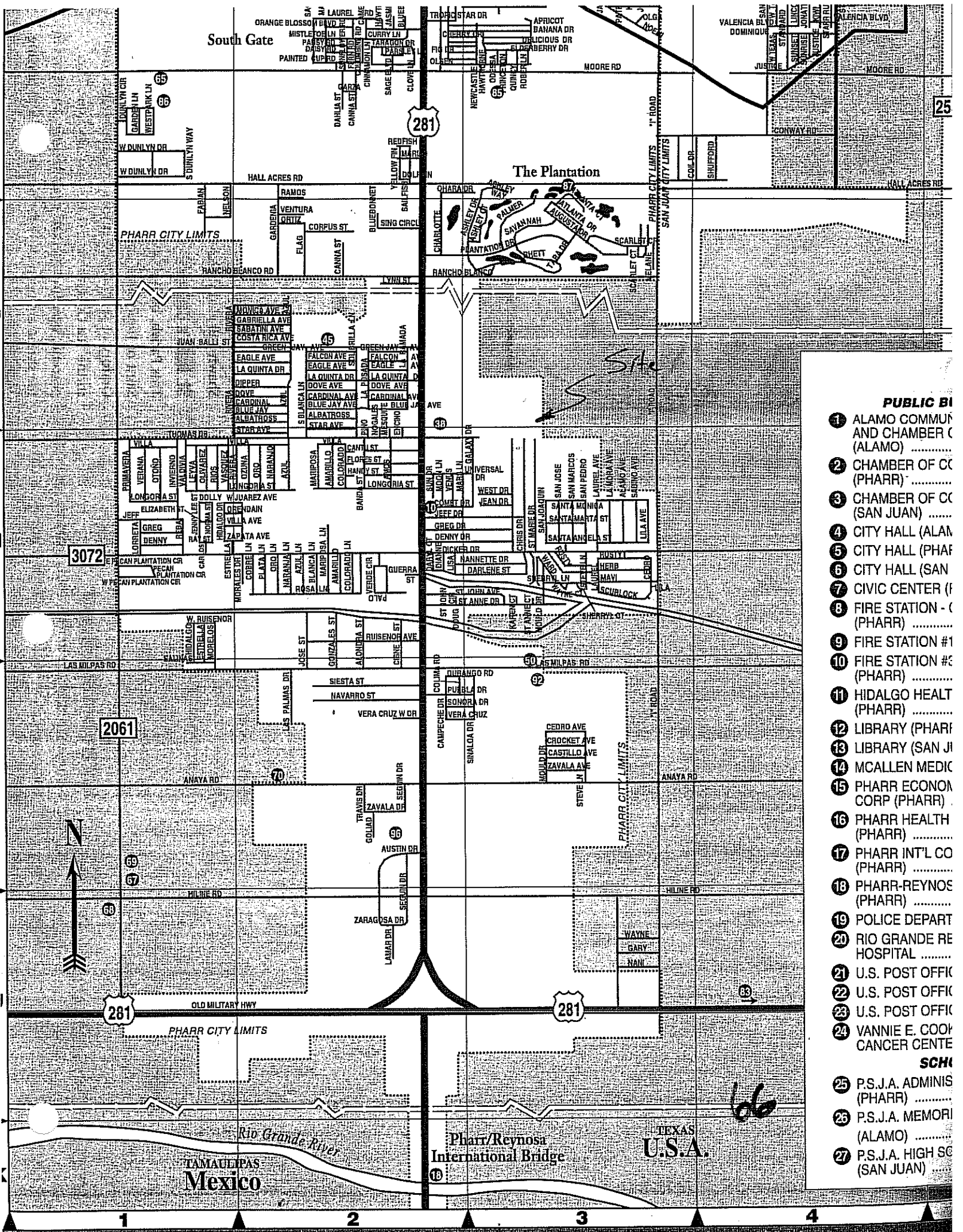
22-UNITS

SINGLE FAMILY RESIDENTIAL - 42 HOUSES

2-UNITS



65



- PUBLIC BUILDINGS**
- 1 ALAMO COMMUNITY CENTER AND CHAMBER OF COMMERCE (ALAMO)
  - 2 CHAMBER OF COMMERCE (PHARR)
  - 3 CHAMBER OF COMMERCE (SAN JUAN)
  - 4 CITY HALL (ALAMO)
  - 5 CITY HALL (PHARR)
  - 6 CITY HALL (SAN JUAN)
  - 7 CIVIC CENTER (PHARR)
  - 8 FIRE STATION - (PHARR)
  - 9 FIRE STATION #1 (PHARR)
  - 10 FIRE STATION #2 (PHARR)
  - 11 HIDALGO HEALTH CENTER (PHARR)
  - 12 LIBRARY (PHARR)
  - 13 LIBRARY (SAN JUAN)
  - 14 MCALLEN MEDICAL CENTER (PHARR)
  - 15 PHARR ECONOMIC DEVELOPMENT CORP (PHARR)
  - 16 PHARR HEALTH CENTER (PHARR)
  - 17 PHARR INT'L COMMUNITY CENTER (PHARR)
  - 18 PHARR-REYNOSA INTERNATIONAL BRIDGE (PHARR)
  - 19 POLICE DEPARTMENT (PHARR)
  - 20 RIO GRANDE RECREATION CENTER HOSPITAL
  - 21 U.S. POST OFFICE (ALAMO)
  - 22 U.S. POST OFFICE (PHARR)
  - 23 U.S. POST OFFICE (SAN JUAN)
  - 24 VANNIE E. COOPER CANCER CENTER (PHARR)
- SCHOOLS**
- 25 P.S.J.A. ADMINISTRATION CENTER (PHARR)
  - 26 P.S.J.A. MEMORIAL CENTER (ALAMO)
  - 27 P.S.J.A. HIGH SCHOOL (SAN JUAN)

66

3072

2061

281

281

25

## Model By-Laws for Resident Councils

### ARTICLE I

#### Name:

The name of this organization is the Las Milpas Resident Council [give exact and complete legal name as incorporated] Council (hereinafter referred to as the "Council"). It is a not-for-profit organization constituted and established under the laws of the State of Texas.

The registered address of the Council is at 215 Universal Drive Pharr, Texas [give full and complete street address, including ZIP code]. 78577  
The Council may also have offices at other such locations as the Board of Directors may from time to time determine.

### ARTICLE II

#### Purpose:

The purpose of the Council is to improve life for the residents of Las Milpas Housing Authority [name the development or legal community name if possible, e.g. the Bremen Township]. In specific, the purpose of the Council shall be to:

1. maintain a viable resident organization representative of the residents who elected its officers and Board of Directors.
2. assure adequate maintenance of all units and common areas.
3. provide maximum employment and training opportunities.
4. establish and maintain security and public safety programs.
5. promote programs which will provide improved educational, recreational and social service opportunities.
6. inform residents of their rights and responsibilities under existing federal, state and local law, as well as under the Corporation's By-Laws.
7. receive official recognition from the Housing Authority and HUD as a resident council pursuant to the HUD regulations.
8. institute economic development programs for residents.
9. advise and assist the Housing Authority in all aspects of public housing operations.

advisable.

4. Special Meetings. The President or any four (4) directors may at any time call a Special Meeting provided that the written notice including agenda is given at least forty-eight (48) hours prior to the meeting.
5. Quorum. At any Council meeting, two-thirds (2/3) of the directors of the Council shall be necessary and sufficient to constitute a quorum.
6. Attendance. Each time a member of the Board of Directors appears at a regular or special meeting, a record of the presence of that director shall be placed in the minutes of the meeting. The board may request that a record of all those attending the meeting to be recorded as well.
7. Voting by Directors. Each member of the Council present at a meeting shall be entitled to cast one (1) vote on any subject for which a determination is presented for considerations.

#### ARTICLE V

Directors have a formal, legal responsibility to manage the affairs of the organization, to conduct its business and to consult with and inform the residents. To insure continuity, board members' terms should be overlapping, starting and ending during different years. Special arrangements should be made for the first board of directors to provide for these staggered terms of office.

#### Board of Directors:

1. Number. The Board of Directors of the Council shall consist of at least five (5) Directors. Not more than three (3) additional alternate members shall be elected by the members. Each director and alternate must be at least eighteen (18) years of age. Each director must be a head of household on the lease.
2. Term of Office. Members of a Board of Directors shall be elected at each annual meeting. Four (4) members of the first Board of Directors shall be elected for a term of one (1) year. Three (3) members of the first elected Board of Directors shall be elected for a term of two (2) years. The remaining three (3) members of the first elected Board of Directors shall be elected for a term of three



11. Annual Meeting

The Board of Directors shall convene an annual meeting before the end of each fiscal year and shall present a report annually to the members.

12. Annual Reports

The Board of Directors shall present, at each annual meeting of the members of the Council, an annual report of the Council's activities during the preceding fiscal year. It shall also present such reports as may be required by the Pharr Housing Authority, or any other funding agency. The annual report shall include a detailed financial statement of the costs incurred and funds received by the Council and during the preceding fiscal year.

13. Attendance

Any director who misses three (3) meetings of the Board of consecutively without an excuse satisfactory to the Board may be removed by the affirmative votes of a majority of the Directors present at a meeting of the Board. Written notice and a hearing shall be given to the directors of the proposed removal.

Article VI

Officers:

1. Title and Qualifications:

- a. President The President of the Board shall preside at all meetings of the organization, including those of the Board of Directors, and shall have such other powers have such other powers and duties consistent with these by-laws.
- b. Vice-President The Vice-President shall perform all duties in the absence of the President.
- c. Secretary The Secretary shall be the custodian of all records and documents of the Council and perform all other duties consistent with these by-laws.

Examples of standing committees may include the following:

Executive Committee  
Personnel Committee  
Security Committee  
Grievance Panel  
Modernization Committee  
Screening/Welcome Committee  
Laundry Facility Management Committee  
Beautification/Garden Committee  
Recreation Committee  
Youth Activities Committee  
Elderly and Disabled Concerns Committee  
Borrowed Committee  
Education/School Coordination Committee  
Spiritual Uplift Committee  
Training and Employment Committee

Examples of ad hoc committees may include the following:

Graduation Committee  
Disaster Victim Assistance Committee  
Sick and Shut-in Help Committee  
College Scholarship Committee

#### ARTICLE IX

##### Fiscal Affairs (Deposits, Checks, Loans, Contracts, etc.)

Deposit of Funds	All funds of the Council not otherwise expended shall be promptly deposited in such banks, trust companies, credit unions or other reliable and insured depositories as the Board shall determine.
Checks	All checks, drafts, endorsements, notes and evidence of debt shall be signed by at least two (2) officers officers as the Board of Directors may authorize.
Loans	No loans or advances or promises of payment shall be contracted or accepted on behalf of, or in the name of the Council, except those contracts authorized by the Board of Directors.
Contracts	An officer authorized by the board of directors may, in the name of and on behalf of the Council, enter into contracts which are authorized by the Board of Directors.

ARTICLE X

Amendments:

These by-laws may be amended by an affirmative vote of two-thirds (2/3) of the eligible members present at a meeting provided that at least three (3) weeks written notice of the proposed changes have been given to all members.

ARTICLE XI

Adoption:

These By-laws shall become effective and the Council established upon the signing of these By-laws by at least two-thirds (2/3) [quorum] of all eligible members.

It is important to note that all the persons authorized on the Board to approve this document should be signers of it.

Approved and ratified at the Membership meeting of the 1ST day of JANUARY, 1991.

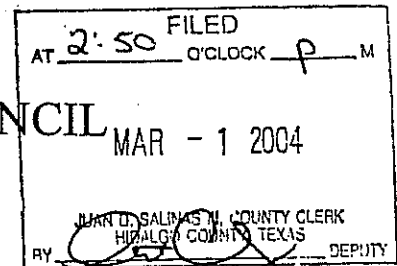
Signatures:

Ray Ann 1-1-91

Madal Rosario Perez President 01-1-91

Maria Caudillo Vice president 01-1-91

LAS MILPAS RESIDENT COUNCIL  
215 Universal Drive  
Pharr, Texas 78577



February 29, 2004

Mr. J.D. Salinas  
Hidalgo County Clerk  
Hidalgo County Courthouse  
100 North Closner  
Edinburg, Texas 78539

Re: Registration of Neighborhood Organization

Dear Mr. Salinas:

The Las Milpas Resident Council is hereby requesting that our organization be registered in Hidalgo County. Please register Las Milpas by file stamping this request letter.

*Resident Council (sm)*

Thank you for your cooperation.

Sincerely,

*ma del Rosario Perez*  
Rosario Perez  
President

ASSUMED NAME CERTIFICATE

THE STATE OF TEXAS }  
COUNTY OF HIDALGO }

KNOW ALL MEN BY THESE PRESENTS: 1582777

THAT LAS MIPAS RESIDENT COUNCIL, the undersigned, for the purpose of complying with Chapter 36, Title 4, Business and Commerce Code of the State of Texas, do hereby certify to the following facts:

- 1. LAS MIPAS RESIDENT COUNCIL is the assumed name under which the business or professional services is or is to be conducted or rendered.
- 2. Registrant: \_\_\_\_\_
- 3. Names and Addresses: <sup>2</sup>

Name ROSARIO PEREZ 7003 MARS LANE  
 Title PRESIDENT Address PHARR, TEXAS 78577  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_ Address \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_ Address \_\_\_\_\_  
 Name \_\_\_\_\_  
 Title \_\_\_\_\_ Address \_\_\_\_\_

Said Company was duly associated under the laws of Texas and its registered or similar office address there is  
Corporation incorporated

104 W. POLK, PHARR, TEXAS 78577

County or counties within the State of Texas where the business or professional services are being or are to be conducted or rendered under said assumed name: HIDALGO COUNTY

4. The business or professional service is a: NON-PROFIT NEIGHBORHOOD ORGANIZATION  
The corporation is a: <sup>4</sup>

5. The period, not to exceed ten (10) years, during which the assumed name will be used is from the 23RD day of FEBRUARY, 2006, until the 23RD day of FEBRUARY, 2016.  
IN TESTIMONY WHEREOF, I have hereunto set MY hand & S, this the 23RD day of FEBRUARY, 2006.



Rosario Perez  
ROSARIO PEREZ, PRESIDENT

- 1. Indicate whether the registrant is an individual; a Partnership; an Estate; a Real Estate Investment Trust; a Company; a Corporation.
- 2. If the registrant is:
  - a. An individual, full name and residence address;
  - b. A Partnership, the venture or partnership name, the venture or partnership office address, the full name of each joint venturer or general partner and their residence address if an individual, or its office address if not an individual;
  - c. an Estate, the name of the estate, the estate's office address, if any, and the full name of each representative of the estate, residence address, if an individual, or its office address if not an individual;
  - d. a Real Estate Investment Trust, the name of the trust, the address of the trust, the full name of each trustee manager, residence address, if an individual, or its office address if not an individual;
  - e. a Company, other than a real estate investment trust, or a corporation, the name of the company or corporation, the state, county or other jurisdiction under the laws of which it was organized, incorporated or associated, and its office address;
  - f. a Corporation, the name of the corporation as stated in its articles of incorporation or association or comparable document, the state, county, or other jurisdiction under the laws of which it was incorporated or associated and address of its registered or similar office in that state, county or jurisdiction, if required to maintain a registered office in this state, the address of such registered office and the name of its registered agent at such address, and the address of its principal office if not the same as that of its registered office in this state; if the corporation is not required to or does not maintain a registered office in this state, its office address in this state or if the corporation is not incorporated, organized or associated under the laws of this state, the address of its place of business in this state or its office address elsewhere, if any.
- 3. Insert titles as: individual, general partner, joint venturer, representative, trustee manager, company/corporate office, attorney in fact and registered agent and/or indicate registered office address, etc.
- 4. Strike if not applicable.
- 5. Insert form of business/corporation as proprietorship, sole practitioner, joint venture, general partnership, limited partnership, real estate investment trust, joint-stock company, or some other form of unincorporated business or professional association or entity, or for corporations; business corporation, nonprofit corporation, professional corporation, or some other type of incorporated business, professional or other association, or legal entity.

73

(Acknowledgment Under Oath)

THE STATE OF TEXAS }  
COUNTY OF HIDALGO

BEFORE ME, the undersigned authority, on this day personally appeared ROSARIO PEREZ, who having been by me first duly sworn upon oath, deposed and said: "I have been duly authorized in writing by my principal to execute and acknowledge this legal instrument."

SUBSCRIBED AND SWORN TO BEFORE ME by \_\_\_\_\_, this the 23RD day of FEBRUARY, A.D. 2006.  
Janie Martinez JANIE MARTINEZ, Notary Public  
Hidalgo County, Texas. My commission expires JUNE 5, 2006

THE STATE OF TEXAS }  
COUNTY OF HIDALGO



Before me, the undersigned authority, on this day personally appeared ROSARIO PEREZ known to me to be the person whose name ROSARIO PEREZ subscribed to the foregoing instrument, and acknowledged to me that s he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 23RD day of FEBRUARY, A.D. 2006.  
Janie Martinez JANIE MARTINEZ, Notary Public  
Hidalgo County, Texas. My commission expires JUNE 5, 2006

(Corporate/Partnership Acknowledgment)



THE STATE OF TEXAS }  
COUNTY OF HIDALGO

Before me, the undersigned authority, on this day personally appeared ROSARIO PEREZ PRESIDENT of LAS MILPAS RESIDENT COUNCIL

partnership: Known 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, in the capacity therein stated and as the act and deed of said partnership.  
corporation:

Given under my hand and seal of office on this the 23RD day of FEBRUARY, A.D. 2006.  
Janie Martinez JANIE MARTINEZ, Notary Public  
Hidalgo County, Texas. My commission expires JUNE 5, 2006



Filed for Record in:  
by  
Hidalgo County  
Clerk's Office  
On: Feb 24, 2006 at 09:57A  
As a Recording  
Document Number: 1582777  
Total Fees: 13.50  
Receipt Number - 744994  
By: Anna Smith, Deputy

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# THE ENCINAS GROUP

A CALIFORNIA CORPORATION

1830 TRUXTON AVENUE, #206  
BAKERSFIELD, CA 93301  
661-328-0003  
FACSIMILE 661-328-0005

May 4, 2006

Mr. Bill Daly, Acting Executive Director  
Attn: Neighborhood Input  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701-2401

*5/3/06*  
*Bill Daly*  
**RECEIVED**  
MAY 8 2006  
LIHTC

Re: Quantifiable Community Participation Development  
CenterPoint Resident Council

Dear Mr. Daly;

I am writing regarding the Quantifiable Community Participation Development letters submitted by Las Milpas Resident Council for TDHCA Development #060117.

The Las Milpas Resident Council states it is a qualified Neighborhood. I would like to question the organizations statement that it is a Qualified Neighborhood Organization for the following reason.

The 2006 Housing Tax Credit Program Qualified Allocation Plan and Rules with Amendments (QAP) states in Section 50.9(i)(2)(A)(iv) "A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/New Construction of the property occupied by the residents)."

The by-laws of the Las Milpas Resident Council executed in 1991 are "Model By-Laws for Resident Councils" and clearly state that the organization is a "Resident Council".

The by-laws of the Las Milpas Resident council also state that the "purpose of the Council is to improve life for the residents of Las Milpas Housing Authority".

Based on the above info the Las Milpas Resident Council is a "Resident Council" and a valid Neighborhood Organization "only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/New Construction of the property occupied by the residents."

75

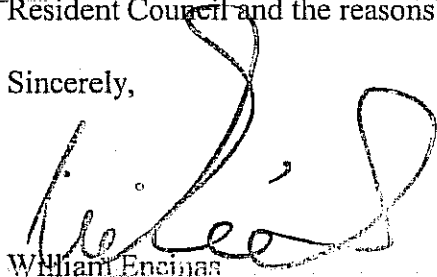
THE ENCINAS GROUP

The application submitted for TDHCA Development #060117, Mesquite Terrace is not an application for Rehabilitation or demolition with New Construction of the property occupied by the residents. The application is for a new construction project that was formerly an agriculture area that is more than one block from the property occupied by the residents.

Therefore, I ask that TDHCA not award points to Application #060117, Mesquite Terrace for Quantifiable Community Participation.

I also request that you provide me with the results of your review of the Las Milpas Resident Council and the reasons for your determination.

Sincerely,



William Encinas  
The Encinas Group

cc: Brooke Boston, Interim Deputy Executive Director



**Jennifer Joyce**

---

**From:** Bob Joy [bjoy@teg-sd.com]  
**Sent:** Monday, May 08, 2006 10:10 AM  
**To:** 'Jennifer Joyce'  
**Cc:** 'Brooke Boston'  
**Subject:** RE: Resident Councils

Thank you for the information. I certainly don't want to challenge anything that isn't an issue. Therefore, I wish to rescind my inquiry. However, the inquiries were sent by Fedex to Brooke Boston and Bill Daly so you will need to pull those when they arrive. Thank you again.

---

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]  
**Sent:** Monday, May 08, 2006 8:03 AM  
**To:** 'Bob Joy'  
**Cc:** 'William Encinas'; 'Robbye Meyer'; 'Brooke Boston'  
**Subject:** RE: Resident Councils

Bob,

We are aware of the resident council issues and are handling the issue here in office as we review the letters for scoring. Unless you rescind your inquiry, I will handle this as a "Challenge" under §50.17(c) of the QAP. However, you may wish to hold off your challenge until after we have posted all eligible letters and their subsequent scores. Please advise.

Please let me know if you have any questions,

Jen Joyce  
 Interim Manager of Multifamily Finance Production Division  
 Texas Department of Housing and Community Affairs  
 (512) 475-3995

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

**From:** Bob Joy [mailto:bjoy@teg-sd.com]  
**Sent:** Friday, May 05, 2006 10:53 AM  
**To:** 'Brooke Boston'; 'Jennifer Joyce'  
**Cc:** 'William Encinas'  
**Subject:** Resident Councils

Attached are three letters that are being send to Mr. Bill Daly and Ms. Brooke Boston from Bill Encinas. The letters and any backup will arrive on Monday. However, I wanted to provide you with advance notice of the content.

The letters point out that three Resident Councils (Sunset Terrace Resident Association, Las Milpas Resident Council and Centerpoint Resident Council) have submitted letters of support or opposition for projects in Region 11 in 2006. Due to the fact they are resident councils and the projects are not rehabilitation or demolition with new construction of the property where the residents reside they do not qualify as Neighborhood Organizations as defined by the 2006 QAP. Therefore, the letters from these Resident Councils should not be scored for the 2006 allocation.

If you have any questions feel free to contact me at 213-392-5899. Thank you for your consideration.

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MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice - 9% HTC Competitive Application

Appeal Election Form: 0&0117, Mesquite Terrace

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

If my appeal is denied by the Executive Director, I:

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed [Signature]  
Title Developer  
Date 5/22/06

Please fax or email to the attention of Jennifer Joyce: (fax) 512.475.0764 or 512.475.1895 (email) jennifer.joyce@tdhca.state.tx.us

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**060118**  
**Sunset Haven**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Sunset Haven- 060118**

By April 3, 2006, the Department received a letter from the Sunset Terrace Resident's Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) and outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On May 4, 2006 the Department issued a deficiency notice to the contact for Sunset Terrace Resident Association. The letter in response confirmed that the Brownsville Housing Authority owns the land of the proposed development site, which will be 100% new construction. It has been determined that the organization is a resident council. Pursuant to §50.9(i)(2) of the QAP, resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development for which they are providing comment. They currently reside in Sunset Terrace single family housing development, and according to them the proposed development, Sunset Haven, would become part of their organization when built.

Sunset Terrace Council's by-laws are clear that the organization is a resident's council for the current residents of "Sunset Terrace". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the

council may only comment on the property occupied by the residents. The proposed development is 100% new construction and not occupied by members of the organization.

The applicant is appealing the eligibility of the based on three main assertions:

- (1) The proposed development is demolition with new construction. This based on the assertion that 88 public housing units were demolished in 2005, and 30 of the proposed units will replace 30 of those demolished in 2005,
- (2) the QAP restricts the definition of a neighborhood organization beyond Section 2306.6710(b) and the June 23, 2004 Attorney General's Opinion. You further assert that governing legislation does not limit qualifying residents' councils to only those currently living in properties applying for rehabilitation or demolition with new construction; and
- (3) the Department treats public housing residents differently from other neighborhood organizations and that the Department's change from the statutory definition of a neighborhood organization may result in a "disparate impact" and may have implications under the Fair Housing Act.

My review has determined the proposed development is 100% new construction and is not occupied by members of Sunset Terrace Resident Association. No evidence was submitted beyond a written statement in the appeal to substantiate the assertion that the application includes demolition, nor was any evidence submitted which would substantiate the assertion that 30 of the proposed New Construction units will replace some of those demolished at Sunset Terrace in 2005. Additionally, Sunset Terrace Council's by-laws are clear that the organization is a resident's council for the current residents of "Sunset Terrace". As such, pursuant to §50.9(i)(2)(A)(iv) of the 2006 QAP, the council is ineligible to comment on New Construction.

QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by HUD, which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition, the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant: Sunset Haven, Ltd.  
Site Location: 300 Block of Horizon Ln.  
City/County: Brownsville/ Cameron County  
Regional Allocation Category: Urban/Exurban  
Set-Aside: None  
Population Served: Elderly  
Region: 11  
Type of Development: New Construction  
Units: 100  
Credits Requested: \$565,957

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

## Resident Councils

### §50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;

(iv) ~~establish that the organization is a "neighborhood organization."~~ A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. ~~"Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents);~~ "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."

(v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. ...If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"...the organization will not be considered on record with the state... As an option to be considered on record with the state...must be received by the Department no later than March 1, 2006...

(vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).

(vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...

(viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.

(ix) The boundaries in effect for the organization on March 1, 2006...Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...

(x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.

(ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) In general, letters that meet the requirements of this paragraph and

(I) establish three or more reasons for support...( +24 points) or opposition (zero);

(II) establish two reasons...+18 points for support...

(III) establish one reason for support ... +13 points for support...;

(IV) that do not establish a reason...neutral (+12 points).

(iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.

# Board Appeal



**SUNSET HAVEN, LTD**  
2606 Boca Chica Blvd.  
Brownsville, TX 78521

May 31, 2006

VIA FACSIMILE

060118

Ms. Beth Anderson  
Board Chair  
Texas Department of Housing  
and Community Affairs (TDHCA)  
P.O. Box 13941  
Austin, Texas 78711

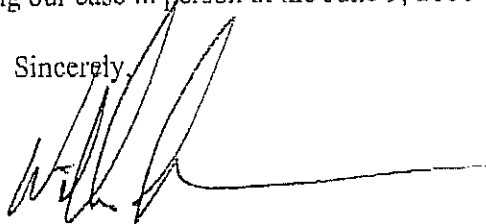
Dear Madam Chair:

This letter responds to the May 30th electronic mail and telephone call from Ms. Audrey Martin informing the applicant, Remberto Arteaga, that the TDHCA staff officially denied our appeal and offering us a chance to submit additional materials regarding our appeal for the Sunset Haven (#060118) application. The staff denied the application 12 points for Quantifiable Community Participation. We have not yet received staff's formal letter of denial.

In addition to the original appeal letter, which outlines three reasons for our appeal of the staff's decision, the enclosed chart more clearly presents evidence that the Sunset Terrace Resident Association was treated differently than other neighborhood organizations.

We look forward to presenting our case in person at the June 9, 2006 Board meeting.

Sincerely,

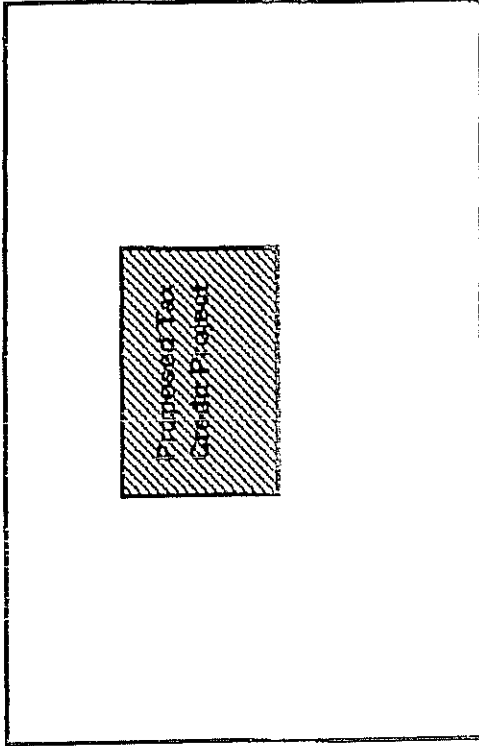


William C. Skeen  
Applicant Developer

cc: Remberto Arteaga

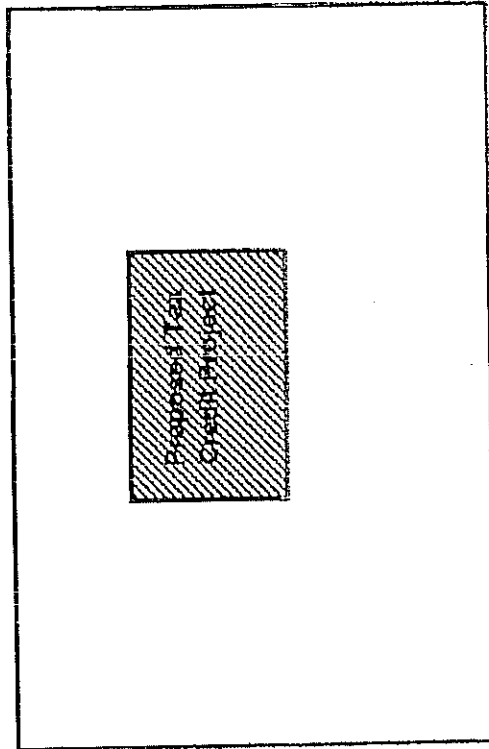
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Public Housing Resident Council Boundaries



Under this set of facts, the Resident Council does not have the right to prepare a letter supporting or not supporting the proposed Tax Credit Project and have that letter qualify for QCP points that could affect whether the project received an award or not.

Homeowner Association Boundaries



Under this set of facts, a Homeowner's Association has the right to prepare a letter of supporting or not supporting the proposed Tax Credit Project and that letter would qualify for QCP points that could affect whether the project received an award or not.

It denies Public Housing Residents their constitutional right to equal protection under the law.

By specifically excluding Resident Councils from the the Legislature's approved definition of Neighborhood Organizations, staff has specifically exceeded its limits, as defined in the June, 2004 Attorney General's Opinion.

By specifically excluding Resident's Councils from the Legislature's approved definition of Neighborhood Organizations, an apparent disparate impact has been created, possibly creating a violation of the Federal Fair Housing Law.

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# **Executive Director Appeal**

**Sunset Haven, Ltd.  
2606 Boca Chica  
Brownsville, TX 78521  
956.541.8315**

Ms. Michael Gerber, Director  
Texas Department of Housing  
and Community Affairs  
P.O. Box 13941  
Austin TX, 78711-3941

Dear Mr. Gerber:

In response to your letter of May 15, I respectfully appeal the TDHCA staff's decision to not award 12 points for the support letter from the Sunset Terrace Residents Association as Quantifiable Community Participation for Application #060118, Sunset Haven in Brownsville. Your response states:

"On May 4, 2006 the Department issued a deficiency notice to the contact for Sunset Terrace Resident Association. The letter in response confirmed that the Brownsville Housing Authority owns the land of the development site and the proposed development site, which will be 100% new construction. It has been determined that the organization is a resident council. Pursuant to §50.9(i)(2) of the QAP, resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development for which they are providing comment. They currently reside in Sunset Terrace apartments, and according to them that the proposed development, Sunset Haven, would become part of their organization when built.

Sunset Terrace Council's by-laws are clear that the organization is a resident's council for the current residents of "Sunset Terrace". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is 100% new construction and not occupied by members of the organization.

We believe that the Sunset Terrace Resident Association is a legitimate neighborhood organization as defined by the 2006 Qualified Allocation Plan. Our reasons are as follows:

1. RECONSTRUCTION OF UNITS (Demolition with New Construction). As clarified in our deficiency response dated April 7th, the Brownsville Housing Authority demolished 88 public housing units, known as Poinsettia-Phase 1 public housing project in 2005. Sunset Haven will include 30 public housing units which replace, in part, these demolished units. Thus, under the QAP, the Sunset Haven application is not "100% new construction" but a reconstruction project (Demolition with New Construction). This definition was accepted for the purposes of meeting Selection Criteria, and the Department awarded our application seven points as an Exurban Development.
  
2. DEFINITION OF NEIGHBORHOOD ORGANIZATION. State law that directs the QAP defines a neighborhood organization for the purposes of scoring and rank as follows: "any neighborhood organization on record with the State or County in which the development is to be located and whose boundaries contain the proposed development." (Section 2306.6710(b)). In addition, the June 23, 2004 Attorney General's Opinion states that to score and rank applications priority is given to financial feasibility first and then "quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organization on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site".

By these guiding principles, Sunset Terrace Residents' Council clearly meets the definition of a neighborhood organization. It has provided proof that it was on record with Cameron County and has provided maps and other legal documents showing the proposed development site is within its organizational boundaries.

The Department in the QAP restricts the definition of a neighborhood organization, beyond the governing legislation. By limiting qualifying residents' councils to only those currently living in properties specifically applying for rehabilitation or demolition with new construction, the Department is denying participation by

residents of properties slated for reconstruction on a second site, which is allowed by the law and Attorney's General Opinion.

3. RESIDENT COUNCIL STATUS. In restricting resident councils from participating the application process, the Department treats public housing residents differently from other neighborhood residents. The Sunset Haven site is and has always been within the boundaries of the Sunset Terrace Association. If Sunset Terrace Association was a private homeowners' association, their support letter would have qualified under the 2006 QAP for the full 24 points. But because it is a public housing resident council – despite the fact that the proposed units are in part a reconstruction of demolished public housing – it is denied scoring and a voice in the application process. We cannot understand this discrepancy between organizations simply because of their organizational structure and/or the income of their members. While it is not the intent of staff when amending the statutory definition of a neighborhood organization, the change may result in a “disparate impact” and may have implications under the Fair Housing Act.

Based on these arguments, we respectfully request that the staff reconsider their scoring of the support letter from Sunset Terrace and award the full 24 points allowed.

Sincerely,

Remberto G. Arteaga  
Manager, Sunset Haven GP, LLC  
Its General Partner



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

**Appeal Election Form: 060118, Sunset Haven**

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

**If my appeal is denied by the Executive Director, I:**

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed [Signature]

Title Developer

Date 5/22/06

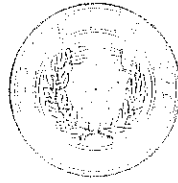
Please fax or email to the attention of Jennifer Joyce: (fax)  
512.475.0764 or 512.475.1895  
(email) jennifer.joyce@tdhca.state.tx.us

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MAY 22 AM 10:19

# **Executive Director Response**





## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogary  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
*Executive Director*

Mr. Bill Lee  
Sunset Haven, Ltd.  
1717 W. 6th St., Ste. 410  
Austin, TX 78703  
Telephone: (512) 328-0487  
Telecopier: (512) 328-0491

**Re: Appeal Received for Sunset Haven - 060118**

Dear Mr. Lee:

**Appeal Review**

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 18, 2006 regarding the eligibility of a letter from the Sunset Terrace Resident Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because Sunset Terrace Resident Association does not qualify as a "neighborhood organization" as required by the §50.9(i)(2)(A)(iv) of the Qualified Allocation Plan and Rules (QAP). This section specifically precludes residents councils from qualifying as a "neighborhood association" unless the letter is relating to an application that is proposed for, "...Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents."

This determination was made based on the fact that on May 4, 2006 the Department issued a deficiency notice to the contact for Sunset Terrace Resident Association. The letter in response confirmed that the Brownsville Housing Authority owns the land of the development site and the proposed development site, which will be 100% new construction. The letter from the organization indicates that its members are not living in the Development for which they are providing comment. They currently reside in Sunset Terrace apartments.

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You are appealing the eligibility of the letter based on three main assertions:

- (1) The proposed development is demolition with new construction. This based on the assertion that 88 public housing units were demolished in 2005, and 30 of the proposed units will replace 30 of those demolished in 2005,
- (2) the QAP restricts the definition of a neighborhood organization beyond Section 2306.6710(b) and the June 23, 2004 Attorney General's Opinion. You further assert that governing legislation does not limit qualifying residents' councils to only those currently living in properties applying for rehabilitation or demolition with new construction; and
- (3) the Department treats public housing residents differently from other neighborhood organizations and that the Department's change from the statutory definition of a neighborhood organization may result in a "disparate impact" and may have implications under the Fair Housing Act.

My review has determined the proposed development is 100% new construction and is not occupied by members of Sunset Terrace Resident Association. No evidence was submitted beyond a written statement in the appeal to substantiate the assertion that the application includes demolition, nor was any evidence submitted which would substantiate the assertion that 30 of the proposed New Construction units will replace some of those demolished at Sunset Terrace in 2005. Additionally, Sunset Terrace Council's by-laws are clear that the organization is a resident's council for the current residents of "Sunset Terrace". As such, pursuant to §50.9(i)(2)(A)(iv) of the 2006 QAP, the council is ineligible to comment on New Construction.

QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the QAP, which outlines an explicit set of criteria that must be satisfied. The fact that these requirements are not expressly stated in statute does not change the fact that the letter submitted clearly does not meet the requirements of the §50.9(i)(2)(A)(v) of the QAP because the letter is not regarding an application that is occupied by the residents.

It should be noted that this specific restriction for resident councils not occupying the proposed development in the 2006 QAP was added in response to several appeals in the 2005 9% cycle. In those appeals, many members of the public voiced concern over the eligibility of a resident council designated by U. S. Department of Housing and Urban Development (HUD), which expanded their boundaries beyond those designated in the HUD bylaws.

The QAP represents a reasonable interpretation of statute and underwent the process created by the Administrative Procedures Act to create rules. In addition,

Mr. Lee  
June 1, 2006  
Page 3 of 3

the Governor approved the QAP with the statutory interpretation within the QAP. The QAP establishes the procedures for applying for and obtaining an award of tax credits.

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting. All appeal documentation submitted by 5:00 p.m. Tuesday, May 31, 2006 will be placed on the June 9, 2006 Board book.

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

Sincerely,



Michael Gerber  
Executive Director

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# QCP Documentation



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

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May 15, 2006

Olivia Rivera

President

Sunset Terrace Resident's Association

368 Sundown

Brownsville, Texas 78521

Fax: (956) 548-6134

(956) 548-6134

Email: [ssolis@cob.us](mailto:ssolis@cob.us)

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Sunset Haven, # 060118

Dear Olivia Rivera:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On May 4, 2006 the Department issued a deficiency notice to the contact for Sunset Terrace Resident Association. The letter in response confirmed that the Brownsville Housing Authority owns the land of the development site and the proposed development site, which will be 100% new construction. It has been determined that the organization is a resident council. Pursuant to §50.9(i)(2) of the QAP, resident councils may only comment for quantifiable community participation if the application is for rehabilitation or demolition with new construction of the property occupied by the residents. The letter from the organization indicates that its members are not living in the Development for which they are providing comment. They currently reside in Sunset Terrace apartments, and according to them that the proposed development, Sunset Haven, would become part of their organization when built.

Sunset Terrace Council's by-laws are clear that the organization is a resident's council for the current residents of "Sunset Terrace". As such, pursuant to §50.9(i)(2) of the 2006 QAP, the council may only comment on the property occupied by the residents. The proposed development is 100% new construction and not occupied by members of the organization.



**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

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Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

ACTIVITY REPORT

TIME : 05/15/2006 16:15  
 NAME :  
 FAX :  
 TEL :  
 SER.# : BROJ4J114092

NO.	DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
	05/12	15:13	8307570763	34	03	OK	RX ECM
	05/12	15:54	361+570+6192	01:05	07	OK	RX ECM
	05/13	06:49		01:00	01	OK	RX
	05/13	23:27		47	01	OK	RX
#025	05/15	08:13	5124732946	03:04	08	OK	RX ECM
#025	05/15	11:17	92800526	21	02	OK	RX ECM
	05/15	11:50	92800526	20	03	OK	TX ECM
	05/15	13:32		40	02	OK	TX ECM
	05/15	14:15		20	01	OK	RX ECM
#027	05/15	14:41	92800526	25	02	OK	TX ECM
#028	05/15	15:13	98173324830	51	04	OK	TX ECM
#029	05/15	15:15	94585565	01:20	04	OK	TX ECM
#030	05/15	15:17	95279337	01:08	04	OK	TX ECM
#031	05/15	15:19	97137856004	47	04	OK	TX ECM
#032	05/15	15:20	97137856004	42	04	OK	TX ECM
#033	05/15	15:22	92496660	01:13	04	OK	TX ECM
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#036	05/15	15:26	97134320120	45	04	OK	TX ECM
#037	05/15	15:27	93615729946	01:22	04	OK	TX ECM
#038	05/15	15:29	94174594727	02:00	05	OK	TX ECM
#039	05/15	15:32	99092911401	43	04	OK	TX ECM
#040	05/15	15:33	99155940434	01:21	04	OK	TX ECM
#041	05/15	15:35	99155940434	01:21	04	OK	TX ECM
#042	05/15	15:37	99155940434	01:22	04	OK	TX ECM
#043	05/15	15:39	95127569885	01:28	04	OK	TX
044	05/15	15:41	95127569885	01:27	04	OK	TX
046	05/15	15:44	92143421409	59	04	OK	TX
#047	05/15	15:45	92496660	01:08	04	OK	TX ECM
#048	05/15	15:47	99729232767	02:26	02	OK	TX
#050	05/15	15:51	92105279620	42	02	OK	TX
#051	05/15	15:53	99035922851	00	00	BUSY	TX ECM
#052	05/15	15:54	99565486134	26	02	OK	TX
#054	05/15	15:56	99565802919	34	02	OK	TX ECM
#057	05/15	15:58	97139560166	50	04	OK	TX ECM
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#059	05/15	16:02	95127569885	01:28	04	OK	TX
#060	05/15	16:04	92140271340	57	04	OK	TX
#061	05/15	16:05	92143421409	59	04	OK	TX ECM
#035	05/15	16:07	97139560166	01:21	04	OK	TX ECM
#045	05/15	16:09	92148271340	01:21	04	OK	TX ECM
#055	05/15	16:13	99565656005	00	00	BUSY	TX

BUSY: BUSY/NO RESPONSE  
 NG : POOR LINE CONDITION / OUT OF MEMORY  
 CV : COVERPAGE  
 POL : POLLING  
 RET : RETRIEVAL  
 PC : PC-FAX

May 10, 2006

Sharon Gamble  
Texas Dept. Housing & Community Affairs  
Multifamily Finance Production  
P.O. Box 13941  
Austin TX 78711-3941

Re: Response for Quantifiable Community Participation  
Sunset Haven, #060118

*LEFT UN  
-STATING THAT  
S/M AC TO D. RIVER AT MAP  
MUST SHOW THAT BOUNDARIES INCLUDE SITE.  
SEND MAP & CERT.*

Dear Ms. Gamble:

The Sunset Terrace Resident Association is submitting to your office one (1) response for the following application which was deemed deficient by your office. The application was for the following:

RE: Quantifiable Community Participation  
Development: 7-18  
Development: Sunset Haven  
Development Location: Rainbow Drive, Horizon Lane, Blue Sky Drive

Item #1:

The boundaries as you have stated them do not include the proposed site. If this Finding is incorrect, provide a detailed description of the actual boundaries. Use Street names and any other landmarks to describe the full boundaries.

Response:

The Brownsville Housing Authority owns the land in the Sunset Terrace Development. Sunset Haven would automatically be included in the Sunset Terrace Resident Development and Association due to its proximity and location within the development. In the enclosed map you see Rainbow Drive continuing all the way to the back of the development and ending in a cul-de-sac, the entire area left of Rainbow continuing past Blue Sky is the property of the housing authority and are within the boundaries of Sunset Terrace.

We believe we have fully answered all the questions to the best of our ability with the information we have available to us. If additional information is needed please feel free to contact the association or Mr. Steve Solis (956) 548-6159 directly to clarify TDHCA's questions/concerns so that we may more accurately respond.

*IS N/C - Issued weak def prior to 5/5/06 edit 2*



I thank you for your attention to the response and await a positive response from your office.

Sincerely,



Olivia Rivera  
President - Sunset Terrace

Attachments:

Map of organizations boundaries showing development site.




[Use current map view]

*What: Business name or category*

*Where: Address, city, or other place*

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**BROWNSVILLE AFFORDABLE  
HOMEOWNERSHIP CORPORATION**

**FAX COVER SHEET**

To: Sharon Gamble (512) 475-1895

From: Steve Selis

Date: 5-10-2006

Re: Sunset Terrace Application

Comments: I will be mailing out originals.

Thanks



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

*FAXED & EMAILED 5/10 PC TO STEVE SOLIS. LEFT VM w/800 #*

Olivia Rivera  
President  
Sunset Terrace Resident's Association  
368 Sundown  
Brownsville, Texas 78521

Organization Fax: (956) 548-6134      Organization Email: [ssolis@cob.us](mailto:ssolis@cob.us)

Second Contact:

Steve Solis

Second Contact Fax: (956) 548-6134      Second Contact Email:

Second Contact Phone: (956) 561-7936

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Sunset Haven, # 060118

Dear Olivia Rivera:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

We received your response dated April 19, 2006. The boundaries as you have stated them do not include the proposed site. If this finding is incorrect, provide a detailed description of the actual boundaries. Use street names and any other landmarks to describe the full boundaries.

*25*



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by May 15.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

TRANSMISSION VERIFICATION REPORT

TIME : 05/04/2006 18:23  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BR064J729978

DATE, TIME	05/04 18:22
FAX NO. /NAME	99565486134
DURATION	00:00:40
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Olivia Rivera

President

Sunset Terrace Resident's Association

368 Sundown

Brownsville, Texas 78521

Organization Fax: (956) 548-6134      Organization Email: [ssolis@cob.us](mailto:ssolis@cob.us)

Second Contact:

Steve Solis

Second Contact Fax: (956) 548-6134      Second Contact Email:

Second Contact Phone: (956) 561-7936

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Sunset Haven, # 060118

Dear Olivia Rivera:

27

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems

**Sharon Gamble**

---

**From:** Sharon Gamble  
**Sent:** Thursday, May 04, 2006 6:30 PM  
**To:** 'ssolis@cob.us'  
**Subject:** QCP Deficiency Letter #060118

I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday. Please reply to this email as soon as you get it as confirmation of receipt.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

28

April 19, 2006

Sharon Gamble  
Multifamily Housing Specialist  
Texas Department of Housing & Community Affairs  
Multifamily Finance Production  
P.O.Box 13941  
Austin, Texas 78711-3941

APR 24 PM 3:28

060118

Re: Response to deficiencies in application

Dear Ms. Gamble:

The Sunset Terrace Resident Association is submitting to your office three (3) responses and/or support documentation for the following application which was deemed deficient by your office. The application was for the following:

Re: Quantifiable Community Participation  
Development: 7-18  
Development: Sunset Haven  
Development Location: Rainbow Drive, Horizon Lane, Blue Sky Drive

Item #1:

The QCP letter you submitted did not contain an email address or fax number where information can be transmitted to you. According to 50.9(i)(2)(A)(ii) of the QAP, your letter must "...provide the street and/or mailing addresses, phone numbers, and email addresses and/or facsimile numbers for the signer of the letter and for one additional contact for the organizations." Please provide an email and/or fax number for both contacts.

Response:

In the original application to your office: street/ and or mailing addresses and phone numbers were included. In the matter of an email and/or fax number these two items are/were unavailable to the Association and/or to myself or my alternate contact. Due to financial constraints the association and members do not have these methods of communication available. For this reason we have requested assistance from Mr. Steve Solis, Director of a local non-profit that has made available his fax number and e-mail address for communication purposes with your organization. The information is as follows:

Fax number: (956) 548-6134

Email address: [ssolis@cob.us](mailto:ssolis@cob.us)

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Please allow us to use these means of contact in order to have information shared by both your organization and ours. Mr. Solis is also providing us with additional assistance by translating documents that are sent by your office. The majority of the residents living in the Sunset Terrace area are predominately Spanish speaking and therefore have trouble reading English only documents.

Item #2

The bylaws you submitted do not include a description of the boundaries of the Neighborhood organization. According to 50.9(i)(2)(viii) of the QAP, your Bylaws must "at a minimum, identify the boundaries of the organization,.." Submit evidence that the boundaries of the organization were part of the bylaws, Articles, or organizational documents on or before March 1, 2006. Evidence Must include a copy of the document.

Response:

The Sunset Terrace Resident Association By-Laws submitted to your office Implies in Article III (Membership) that: Membership in the Sunset Terrace Resident Association shall be restricted to residents of Sunset Terrace. All Residents are automatically members of this Association. Therefore the Boundaries are identified through this article.

Item #3

Per 50.9(i)(2)(A)(iii) of the QAP, confirm the eastern boundary of your Organization. Submit a map marked to show all of the boundaries of your Organization and with the location of the development site indicated within those boundaries.

Response:

In the original application submitted three (3) boundary maps were included to indicate surrounding streets and area of proposed site. These maps will be re-submitted for your review.

We believe we have fully answered all the questions to the best of our ability with the information we have available to us. If additional information is needed please feel free to contact the association or Mr. Steve Solis ((956) 548-6159) directly to clarify TDHCA's questions/concerns so that we may more accurately respond.

I thank you for your attention to the responses submitted and await a positive response from your office.

Sincerely,



Olivia Rivera  
President – Sunset Terrace

Attachments:

Map of organizations boundaries showing development site  
Bylaws of organization



[Use current map view]

*What:* Business name or category

*Where:* Address, city, or other place

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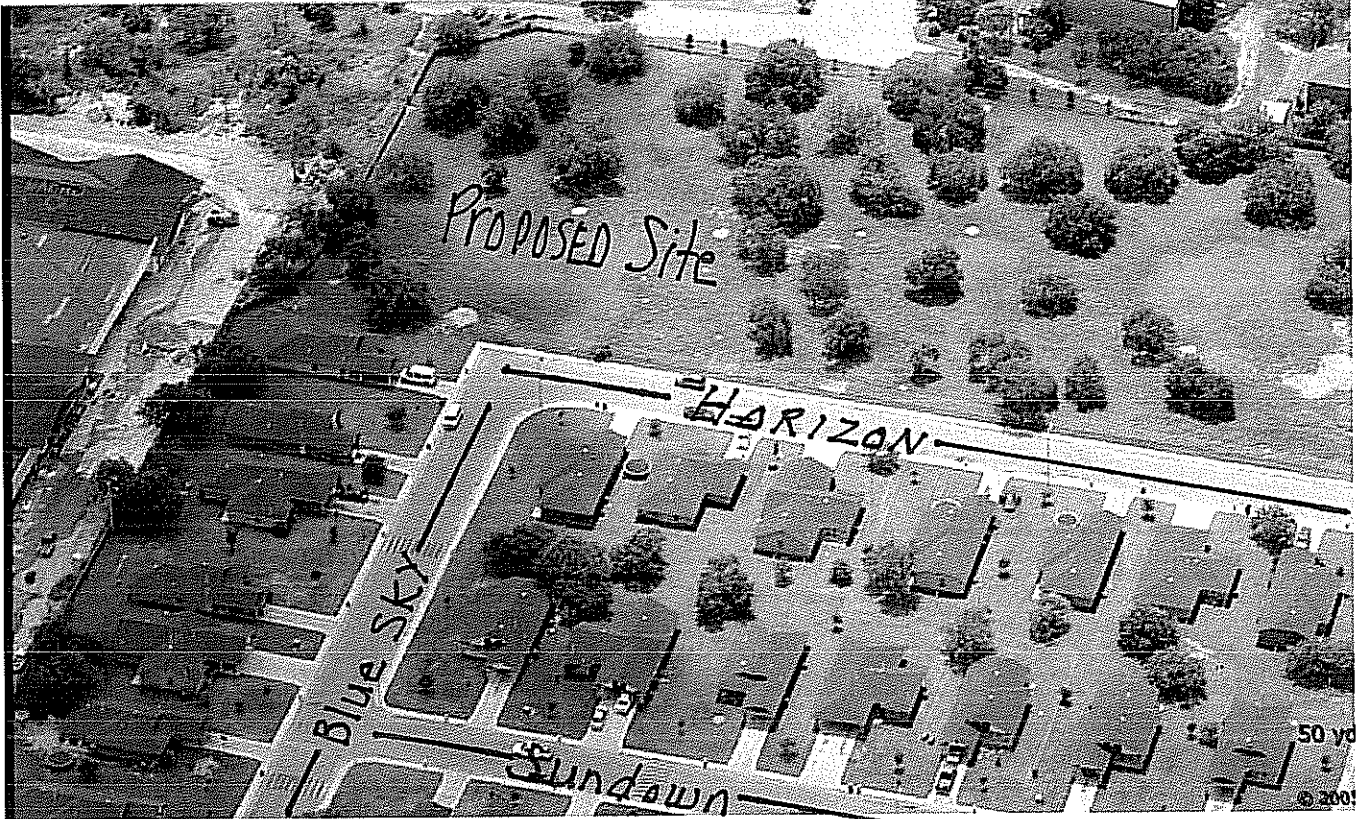
32



*What: Business name or category*

[Use current map view]  
*Where: Address, city, or other place*

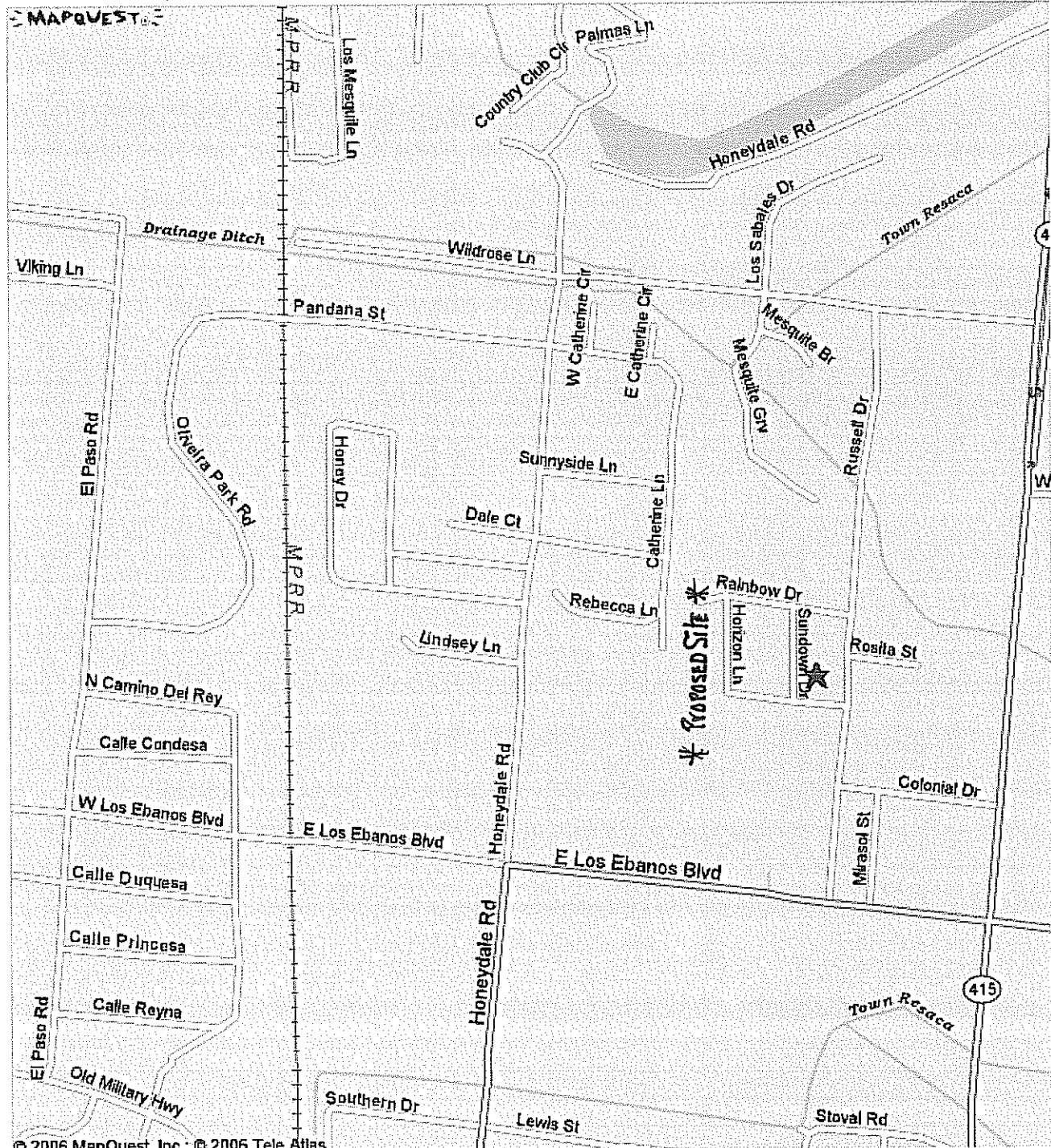
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★ 368 Sundown Dr  
Brownsville, TX 78520-8445, US



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**SUNSET TERRACE RESIDENT ASSOCIATION BY-LAWS**

By  
Liliana Pizana, Deputy  
Cameron County

**ARTICLE I  
NAME OF THE ASSOCIATION**

The name of the Association is the **SUNSET TERRACE RESIDENT ASSOCIATION**, a non-profit organization.

**ARTICLE II  
PURPOSE**

The purpose of this association is to provide opportunities for members to meet each other, exchange views and ideas, and plan social functions. Besides residents will engage in planning for innovative ideas to promote employment opportunities for residents; establish goals for improving housekeeping habits; improving community life and services; promoting self-sufficiency and upward mobility; work toward elimination of drugs and other substances; promote for home ownership in the private sector, and establish such other initiatives from time to time for the economic and welfare requirements of all residents.

**ARTICLE III  
MEMBERSHIP**

Membership in the Sunset Terrace Resident Association shall be restricted to residents of Sunset Terrace. All residents are automatically members of this Association.

**ARTICLE IV  
MEETINGS**

Regular meetings of the membership will be held the **third Thursday** of each month at **5:30 P.M.** in the Linda Vista Community Center. Unless otherwise designated the business at hand issues will take precedence at all meetings.

**ARTICLE V  
OFFICERS AND DUTIES**

Election of officers will be held each year the third thursday of October at the general membership meeting. The officers shall be elected by a majority vote (votes will be counted by a paper ballot) of the resident membership and shall consist of a president, vice-president, secretary, treasurer and secretary of social events. Nominees for all offices shall not be present or visible to the voting area at the time of election. The term of office shall be for one year.

**Section 1. Powers and Duties of the President**

The president shall preside at all regular or special meetings. He/She shall conduct these meetings in a fair and impartial manner. This title does not automatically vest or cause any absolute authority over any business or actions to be taken.

**Section 2. Powers and Duties of the Vice-President**

The vice-president shall, in the absence of the President, preside at all regular or special meetings. He/She shall conduct these meeting in a fair and impartial manner. This title does not automatically vest or cause any absolute authority over any business or actions to be taken.

**Section 3. Powers and Duties of the Treasurer**

The treasurer shall have custody of all the funds of the Association, and shall be responsible for keeping accurate records of all financial affairs of the association. The treasurer shall keep records of all receipts and disbursements of the association and shall at each regular monthly meeting make a report on the financial account of the association. This title does not vest upon him/her any absolute authority over any business transacted or actions to be taken. He/She shall give such bond for the faithful performance of his/her duties as the Association may determine.

**Section 4. Powers and Duties of the Secretary**

The secretary of the association shall be responsible for keeping and reading the minutes of the regular or special meetings.

**Section 5. Powers and Duties of the Secretary of Social Events**

The secretary of social events will be responsible for organizing major events such as Easter, Mothers Day, Thanksgiving and Christmas and other celebrations. Will be in charge of working closely with the social events committee.

**Section 6. Right of Authority**

No officer shall delegate his/her right or authority to any other party.

**ARTICLE IV  
FINANCES**

No membership dues shall be charged. All bills shall be paid by check upon receipt of a check requisition form. Checks will be written by the treasurer, on a membership designated bank, and shall require two signatures. There shall be three authorized co-signors – treasurer and president of vice-president. The treasurer shall handle any petty cash. All withdrawals from the petty cash fund will require a voucher. All vouchers must be verified with a receipt. Reimbursement of the petty cash fund will be made once each month. All expenditures of the association shall be approved by the membership.

**ARTICLE VII  
COMMITTEES**

Section 1. Social Events Committee

The entertainment committee shall be composed of five (5) members to be selected and appointed by the members at the regular membership meeting, and will elect its own chairman.

Section 2. Finance/Fundraising Committee

The finance/fundraising committee will prepare a budget and present to the association for approval, will monitor income and expenses of all projects. The finance/fundraising committee will be composed of three members. A report of the finance/fundraising committee review of the books of account of all committees will be presented to the Association at their regular monthly meeting. The Finance/Fundraising Committee will also audit the books of account of the Association twice per year, in March and again in August of each year and a report of the audit is to be made to the Association at the next meeting following each interval. The Finance/Fundraising Committee is to be charged also with the responsibility of checking that any donations made for a particular activity or project be deposited or credited to the account of the Association or to the respective project so designated by the Association, and that no unauthorized expenditures be made with donated funds or proceeds without the specific approval and vote of the Association. The Finance/Fundraising Committee will be selected and appointed by majority vote of the Association.

ARTICLE VIII  
REMOVAL

Any officer or committee member selected or appointed may be removed from such office by a consenting vote of the membership whenever in its judgment the best interests of the Association will be best served.

ARTICLE IX  
AMENDMENTS

These by-laws may be amended by a majority of the members present at a regular meeting. Members will be notified of proposed amendments by special notice a week before the meeting.

Revised: Nov. 2005


Let it be known to all on this 23 day of August 2005

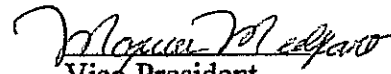
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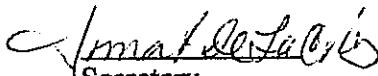


In the year 2005 these revised bylaws were read, explained and given to the membership of the Sunset Terrace Association.

Let it also be known that on this same date the mentioned revised bylaws were adopted by a favorable vote taken in the same manner as called by the voting procedures.

  
President  
Olivia Rivera

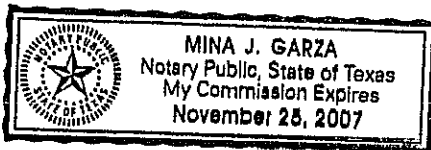
  
Vice-President  
Maria Medrano


  
Secretary  
Irma de la Cruz

  
Treasurer

---

Secretary of Social Events



  
Notary Public  
State of Texas  
County of Cameron  
February 22, 2006 **38**

**FORMED 8/18/05**

**Sunset Terrace Association**  
602 Old Port Isabel Rd. (3rd Thursday of the Month)

**PRESIDENT**

Olivia Rivera            368 Sundown  
546-1829  
572-9534

**VICE-PRESIDENT**

María Medrano        395 Rainbow  
542-4756  
561-7936

**SECRETARY**

Irma de la Cruz    415 Rainbow  
550-9348

**TREASURER**

Zorayda Alba        345 Rainbow  
554-3879    561-6046 (cell)

**SECRETARY OF SOCIAL EVENTS**

To: Sharon Gamble  
MultiHousing Specialist

From: Sunset Terrace Resident Council

Re: Sunset Terrace

Date: 4/20/2006

The following is being faxed and all original being mailed  
to your office. Thank you.

This information is in response to your letter outlining  
deficiencies in the original application.

Fax # 1-800-733-5120

April 19, 2006

Sharon Gamble  
Multifamily Housing Specialist  
Texas Department of Housing & Community Affairs  
Multifamily Finance Production  
P.O. Box 13941  
Austin, Texas 78711-3941

Re: Response to deficiencies in application

Dear Ms. Gamble:

The Sunset Terrace Resident Association is submitting to your office three (3) responses and/or support documentation for the following application which was deemed deficient by your office. The application was for the following:

Re: Quantifiable Community Participation

Development: 7-18

Development: Sunset Haven

Development Location: Rainbow Drive, Horizon Lane, Blue Sky Drive

Item #1:

The QCP letter you submitted did not contain an email address or fax number where information can be transmitted to you. According to 50.9(i)(2)(A)(ii) of the QAP, your letter must "...provide the street and/or mailing addresses, phone numbers, and email addresses and/or facsimile numbers for the signer of the letter and for one additional contact for the organizations." Please provide an email and/or fax number for both contacts.

Response:

In the original application to your office: street/ and or mailing addresses and phone numbers were included. In the matter of an email and/or fax number these two items are/were unavailable to the Association and/or to myself or my alternate contact. Due to financial constraints the association and members do not have these methods of communication available. For this reason we have requested assistance from Mr. Steve Solis, Director of a local non-profit that has made available his fax number and e-mail address for communication purposes with your organization. The information is as follows:

Fax number: (956) 548-6134

Email address: [ssolis@cob.us](mailto:ssolis@cob.us)

Please allow us to use these means of contact in order to have information shared by both your organization and ours. Mr. Solis is also providing us with additional assistance by translating documents that are sent by your office. The majority of the residents living in the Sunset Terrace area are predominately Spanish speaking and therefore have trouble reading English only documents.

Item #2

The bylaws you submitted do not include a description of the boundaries of the Neighborhood organization. According to 50.9(i)(2)(viii) of the QAP, your Bylaws must "at a minimum, identify the boundaries of the organization,.." Submit evidence that the boundaries of the organization were part of the bylaws, Articles, or organizational documents on or before March 1, 2006. Evidence Must include a copy of the document.

Response:

The Sunset Terrace Resident Association By-Laws submitted to your office Implies in Article III (Membership) that: Membership in the Sunset Terrace Resident Association shall be restricted to residents of Sunset Terrace. All Residents are automatically members of this Association. Therefore the Boundaries are identified through this article.

Item #3

Per 50.9(i)(2)(A)(iii) of the QAP, confirm the eastern boundary of your Organization. Submit a map marked to show all of the boundaries of your Organization and with the location of the development site indicated within those boundaries.

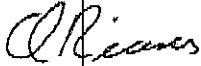
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I thank you for your attention to the responses submitted and await a positive response from your office.

Sincerely,



Olivia Rivera  
President - Sunset Terrace

Attachments:

Map of organizations boundaries showing development site  
Bylaws of organization

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[Use current map view]

*What:* Business name or category

*Where:* Address, city, or other place

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[Add Pushpin](#)
[Directions](#)
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[Community](#)
[Help](#)
[About](#)



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*What: Business name or category*

*Where: Address, city, or other place*

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[Add Pushpin](#)
[Directions](#)
[Settings](#)
[Community](#)
[Help](#)
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★ 368 Sundown Dr  
Brownsville, TX 78520-8445, US



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FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS  
On: Feb 23, 2006 at 02:51P

Document Number: 00010509

**SUNSET TERRACE RESIDENT ASSOCIATION BY-LAWS**

Joe G. Rivera  
By  
Liliana Pizana, Deputy  
Cameron County

**ARTICLE I  
NAME OF THE ASSOCIATION**

The name of the Association is the SUNSET TERRACE RESIDENT ASSOCIATION, a non-profit organization.

**ARTICLE II  
PURPOSE**

The purpose of this association is to provide opportunities for members to meet each other, exchange views and ideas, and plan social functions. Besides residents will engage in planning for innovative ideas to promote employment opportunities for residents; establish goals for improving housekeeping habits; improving community life and services; promoting self-sufficiency and upward mobility; work toward elimination of drugs and other substances; promote for home ownership in the private sector, and establish such other initiatives from time to time for the economic and welfare requirements of all residents.

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The treasurer shall have custody of all the funds of the Association, and shall be responsible for keeping accurate records of all financial affairs of the association. The treasurer shall keep records of all receipts and disbursements of the association and shall at each regular monthly meeting make a report on the financial account of the association. This title does not vest upon him/her any absolute authority over any business transacted or actions to be taken. He/She shall give such bond for the faithful performance of his/her duties as the Association may determine.

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### ARTICLE IV FINANCES

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ARTICLE VIII  
REMOVAL

Any officer or committee member selected or appointed may be removed from such office by a consenting vote of the membership whenever in its judgment the best interests of the Association will be best served.

ARTICLE IX  
AMENDMENTS

These by-laws may be amended by a majority of the members present at a regular meeting. Members will be notified of proposed amendments by special notice a week before the meeting.

Revised: Nov. 2005

Let it be known to all on this 23 day of August 2005

48

In the year 2005 these revised bylaws were read, explained and given to the membership of the Sunset Terrace Association.

Let it also be known that on this same date the mentioned revised bylaws were adopted by a favorable vote taken in the same manner as called by the voting procedures.

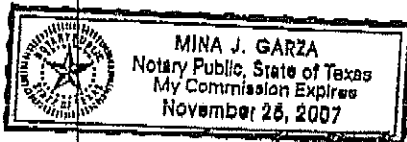
*[Signature]*  
President  
Olivia Rivera

*[Signature]*  
Vice-President  
Maria Medrano

*[Signature]*  
Secretary  
Irma de la Cruz

*[Signature]*  
Treasurer

Secretary of Social Events



*[Signature]*  
Notary Public  
State of Texas  
County of Cameron  
February 22, 2006  
49

**FORMED 8/18/05**

**Sunset Terrace Association**  
602 Old Port Isabel Rd. (3rd Thursday of the Month)

**PRESIDENT**

Olivia Rivera            368 Sundown  
546-1829  
572-9534

**VICE-PRESIDENT**

Maria Medrano        395 Rainbow  
542-4756  
561-7936

**SECRETARY**

Irma de la Cruz    415 Rainbow  
550-9348

**TREASURER**

Zorayda Alba        345 Rainbow  
554-3879    561-6046 (cell)

**SECRETARY OF SOCIAL EVENTS**

50



Texas Department of Housing and Community Affairs
Multifamily Finance Production Division
2006 Quantifiable Community Participation

MAILED

Handwritten notes: 5/03/06 - 1:00 Called Olivia Rivera... She does not speak English... Steve Solis who helped translate the letter... I left detailed response from both myself and Steve... she apologized, would expand all... 9/7

April 13, 2006
Olivia Rivera
President
Sunset Terrace Resident's Association
368 Sundown
Brownsville, Texas 78521

Organization Fax: Organization Email:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation
Sunset Haven, # 060118

Dear Olivia Rivera:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

The QCP letter you submitted did not contain an email address or fax number where information can be transmitted to you. According to §50.9(i)(2)(A)(ii) of the QAP, your letter must "...provide the street and/or mailing addresses, phone numbers, and email addresses and/or facsimile numbers for the signer of the letter and for one additional contact for the organization." Please provide an email and/or fax number for both contacts.

The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. According to §50.9(i)(2)(A)(viii) of the QAP, your bylaws must "at a minimum, identify the boundaries of the organization, ..." Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document.

51



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

Per §50.9(i)(2)(A)(iii) of the QAP, confirm the eastern boundary of your organization. Submit a map marked to show all of the boundaries of your organization and with the location of the development site indicated within those boundaries.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by April 24.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

52



**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: SUNSET HAVEN

Dev. Number: 060118

Organization Name: SUNSET TERRACE RESIDENT ASSOC

Date Letter Received: 3/6/06

Reviewer Name: S. GAMBLE

Date Reviewed: 3/14/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries</u> ?  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization <u>of persons living near one another</u> within the organization's defined boundaries that contain the proposed Development site and that has a <u>primary purpose of working to maintain or improve the general welfare of the neighborhood</u>. More specifically:</p> <p>"Neighborhood organizations" <b>DO</b> include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" <b>DO NOT</b> include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input checked="" type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete?

Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

NO EMAIL / FAX; BAD MAP; BOUNDS NOT IN QRS DOC

Date deficiency letter issued: 4/13/06

Via Fax  or Email

UPS

Due Date (MUST be 7 business days from date sent): 4/24/06

Date deficiencies received: 4/20/06

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: JB

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
<b>FINAL SCORE (Enter from box checked above):</b>		

Has this been entered in the 2006 Database?

Yes  No

SUNSET TERRACE  
RESIDENT ASSOCIATION

February 24, 2006

060118

Ms. Edwina Carrington  
Executive Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
P.O.Box 13941 (MC 332-10)  
Austin, TX 78711-3941

RECEIVED

MAR 07 2006

LHTC

Re: Quantifiable Community Participation  
Development: 7-18  
Development: Sunset Haven  
Development Location: Rainbow Drive, Horizon Lane, Blue Sky Drive

As President of the Sunset Terrace Resident Association, I am writing to provide the organization's support for the above referenced development which is located at Rainbow Drive, Horizon Lane and Blue Sky Drive, Brownsville, Texas 78521, Cameron County, Texas. The Sunset Terrace Resident Association is a qualified Neighborhood Organization as further described below.

As the signer of this letter, I am providing the following required information:

Olivia Rivera  
368 Sundown  
Brownsville, Texas 78521  
Phone# (956) 572-9534  
No e-mail or fax# available

I am also providing the following information for one additional contact, Maria Medrano, for our organization:

Maria Medrano  
395 Rainbow  
Brownsville, Texas 78521  
Phone# (956) 561-7936  
No e-mail or fax# available

56

The boundaries of this organization are between Rainbow Drive, Horizon Lane and Blue Sky Drive respectively. Enclosed is documentation that establishes the organizations boundaries. The proposed development is within those boundaries. Enclosed is a map with the geographic boundaries for the organization and the proposed development site clearly marked within those boundaries.

This organization is an organization of persons living near one another within the organization's defined boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are our articles of incorporation and/or by laws and/or organizational documents created on or before March 01, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate that purpose of the organization. The organization has eighty (80) members and four (4) officers. The organization reached its decision to support the proposed development by holding a Sunset Terrace Resident Meeting and receiving positive feedback from the residents.

The organization is:

On record, as of March 1, 2006, with Cameron County, in which the development is proposed to be located.

This organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round. The organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance). The Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter).

The organization supports the proposed development for the following reasons:

Improve the general area

Provide public housing opportunities in a centrally located area of Brownsville

Accessibility to a community center for children and adults

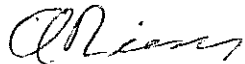
Learning center for after school programs

Outdoor play area for children and adults

Gated community (one entrance and one exit)

I thank you for your attention to the responses in this application and await a positive response from your office.

Sincerely,



Olivia Rivera

President – Sunset Terrace

Attachments:

Map of organizations boundaries showing development site

Documentation of being on record with the county or state

Articles of incorporation and/or bylaws and/or organizational documents

55

Document Number: 00010589

**SUNSET TERRACE RESIDENT ASSOCIATION BY-LAWS**

Joe G Rivera  
Notary Public  
By  
Liliana Pizana, Deputy  
Cameron County

**ARTICLE I  
NAME OF THE ASSOCIATION**

The name of the Association is the **SUNSET TERRACE RESIDENT ASSOCIATION**, a non-profit organization.

**ARTICLE II  
PURPOSE**

The purpose of this association is to provide opportunities for members to meet each other, exchange views and ideas, and plan social functions. Besides residents will engage in planning for innovative ideas to promote employment opportunities for residents; establish goals for improving housekeeping habits; improving community life and services; promoting self-sufficiency and upward mobility; work toward elimination of drugs and other substances; promote for home ownership in the private sector, and establish such other initiatives from time to time for the economic and welfare requirements of all residents.

**ARTICLE III  
MEMBERSHIP**

Membership in the Sunset Terrace Resident Association shall be restricted to residents of Sunset Terrace. All residents are automatically members of this Association.

**ARTICLE IV  
MEETINGS**

Regular meetings of the membership will be held the **third Thursday** of each month at **5:30 P.M.** in the Linda Vista Community Center. Unless otherwise designated the business at hand issues will take precedence at all meetings.

**ARTICLE V  
OFFICERS AND DUTIES**

Election of officers will be held each year the third thursday of October at the general membership meeting. The officers shall be elected by a majority vote (votes will be counted by a paper ballot) of the resident membership and shall consist of a president, vice-president, secretary, treasurer and secretary of social events. Nominees for all offices shall not be present or visible to the voting area at the time of election. The term of office shall be for one year.

**Section 1. Powers and Duties of the President**

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The president shall preside at all regular or special meetings. He/She shall conduct these meetings in a fair and impartial manner. This title does not automatically vest or cause any absolute authority over any business or actions to be taken.

#### Section 2. Powers and Duties of the Vice-President

The vice-president shall, in the absence of the President, preside at all regular or special meetings. He/She shall conduct these meeting in a fair and impartial manner. This title does not automatically vest or cause any absolute authority over any business or actions to be taken.

#### Section 3. Powers and Duties of the Treasurer

The treasurer shall have custody of all the funds of the Association, and shall be responsible for keeping accurate records of all financial affairs of the association. The treasurer shall keep records of all receipts and disbursements of the association and shall at each regular monthly meeting make a report on the financial account of the association. This title does not vest upon him/her any absolute authority over any business transacted or actions to be taken. He/She shall give such bond for the faithful performance of his/her duties as the Association may determine.

#### Section 4. Powers and Duties of the Secretary

The secretary of the association shall be responsible for keeping and reading the minutes of the regular or special meetings.

#### Section 5. Powers and Duties of the Secretary of Social Events

The secretary of social events will be responsible for organizing major events such as Easter, Mothers Day, Thanksgiving and Christmas and other celebrations. Will be in charge of working closely with the social events committee.

#### Section 6. Right of Authority

No officer shall delegate his/her right or authority to any other party.

### ARTICLE IV FINANCES

No membership dues shall be charged. All bills shall be paid by check upon receipt of a check requisition form. Checks will be written by the treasurer, on a membership designated bank, and shall require two signatures. There shall be three authorized co-signors – treasurer and president of vice-president. The treasurer shall handle any petty cash. All withdrawals from the petty cash fund will require a voucher. All vouchers must be verified with a receipt. Reimbursement of the petty cash fund will be made once each month. All expenditures of the association shall be approved by the membership.

### ARTICLE VII COMMITTEES



Section 1. Social Events Committee

The entertainment committee shall be composed of five (5) members to be selected and appointed by the members at the regular membership meeting, and will elect its own chairman.

Section 2. Finance/Fundraising Committee

The finance/fundraising committee will prepare a budget and present to the association for approval, will monitor income and expenses of all projects. The finance/fundraising committee will be composed of three members. A report of the finance/fundraising committee review of the books of account of all committees will be presented to the Association at their regular monthly meeting. The Finance/Fundraising Committee will also audit the books of account of the Association twice per year, in March and again in August of each year and a report of the audit is to be made to the Association at the next meeting following each interval. The Finance/Fundraising Committee is to be charged also with the responsibility of checking that any donations made for a particular activity or project be deposited or credited to the account of the Association or to the respective project so designated by the Association, and that no unauthorized expenditures be made with donated funds or proceeds without the specific approval and vote of the Association. The Finance/Fundraising Committee will be selected and appointed by majority vote of the Association.

ARTICLE VIII  
REMOVAL

Any officer or committee member selected or appointed may be removed from such office by a consenting vote of the membership whenever in its judgment the best interests of the Association will be best served.

ARTICLE IX  
AMENDMENTS

These by-laws may be amended by a majority of the members present at a regular meeting. Members will be notified of proposed amendments by special notice a week before the meeting.


Revised: Nov. 2005

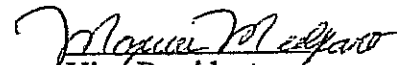
Let it be known to all on this 23 day of August 2005

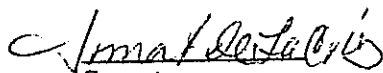
61

In the year 2005 these revised bylaws were read, explained and given to the membership of the Sunset Terrace Association.

Let it also be known that on this same date the mentioned revised bylaws were adopted by a favorable vote taken in the same manner as called by the voting procedures.

  
President  
Olivia Rivera

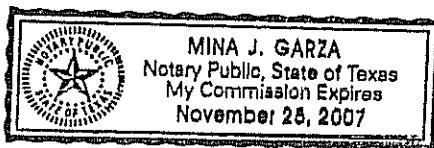
  
Vice-President  
Maria Medrano


  
Secretary  
Irma de la Cruz

  
Treasurer

---

Secretary of Social Events



  
Notary Public  
State of Texas  
County of Cameron  
February 27, 2006  
62

**FORMED 8/18/05**

**Sunset Terrace Association**  
602 Old Port Isabel Rd. (3rd Thursday of the Month)

**PRESIDENT**

Olivia Rivera            368 Sundown  
546-1829  
572-9534

**VICE-PRESIDENT**

Maria Medrano        395 Rainbow  
542-4756  
561-7936

**SECRETARY**

Irma de la Cruz    415 Rainbow  
550-9348

**TREASURER**

Zorayda Alba        345 Rainbow  
554-3879    561-6046 (cell)

**SECRETARY OF SOCIAL EVENTS**

Official Receipt for Recording in:

Cameron County Clerk  
P. O. BOX 2178  
Brownsville, Texas 78520

Issued To:

SUNSET TERRACE  
368 SUNDOWN  
Brownsville TX 78521

Recording Fees

Document Description	Number	Vol	Page	Recording Amount
NO CHRG BVS	00010589	12292	181	\$ .00

\$ .00

Collected Amounts

\$ .00

Payment Type

No Charge

\$ .00

Total Received : \$ .00  
Less Total Recordings: \$ .00

\$ .00

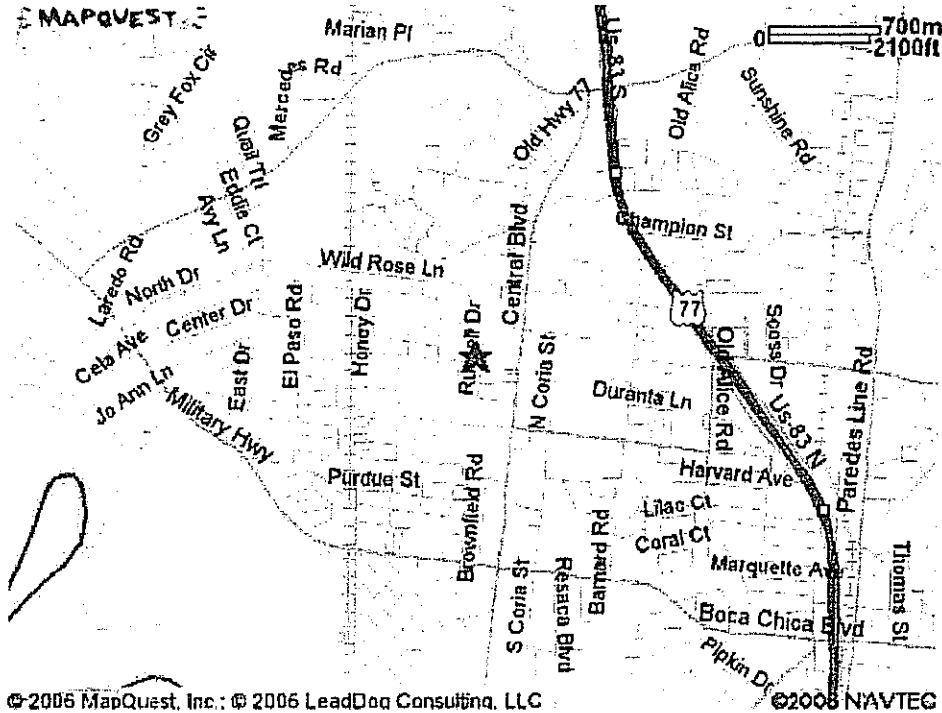
Change Due :

Thank You  
JOE G RIVERA - County Clerk  
By Deputy - Lilliana Pizana

Receipt# 0329410 Date 02/23/2006 Time 02:51p



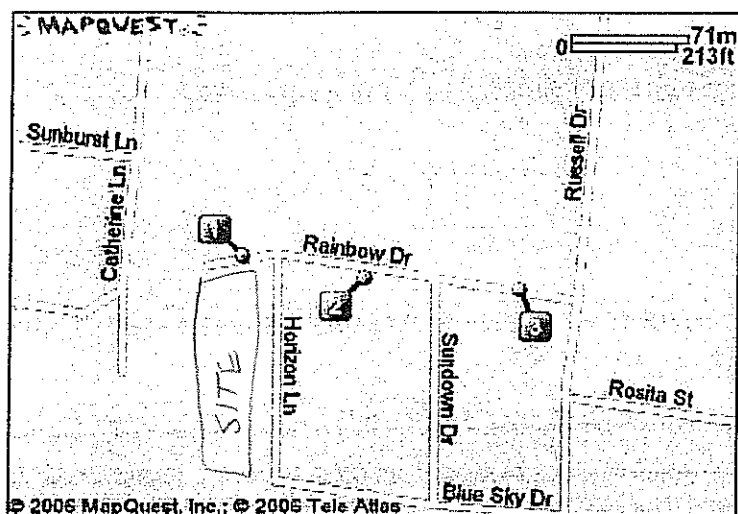
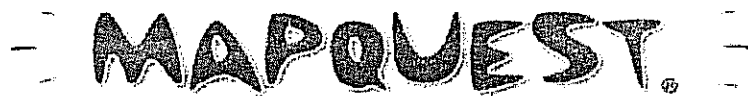
★ [420-499] Rainbow Dr  
Brownsville, TX 78520, US



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This map is informational only. No representation is made or warranty given as to its content. User assumes all risk of us and its suppliers assume no responsibility for any loss or delay resulting from such use.

65



3 Results for Rainbow Drive, Brownsville, tx,

- 1. [300-339] Rainbow Dr  
Brownsville, TX 78520, Cameron County, US
- 2. [340-419] Rainbow Dr  
Brownsville, TX 78520, Cameron County, US
- 3. [420-499] Rainbow Dr  
Brownsville, TX 78520, Cameron County, US

6b




★ [420-499] Rainbow Dr  
Brownsville, TX 78520, US



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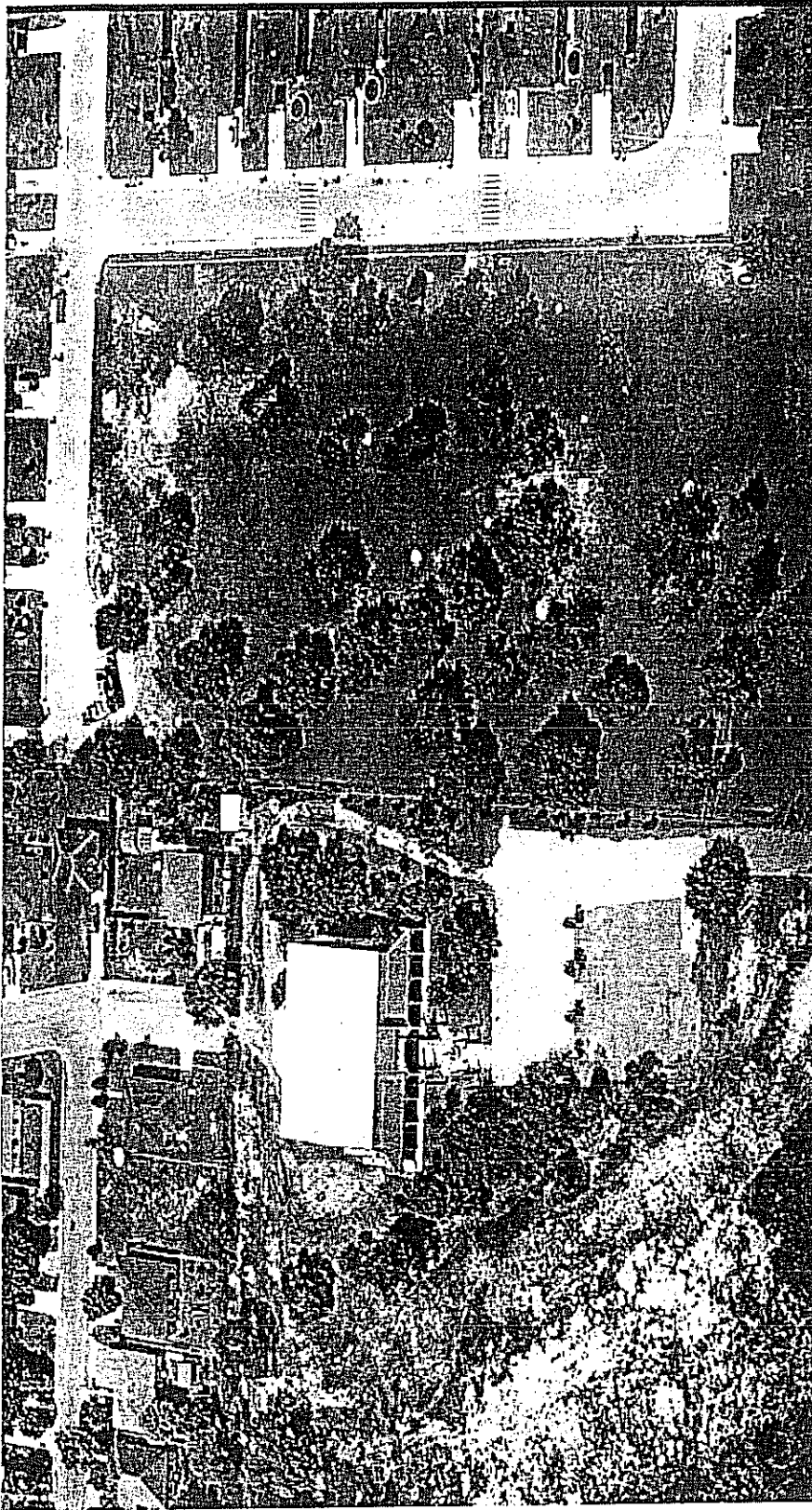
67

 **Windows Live Local**  
powered by **Virtual Earth** Beta



What: *Business name or category*    Where: *Address, city, or other place*

Welcome   Scratch Pad   Locate Me   Permalink   Add Pushpin   Directions





SUNSET TERRACE  
RESIDENT ASSOCIATION

Ms. Edwina Carrington  
Executive Director  
Attention: Neighborhood Input  
Texas Department of Housing and Community Affairs  
P.O.Box 13941 (MC 332-10)  
Austin, TX 78711-3941

FEB 28 2006  
RECEIVED  
MAR 01 REC'D  
Multifamily Finance Division

Re: Quantifiable Community Participation  
Development: 7-18  
Development: Sunset Haven  
Development Location: Rainbow Drive, Horizon Lane, Blue Sky Drive

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368 Sundown  
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No e-mail or fax# available

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Maria Medrano  
395 Rainbow  
Brownsville, Texas 78521  
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Learning center for after school programs

Outdoor play area for children and adults

Gated community (one entrance and one exit)

I thank you for your attention to the responses in this application and await a positive response from your office.

Sincerely,



Olivia Rivera

President – Sunset Terrace

Attachments:

Map of organizations boundaries showing development site

Documentation of being on record with the county or state

Articles of incorporation and/or bylaws and/or organizational documents

71

Official Receipt for Recording in:

Cameron County Clerk  
P.O. BOX 2178  
Brownsville, Texas 78520

Issued To:  
SUNSET TERRACE  
368 SUNDOWN  
Brownsville TX 78521

Recording Fees

Document Description	Number	Vol	Page	Recording Amount
NO CHR	00010589	12292	181	\$ .00

BY:

\$ .00

Collected Amounts

\$ .00

Payment Type

Amount

No Charge

\$ .00

Total Received : \$ .00

Less Total Recordings: \$ .00

\$ .00

Change Due : \$ .00

Thank You  
JOE G RIVERA - County Clerk  
By Deputy - Liliana Pizana

Receipt# 0329410 Date 02/23/2006 Time 02:51p

72

Document Number: 00010509

**SUNSET TERRACE RESIDENT ASSOCIATION BY-LAWS**

Joe G Rivera  
Notary Public  
By  
Liliana Pizana, Deputy  
Cameron County

**ARTICLE I  
NAME OF THE ASSOCIATION**

The name of the Association is the SUNSET TERRACE RESIDENT ASSOCIATION, a non-profit organization.

**ARTICLE II  
PURPOSE**

The purpose of this association is to provide opportunities for members to meet each other, exchange views and ideas, and plan social functions. Besides residents will engage in planning for innovative ideas to promote employment opportunities for residents; establish goals for improving housekeeping habits; improving community life and services; promoting self-sufficiency and upward mobility; work toward elimination of drugs and other substances; promote for home ownership in the private sector, and establish such other initiatives from time to time for the economic and welfare requirements of all residents.

**ARTICLE III  
MEMBERSHIP**

Membership in the Sunset Terrace Resident Association shall be restricted to residents of Sunset Terrace. All residents are automatically members of this Association.

**ARTICLE IV  
MEETINGS**

Regular meetings of the membership will be held the **third Thursday** of each month at **5:30 P.M.** in the Linda Vista Community Center. Unless otherwise designated the business at hand issues will take precedence at all meetings.

**ARTICLE V  
OFFICERS AND DUTIES**

Election of officers will be held each year the third thursday of October at the general membership meeting. The officers shall be elected by a majority vote (votes will be counted by a paper ballot) of the resident membership and shall consist of a president, vice-president, secretary, treasurer and secretary of social events. Nominees for all offices shall not be present or visible to the voting area at the time of election. The term of office shall be for one year.

**Section 1. Powers and Duties of the President**

The president shall preside at all regular or special meetings. He/She shall conduct these meetings in a fair and impartial manner. This title does not automatically vest or cause any absolute authority over any business or actions to be taken.

#### Section 2. Powers and Duties of the Vice-President

The vice-president shall, in the absence of the President, preside at all regular or special meetings. He/She shall conduct these meeting in a fair and impartial manner. This title does not automatically vest or cause any absolute authority over any business or actions to be taken.

#### Section 3. Powers and Duties of the Treasurer

The treasurer shall have custody of all the funds of the Association, and shall be responsible for keeping accurate records of all financial affairs of the association. The treasurer shall keep records of all receipts and disbursements of the association and shall at each regular monthly meeting make a report on the financial account of the association. This title does not vest upon him/her any absolute authority over any business transacted or actions to be taken. He/She shall give such bond for the faithful performance of his/her duties as the Association may determine.

#### Section 4. Powers and Duties of the Secretary

The secretary of the association shall be responsible for keeping and reading the minutes of the regular or special meetings.

#### Section 5. Powers and Duties of the Secretary of Social Events

The secretary of social events will be responsible for organizing major events such as Easter, Mothers Day, Thanksgiving and Christmas and other celebrations. Will be in charge of working closely with the social events committee.

#### Section 6. Right of Authority

No officer shall delegate his/her right or authority to any other party.

### ARTICLE IV FINANCES

No membership dues shall be charged. All bills shall be paid by check upon receipt of a check requisition form. Checks will be written by the treasurer, on a membership designated bank, and shall require two signatures. There shall be three authorized co-signors – treasurer and president of vice-president. The treasurer shall handle any petty cash. All withdrawals from the petty cash fund will require a voucher. All vouchers must be verified with a receipt. Reimbursement of the petty cash fund will be made once each month. All expenditures of the association shall be approved by the membership.

### ARTICLE VII COMMITTEES

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**Section 1. Social Events Committee**

The entertainment committee shall be composed of five (5) members to be selected and appointed by the members at the regular membership meeting, and will elect its own chairman.

**Section 2. Finance/Fundraising Committee**

The finance/fundraising committee will prepare a budget and present to the association for approval, will monitor income and expenses of all projects. The finance/fundraising committee will be composed of three members. A report of the finance/fundraising committee review of the books of account of all committees will be presented to the Association at their regular monthly meeting. The Finance/Fundraising Committee will also audit the books of account of the Association twice per year, in March and again in August of each year and a report of the audit is to be made to the Association at the next meeting following each interval. The Finance/Fundraising Committee is to be charged also with the responsibility of checking that any donations made for a particular activity or project be deposited or credited to the account of the Association or to the respective project so designated by the Association, and that no unauthorized expenditures be made with donated funds or proceeds without the specific approval and vote of the Association. The Finance/Fundraising Committee will be selected and appointed by majority vote of the Association.

**ARTICLE VIII  
REMOVAL**

Any officer or committee member selected or appointed may be removed from such office by a consenting vote of the membership whenever in its judgment the best interests of the Association will be best served.

**ARTICLE IX  
AMENDMENTS**

These by-laws may be amended by a majority of the members present at a regular meeting. Members will be notified of proposed amendments by special notice a week before the meeting.


Revised: Nov. 2005

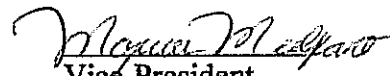
Let it be known to all on this 23 day of August 2005

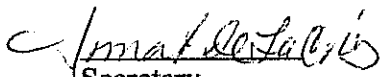
75

In the year 2005 these revised bylaws were read, explained and given to the membership of the Sunset Terrace Association.

Let it also be known that on this same date the mentioned revised bylaws were adopted by a favorable vote taken in the same manner as called by the voting procedures.

  
President  
Olivia Rivera

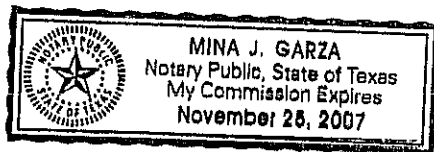
  
Vice-President  
Maria Medrano


  
Secretary  
Irma de la Cruz

  
Treasurer

---

Secretary of Social Events



  
Notary Public  
State of Texas  
County of Cameron  
February 27, 2006 **76**



**FORMED 8/18/05**

**Sunset Terrace Association**  
602 Old Port Isabel Rd. (3rd Thursday of the Month)

**PRESIDENT**

Olivia Rivera            368 Sundown  
546-1829  
572-9534

**VICE-PRESIDENT**

Maria Medrano        395 Rainbow  
542-4756  
561-7936

**SECRETARY**

Irma de la Cruz    415 Rainbow  
**550-9348**

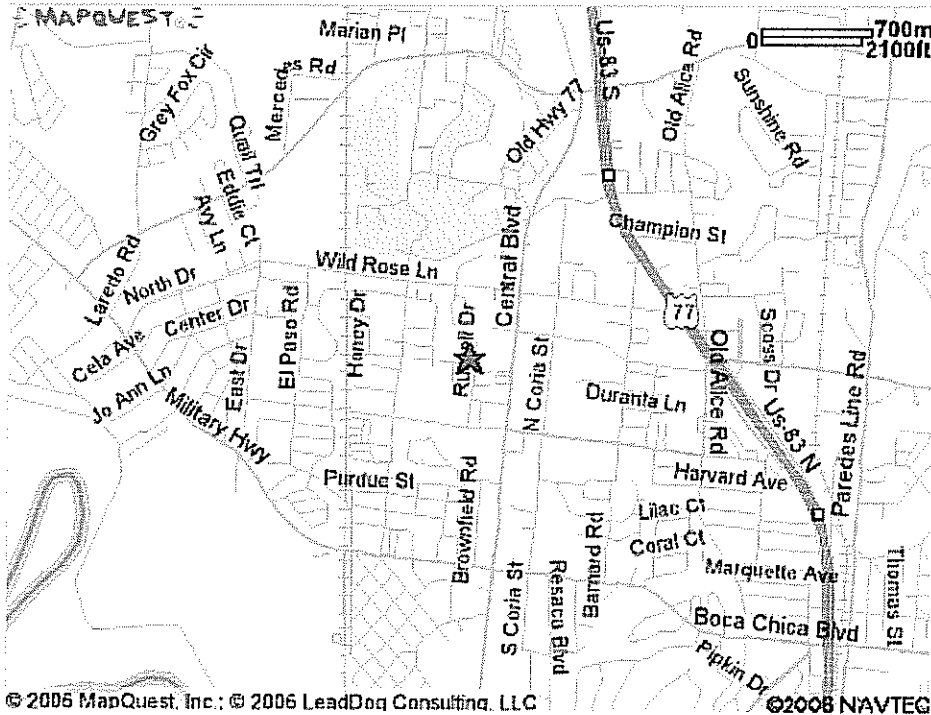
**TREASURER**

Zorayda Alba        345 Rainbow  
554-3879    561-6046 (cell)

**SECRETARY OF SOCIAL EVENTS**



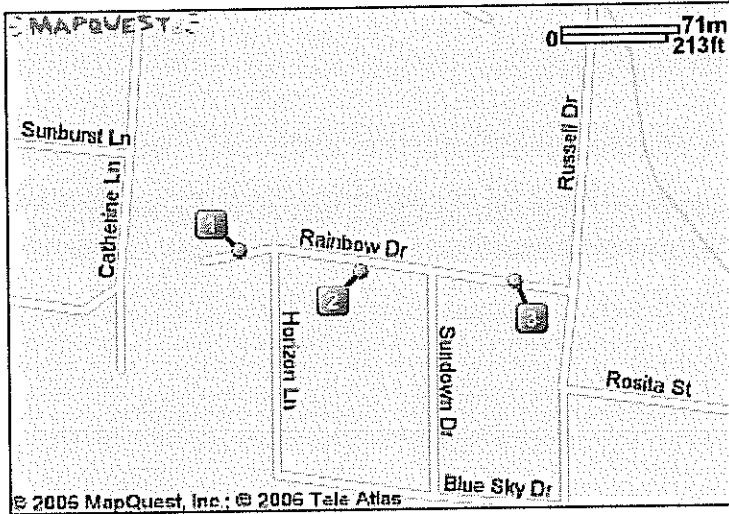
★ [420-499] Rainbow Dr  
Brownsville, TX 78520, US



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3 Results for Rainbow Drive, Brownsville, tx,

- 1. [300-339] Rainbow Dr  
Brownsville, TX 78520, Cameron County, US
- 2. [340-419] Rainbow Dr  
Brownsville, TX 78520, Cameron County, US
- 3. [420-499] Rainbow Dr  
Brownsville, TX 78520, Cameron County, US

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**060110**

**Evergreen at**

**Farmer's Branch**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Evergreen at Farmers Branch- 060110**

By April 3, 2006, the Department received a letter from the Mercer Crossing Property Owner's Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) and outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On May 9, 2006 the Department issued a deficiency notice to Mercer Crossing Property Owner's Association requesting evidence that the organization has resident members as required by §50.9(i)(2) of the QAP. This section specifies that the organization must be "an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site...". It was confirmed in an e-mail response from the contact for Mercer Crossing on May 10, 2006, the organization has no resident members at this time but does anticipate having some in three months. Unfortunately, the Mercer Crossing Property Owner's Association is comprised solely of property owners and has no resident members; therefore, it is not an organization of persons "living near one another within the organization's boundaries".

The applicant is appealing the eligibility of the letter based on the applicant's assertion that the eligibility is an issue of timing and that the letter should not be denied on this basis. The

applicant asserts that HTC communities should be allowed in the early stages of urban neighborhoods and that owners of nearby properties that are in lease up have given their support to the proposed development.

However, §50.9(i)(2)(A)(iv) of the QAP is explicit that, "A 'neighborhood organization' is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood." Mercer Crossing Property Owner's Association is comprised solely of non-resident property owners and therefore it is not an organization of persons living near one another. Therefore, it is not eligible as a neighborhood organization.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Farmers Branch Senior Community, L.P.
Site Location:	11600 Block of Future Lago Vista W.
City/County:	Farmers Branch/ Dallas County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	Nonprofit
Population Served:	Elderly
Region:	3
Type of Development:	New Construction
Units:	126
Credits Requested:	\$1,188,516

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

### Non-Resident Property Owners

#### §50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;
- (iv) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents). "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."
- (v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. ...If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"...the organization will not be considered on record with the state... As an option to be considered on record with the state...must be received by the Department no later than March 1, 2006...
- (vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).
- (vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...
- (viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.
- (ix) The boundaries in effect for the organization on March 1, 2006...Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...
- (x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

(i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.

(ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.

(iii) In general, letters that meet the requirements of this paragraph and

(I) establish three or more reasons for support...(+24 points) or opposition (zero);

(II) establish two reasons...+18 points for support...

(III) establish one reason for support ... +13 points for support...;

(IV) that do not establish a reason...neutral (+12 points).

(iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Deny the applicant's appeal of scoring of 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Issue a determination on the appeal.

**Background and Recommendations**

**I. Evergreen at Farmers Branch- 060110**

This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

On May 9, 2006 the Department issued a deficiency notice to Mercer Crossing Property Owner's Association requesting evidence that the organization has resident members as required by §50.9(i)(2) of the QAP. This section specifies that the organization must be "an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site...". It was confirmed in an e-mail response from the contact for Mercer Crossing on May 10, 2006 that the organization has no resident members at this time but does anticipate having some in three months. Unfortunately, the Mercer Crossing Property Owner's Association is comprised solely of property owners and has no resident members; therefore, it is not an organization of persons "living near one another within the organization's boundaries".

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Farmers Branch Senior Community, L.P.
Site Location:	11600 Block of Future Lago Vista W.
City/County:	Farmers Branch/ Dallas County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	Nonprofit
Population Served:	Elderly
Region:	3
Type of Development:	New Construction
Units:	126
Credits Requested:	\$1,188,516



**Staff Recommendation:**

The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

# **Board Appeal/ Executive Director Appeal**



May 22, 2006

Re: Evergreen at Farmers Branch  
TDHCA # 060110  
Formal Appeal Notice for QCP Point Determination  
2006 HTC Application

Jennifer Joyce  
Interim Manager of Multifamily Finance  
TDHCA  
Austin, Texas

Transmitted by E Mail and Fax

Please accept this letter as notice of applicant's desire to appeal the TDHCA determination of May 15, 2006 regarding QCP points.

As stated in the attached letter, TDHCA confirmed with the Neighborhood Organization on May 9, 2006 that this is an issue of timing. The letter states that the Neighborhood Organization expects occupancy by initial residents in Mercer Crossing by the time the HTC Notices of Final Commitment are sent to Applicant's for the 2006 program ( about August 9, 2006).

Mercer Crossing is zoned for 5000 residential units to be occupied within an Urban Mixed Use setting like the nearby Las Colinas Urban Center. The owners of the nearby residential property in lease up have given their support for Evergreen at Mercer Crossing senior community. We believe that the QCP points should not be denied to the applicant because of a timing issue of the Resident Council involvement in Mercer Crossing Neighborhood Association. We believe that HTC communities should be allowed in the early stages of urban neighborhoods as a "Catalyst" for new development and redevelopment.

We respectfully ask that the appeal be heard at the next TDHCA board meeting, and that 24 points for QCP support be awarded this application.

Sincerely,

*Brad Forslund*  
QR

Brad Forslund  
President  
Churchill Residential  
Authorized Representative of Applicant



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

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May 15, 2006

R L Lemke  
President  
Mercer Crossing Property Owner's Association  
1800 Valley View Lane  
Dallas, Texas 75234

Fax:

Email: rl@lemke.com

brad.kyles@primeasset.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Evergreen at Farmers Branch, # 060110

Dear R L Lemke:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On May 9, 2006 the Department issued a deficiency notice to Mercer Crossing Property Owner's Association requesting evidence that the organization has resident members as required by §50.9(i)(2) of the QAP. This section specifies that the organization must be "an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site...". It was confirmed in an e-mail response from the contact for Mercer Crossing on May 10, 2006 that the organization has no resident members at this time but does anticipate having some in three months. Unfortunately, the Mercer Crossing Property Owner's Association is comprised solely of property owners and has no resident members; therefore, it is not an organization of persons "living near one another within the organization's boundaries".

Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

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Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- 9% HTC Competitive Application

Farmers Branch Senior Community, L.P.  
Brad Forslund  
5605 N. MacArthur Blvd., Ste. 580  
Irving, TX 75038  
Phone #: (972) 550-7800  
Fax #: (972) 550-7900

Date Issued: 05/15/06

THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA  
FACSIMILE

*3/22/06 -  
called applicant to  
ask if we should have  
rec'd back up docs to  
appeal. Brad F. didn't  
know needed to submit w/it  
the am. I explained  
I'd explain  
Did  
owners Assoc. be  
w/ty be viable.  
ACP Appeal - ED*

RE: 2006 9% Housing Tax Credit (HTC) Competitive Application for Evergreen at Farmers Branch

TDCHA Number: 060110

Attention: Brad Forslund

The Texas Department of Housing and Community Affairs (the Department) has completed its Eligibility and Selection Criteria Review of the above-referenced application as further described in §50.9(d)(1) of the 2006 Qualified Allocation Plan and Rules (QAP). Below, a summary is provided of the score requested, as calculated by the Applicant, followed by the score requested, as calculated by the Department. The two numbers differ if the Applicant's calculation was incorrect. The next score shown is the score awarded to the application by the Department, followed by the difference between the score requested (as calculated by the Department) and the score awarded. An explanation of the reason(s) for any differences, including points denied, is provided at the top of the second page of this notice. The next scoring items show the number of points awarded for each of the three categories for which points could not be requested by the applicant: Quantifiable Community Participation (QCP) from neighborhood organizations, letters of support or opposition from state senators and letters of support or opposition from state representatives. This is followed, in bold, by the final cumulative number of points awarded by the Department to the above-referenced Application.

Please note that if you were awarded points under §50.9(i)(5), this notice only provides an explanation of any point deductions for that item. A separate addendum is attached, "Addendum A" which details which sources qualified for the score under this section. It is important to note this addendum because should this application receive an award of tax credits, at the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the local political subdivision for the sufficient local funding to the Department. Only eligible sources identified in the addendum may be submitted and may not be substituted with any source not listed pursuant to §50.9(i)(5).

To the extent that a threshold review is not yet completed for this application, pursuant Section 50.9(d)(3), the final score may still change, in which case you will be notified.

Allocation  Urban/Exurban Set Asides:  USDA  Non Profit  At Risk

Score Requested by Applicant (Does not include QCP and Elected Official Points):	158
Score Requested as Calculated by Department (Does not include QCP and Elected Official Points):	158
Score Awarded by Department (Does not include QCP and Elected Official Points):	156
Difference between Requested and Awarded (Does not include QCP and Elected Official Points):	2
Points Awarded for Quantifiable Community Participation:	12
Points Awarded for Input from State Senator:	0
Points Awarded for Input from State Representative:	7
<b>Final Score Awarded to Application by Department:</b>	<b>175</b>



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

**Page 2 of Final Scoring Notice: 060110, Evergreen at Farmers Branch**

**Explanation for Difference between Points Requested and Points Awarded by the Department (explanation does not include QCP and Elected Official Points):**

§50.9(i)(19), Qualified Census Tracts with Revitalization: It was determined by the Department that the plan did not meet the requirements of a Community Revitalization Plan as defined in §50.3(22) of the QAP because the revitalization plan did not target specific geographic areas for low income Developments. You were provided the opportunity to prove that the plan did meet the requirements of the QAP in a deficiency notice on April 3, 2006. The information you submitted was thoroughly reviewed by Department staff, and it was determined that the documentation did not meet the requirements of the QAP. After conversations with the engineer assigned to the Mercer TIF, the references given in your response were not relevant and the enterprise zone and TIF have no design to create affordable housing within the region. This was further elaborated in an e-mail dated April 20, 2006 from the Department's General Counsel Kevin Hamby (Points requested: 2, Points awarded: 0).

A formal Appeals Policy exists for the HTC Program. If you wish to appeal this scoring notice (including set-aside eligibility), you must file your appeal with the Department no later than 5:00 p.m., Monday, May 22, 2006. If an appeal is denied by the Executive Director, an applicant may appeal to the Board. THE DEPARTMENT STRONGLY SUGGESTS that you submit your appeal to the Executive Director no later than Thursday, May 18 by 5:00 p.m. in order to allow any denied appeals to be added to the June 9, 2006 Board agenda. The restrictions and requirements relating to the Appeals Policy can be found in Section 50.17(b) of the 2006 QAP.

In an effort to increase the likelihood that Board appeals related to scoring and set-asides are heard at the June 9 Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director the form requests that the applicant automatically be added to the Board agenda. Note that the completion of the form will add the applicant to the agenda, but that an actual appeal to the Board must be received by the Department by 5:00 p.m. Wednesday, May 31, 2006. All appeals should be submitted to the attention of Jennifer Joyce.

A posting of all completed final application scores will be publicized on the Department's website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) by Friday, May 19 at 5:00 p.m. A list of those developments being recommended at the June 26 Board meeting will also be available on the website no later than June 19, 2006. If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Jennifer Joyce by facsimile (512.475.0764 or 512.475.1895) or email to [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us).

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production Division



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

**Addendum A- Notice of Department's Determination of points for §50.9(i)(5)**

The purpose of this Addendum is to notify you of the Department's determination of which evidence you submitted qualified for points for §50.9(i)(5), which has a total possible point value of 18. Additionally, this notice serves as a record of whether or not evidence of a commitment of funds has been received pursuant to this section. If you did not apply for these points, please disregard this notice.

Below, a summary is provided of each scoring item for which you were awarded points for §50.9(i)(5). For each source of funding, the source is eligible if the box to the left of "Funding Source #" is checked. If the box is not checked, the source is ineligible and an explanation of ineligibility is provided. Below each bolded Funding Source section, a description of the source is detailed. The last portion of each section is labeled, "Commitment Outstanding". If this box is checked, the Department does not have a record of receiving a commitment for the eligible source of funding, and points associated with this item are conditioned upon receipt at commitment. It should be noted that pursuant to §50.9(i)(5), when the commitment is submitted to the Department, the Local Political Subdivision must attest to the fact that any funds committed were not first provided to the Local Political Subdivision by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision or subsidiary. If this box is not checked, no further evidence is required.

Also note that pursuant to Section 50.9(i)(5), substitutions of any source of funding not named as eligible in this notice will not be accepted.

**Funding Source #1- If not checked, reason for ineligibility:**

Local Political Subdivision: TDHCA Home  
 Type of Source: Loan  
 Points Value for Source: 18  
 Value of Source: \$500,000.00  
 Commitment Outstanding:

**Funding Source #2- If not checked, reason for ineligibility:**

Local Political Subdivision: City of Farmers Branch  
 Type of Source: In Kind/ Similar  
 Points Value for Source: 18  
 Value of Source: \$661,500.00  
 Commitment Outstanding:

**Funding Source #3- If not checked, reason for ineligibility:**

Local Political Subdivision: City of Farmers  
 Type of Source: Loan  
 Points Value for Source: 18  
 Value of Source: \$432,000.00  
 Commitment Outstanding:

**Funding Source #4- If not checked, reason for ineligibility:**

Local Political Subdivision:  
 Type of Source:  
 Points Value for Source: 0  
 Value of Source:  
 Commitment Outstanding:

Total Points Awarded Under Section 50.9(i)(5):

18





MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- 9% HTC Competitive Application

Appeal Election Form: 060110, Evergreen at Farmers Branch

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

If my appeal is denied by the Executive Director, I:

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

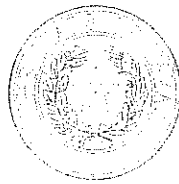
Signed [Signature]

Title President of S.C.P.

Date 5/18/06

Please fax or email to the attention of Jennifer Joyce: (fax) 512.475.0764 or 512.475.1895  
(email) jennifer.joyce@tdhca.state.tx.us

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY

Governor

**BOARD MEMBERS**

Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER

Executive Director

Mr. Brad Forslund  
Farmers Branch Senior Community, L.P.  
5605 N. MacArthur Blvd., Ste. 580  
Irving, TX 75038  
Telephone: (972) 550-7800  
Telecopier: (972) 550-7900

**Re: Appeal Received for Evergreen at Farmers Branch - 060110**

Dear Mr. Forslund:

**Appeal Review**

I have carefully reviewed the application you submitted, as well as your appeal that we received on May 22, 2006 regarding the eligibility of a letter from the Mercer Crossing Property Owner's Association requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because Mercer Crossing Property Owner's Association does not qualify as a "neighborhood organization" as required by the §50.9(i)(2)(A)(iv) of the Qualified Allocation Plan (QAP). This section specifically states that, "A 'neighborhood organization' is defined as an organization of **persons living near one another** within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood." Mercer Crossing Property Owner's Association is comprised solely of non-resident property owners.

This determination was made based on the fact that on May 9, 2006 the Department issued a deficiency notice to Mercer Crossing Property Owner's Association requesting evidence that the organization has resident members as required by §50.9(i)(2)(A)(iv) of the QAP. It was confirmed in an e-mail response from the contact for Mercer Crossing on May 10, 2006, the organization has no resident members at this time but does anticipate having some in three months.

Mr. Forslund  
June 1, 2006  
Page 2 of 2

You are appealing the eligibility of the letter based on the assertion that the organization will have resident members within three months and because the ineligibility is an issue of timing, the letter should not be denied on this basis. You also assert that Housing Tax Credit communities should be allowed in the early stages of urban neighborhoods and that owners of nearby properties that are in lease up have given their support to the proposed development.

§50.9(i)(2)(A)(iv) of the QAP is explicit that, "A 'neighborhood organization' is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood." Mercer Crossing Property Owner's Association is comprised solely of non-resident property owners and therefore it is not an organization of persons living near one another. Therefore, it is not eligible as a neighborhood organization.


**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

# QCP Documentation



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

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May 15, 2006

R L Lemke

President

Mercer Crossing Property Owner's Association

1800 Valley View Lane

Dallas, Texas 75234

Fax:

Email: [rl@lemke.com](mailto:rl@lemke.com)

[brad.kyles@primeasset.com](mailto:brad.kyles@primeasset.com)

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Evergreen at Farmers Branch, # 060110

Dear R L Lemke:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

On May 9, 2006 the Department issued a deficiency notice to Mercer Crossing Property Owner's Association requesting evidence that the organization has resident members as required by §50.9(i)(2) of the QAP. This section specifies that the organization must be "an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site...". It was confirmed in an e-mail response from the contact for Mercer Crossing on May 10, 2006 that the organization has no resident members at this time but does anticipate having some in three months. Unfortunately, the Mercer Crossing Property Owner's Association is comprised solely of property owners and has no resident members; therefore, it is not an organization of persons "living near one another within the organization's boundaries".

Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

---

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

## Misael Arroyo

---

**From:** Misael Arroyo [misael.arroyo@tdhca.state.tx.us]  
**sent:** Monday, May 15, 2006 5:07 PM  
**To:** 'rl@lemke.com'; 'brad.kyles@primeasset.com'  
**Cc:** 'Jennifer Joyce'; 'Misael Arroyo'  
**Subject:** 060110 scr.pdf



060110 scr.pdf (46  
KB)

<<060110 scr.pdf>>

060110 scr.pdf



**Jennifer Joyce**

**From:** Jennifer Joyce  
**Sent:** Thursday, May 11, 2006 1:22 PM  
**To:** Brooke Boston; 'Robbye Meyer'; 'Kevin Hamby'  
**Cc:** 'Sharon Gamble'  
**Subject:** FW: Mercer Crossing  
**Importance:** High

060110

Please note below, this doesn't count, right?

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Jordan Wicker [mailto:Jordan.Wicker@primeasset.com]  
**Sent:** Wednesday, May 10, 2006 9:35 AM  
**To:** jennifer.joyce@tdhca.state.tx.us  
**Subject:** Mercer Crossing  
**Importance:** High

ok  
JW

intelligent  
resolves  
5/11/06

Jennifer,

I am replying to your email that was sent to RL Lemke on May 9<sup>th</sup> regarding the approval of the Neighborhood Organization for Mercer Crossing "Property" Owner's Association. I see that you are requesting that a member be added to the association that is a resident of Mercer Crossing. At this time there are no residents living on this site. We are in the early stages of developing this site and are approximately three months out from having residency in our association. While we do not have residents we do have two hundred and ten unites prepared and ready for occupancy. Please advise as to how the property owners of Mercer Crossing need to meet the needs of the Texas Department of Housing and Community Affairs. Thank you for your time and efforts to make this a smooth and speedy process.

Thank you,

Jordan Wicker  
[Jordan.Wicker@primeasset.com](mailto:Jordan.Wicker@primeasset.com)  
469-522-4248

**Jennifer Joyce**

---

**From:** Jennifer Joyce  
**Sent:** Tuesday, May 09, 2006 5:48 PM  
**To:** 'rl@lemke.com'; 'brad.kyles@primeasset.com'  
**Cc:** 'Sharon Gamble'  
**Subject:** Important: Needed information for Mercer Crossing

Mr. Lemke and Mr. Kyles,

Please note the attached deficiency notice.



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 9, 2006

R L Lemke  
President  
Mercer Crossing Property Owner's Association  
1800 Valley View Lane  
Dallas, Texas 75234

5/11 PC TO RLL

HE RESPONDED VIA EMAIL ON 5/10

5/19/06 - emailed  
(see attached e-mail for sent date.)

(JORDAN WICKER RESPONDED)

on RLL  
individual 5/11/06  
(90)

Organization Fax:

Organization Email: rl@lemke.com

Second Contact:

Brad Kyles

Second Contact Fax:

Second Contact Email: brad.kyles@primeasset.com

Second Contact Phone: (469) 522-4372

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Evergreen at Farmers Branch, # 060110

Dear R L Lemke:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

**The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Wednesday, May 18. Submission by Friday, May 12 is encouraged to enable the Department to expedite the final review of your letter.**

In a final review of your letter and documentation submitted, it appears that your organization may be comprised of non-resident property owners who do not live in the boundaries of the organization. The QAP defines a "neighborhood organization" as, "an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site...". While your organization may INCLUDE non-resident property owners as members, it may not be exclusively comprised only of non-resident property owners.



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

In order for this letter to be eligible you must submit a certification that your neighborhood organization is not comprised solely of non-resident property owners and that it does have active members who live near one another within the defined boundaries that contain the Development site.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be received, not merely postmarked, by May 18.

**Please note that should you not submit any or all of the required documentation as outlined above, your letter will not be eligible for QCP. However, the support or opposition will be presented to the Board for consideration as comment from your organization.**

If you have any questions please call Sharon Gamble at 1-800-525-0657 or directly at 512.475.4610. I am here to help you. Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter.

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

R L Lemke  
President  
Mercer Crossing Property Owner's Association  
1800 Valley View Lane  
Dallas, Texas 75234

Organization Fax: Organization Email: rl@lemke.com

Second Contact:

Brad Kyles

Second Contact Fax: Second Contact Email: brad.kyles@primeasset.com

Second Contact Phone: (469) 522-4372

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Evergreen at Farmers Branch, # 060110

Dear R L Lemke:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

The bylaws you submitted do not include a description of the boundaries of the owner's organization. Per our telephone conversation, your boundaries change as the organization elects to include more properties. Submit evidence of your organization's boundaries as they were on March 1, 2006. In

*5/9/06  
owner's association not leg mar. 9/5/06  
-day, but concerned over*



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

addition, submit evidence that your organization, through some official process, included the proposed site as part of your organization prior to March 1, 2006.

This evidence can include articles of incorporation and amendments, bylaws and amendments, or any other organizational document that provides the information requested.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by May 15.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

## Sharon Gamble

---

**From:** Sharon Gamble  
**Sent:** Thursday, May 04, 2006 1:40 PM  
**To:** 'rl@lemke.com'  
**Subject:** QCP Deficiency Letter #060110

I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

060110

2963969

4710799 \$116.00 Deed  
07/08/04

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
MERCER CROSSING COMMERCIAL PROPERTY

Received  
5/9/06

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MERCER CROSSING COMMERCIAL PROPERTY (this "Declaration") is made by TRANSCONTINENTAL REALTY INVESTORS, INC., a Nevada corporation ("Declarant"), as of the date set forth on the signature page hereof.

Declarant is the owner of the real property described in Exhibit "A" which is attached hereto and incorporated herein by reference. This Declaration imposes upon the Properties (hereinafter defined) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties, and establishes a procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of that plan, this Declaration provides for the formation of Mercer Crossing Commercial Association, Inc., to own, operate and maintain Common Areas (hereinafter defined), and to administer and enforce the provisions of this Declaration, the Bylaws, the Design Guidelines and the Restrictions and Rules (hereinafter defined).

Declarant hereby declares that all of the real property described in Exhibit "A" attached hereto and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors, and assigns. This Declaration does not and is not intended to create a condominium within the meaning of the Texas Condominium Act, Tex. Prop. Code Ann. Section 81.001, et seq. (Vernon 1984).

Article I  
DEFINITIONS

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

- 1.1. "Area of Common Responsibility": the Common Areas, together with such other areas, if any, for which the Association has or expressly assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, or any contract.
- 1.2. "Articles of Incorporation" or "Articles": the Articles of Incorporation of the Association, as filed with the Secretary of State of the State of Texas.
- 1.3. "Association": Mercer Crossing Commercial Association, Inc., a Texas non-



incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 14.2.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 8 day of July, 2004.

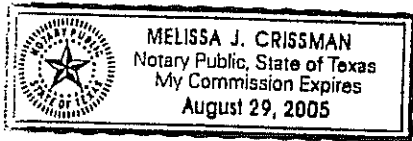
DECLARANT:

TRANSCONTINENTAL REALTY INVESTORS, INC.

By: Lori Lee Burgin  
Name: LORI LEE BURGIN  
Title: Vice President

STATE OF TEXAS )  
COUNTY OF Dallas )

The foregoing instrument was acknowledged before me this 8 day of July, 2004, by Lori LEE Burgin Vice President of TRANSCONTINENTAL REALTY INVESTORS, INC., a Nevada corporation, on behalf of the corporation.



Melissa J. Crissman  
Notary Public, in and for State of Texas





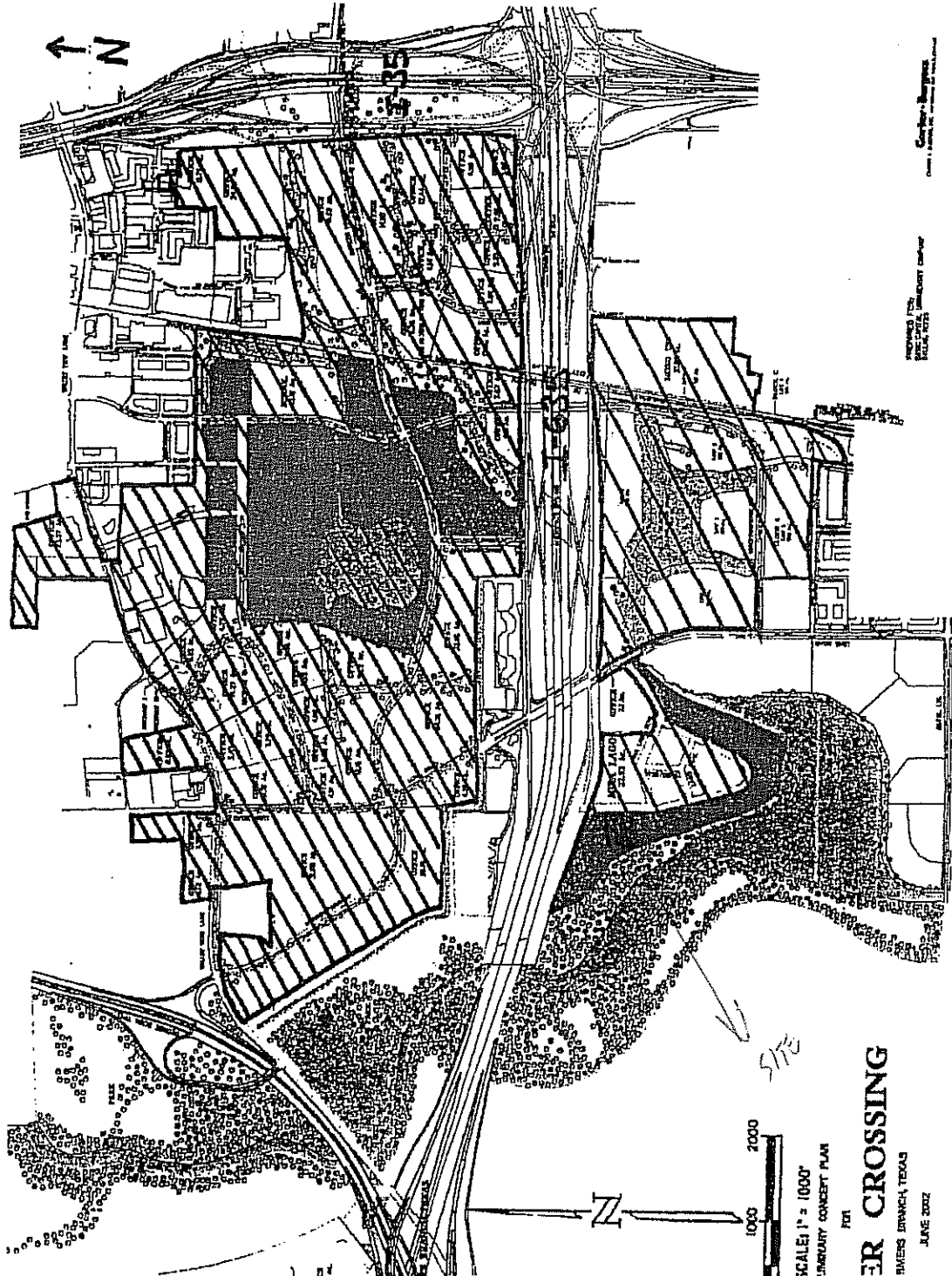


EXHIBIT "B"

PREPARED BY THE  
 ENGINEERING DEPARTMENT  
 TEXAS A&M UNIVERSITY  
 COLLEGE STATION, TEXAS

1.11.02 IN REVISION

EXHIBIT "C"

Initial Restrictions and Rules

Land uses within the Properties shall conform to the requirements of and the restrictions set forth in any Supplemental Declaration, and any other applicable covenants or restrictions of record, all of which shall be enforceable as if fully incorporated in this Declaration. In addition, the following restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed or limited by rules of the Association adopted pursuant to Article X of the Declaration.

1. Restricted Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking of trucks or other vehicles on any streets or thoroughfares, for delivery, loading, unloading or otherwise except in specially designated areas, if any;

(b) Any activity which tends to cause an unclean, unhealthy or untidy condition to exist outside of enclosed structures on the Unit;

(c) Any activity which emits foul or obnoxious odors, fumes, dust, smoke, or pollution outside the Unit or which creates noise, unreasonable risk of fire or explosion, or other conditions which tend to disturb the peace or threaten the safety of the occupants and invitees of other Units, provided, nothing herein shall preclude normal and customary operation of any restaurant or hospital facility;

(d) Any activity which violates local, state or federal laws or regulations;

(e) Outside burning of trash, leaves, debris or other materials, unless properly permitted for clearing or construction purposes only;

(f) Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that the Declarant and the Association shall have such right;

(g) Outdoor storage of goods, materials, or equipment, unless appropriately screened in a manner approved by Declarant or the ARC, except that (1) outdoor storage of building materials shall be permitted during construction on the Unit on which such materials are being stored; and (2) outdoor retail displays shall be permitted; and (3) and outdoor dining facilities shall be permitted;

2. Prohibited Conditions. The following shall be prohibited within the

2004130 06127

Properties:

(a) Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties;

(b) Sprinkler or irrigation systems of any type which draw water from then existing creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties, except that the Association shall be entitled to draw water from such sources, pursuant to permits, for the purpose of irrigating the Area of Common Responsibility;

(c) Septic systems, other than those installed by or with the permission of Declarant, if any;

(d) Any fence, wall, hedge, or shrub planting which does or tends to create a traffic or sight problem;

(e) Tents, trailers or any structure of a temporary nature, such as a tent, shack, or utility shed, except for construction trailers during ongoing construction on the Unit and temporary party tents for special events approved by the Board in advance; and

(f) Overhead utility lines, except for temporary lines as required during construction and as may otherwise be required by law or safety considerations.

3. Prohibited Uses. In addition to uses which are restricted by other recorded covenants, conditions, restrictions or easements, the following uses are prohibited within the Properties:

(a) Trailer courts, mobile home parks, and recreation vehicle campgrounds;

(b) Except as otherwise authorized by the Declarant in writing, oil, gas or mineral exploration, drilling, boring, development, refining, quarrying, or mining operations and all construction and equipment incident thereto, oil or gas wells, related equipment or facilities, excavations for minerals, and mine shafts, except that nothing herein shall preclude the operation of automobile service stations;

(c) Junk yards, scrap metal yards, automobile used parts and/or dismantling operations and sanitary landfills, except that nothing herein shall preclude recycling centers established solely for the collection and sorting of household recyclable materials;

(d) Commercial excavation of building or construction materials, except in the usual course of construction of improvements;

(e) Dumping, storage, disposal, incineration treatment, processing or reduction of garbage, or refuse of any nature;

(f) Lumberyards, sawmills, or outdoor storage of building or construction materials (except in the usual course of construction on the site where stored);

(g) Flea markets, and businesses which regularly engage in fire and bankruptcy sale operations;

(h) Truck terminals and truck stop-type facilities;

(i) Massage parlors, and businesses primarily engaged in the sale of obscene or pornographic materials or in the provision of entertainment featuring topless or nude performers; and

(j) Any heavy industrial use, as defined by the zoning code of any City, as it may be amended.

EXHIBIT "D"

Rules Of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's desire to submit the Claim to arbitration ("Arbitration Notice").

2. Each Party shall select an arbitrator ("Party Appointed Arbitrator"). The Party Appointed Arbitrators shall, by agreement, select one or two neutral arbitrators ("Neutral(s)") so that the total arbitration panel ("Panel") has an odd number of arbitrators. If any Party fails to appoint a Party Appointed Arbitrator within 20 days from the date of the Arbitration Notice, the remaining arbitrators shall conduct the proceedings, selecting a Neutral in place of any missing Party Appointed Arbitrator. The Neutral arbitrator(s) shall select a chairperson ("Chair").

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, Claimant may notify the Dallas/Fort Worth chapter of The Community Associations Institute, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator ("Arbitrator"), and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration under these Rules in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral after receipt of that Neutral's Bias Disclosure, such Neutral shall be replaced in the same manner in which that Neutral was selected.

5. The Arbitrator or Chair, as the case may be ("Arbitrator") shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings.

8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties.



10. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

11. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

12. There will be no post hearing briefs.

13. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

14. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

15. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.

**Sharon Gamble**

---

**From:** Jordan Wicker [Jordan.Wicker@primeasset.com]  
**Sent:** Friday, May 05, 2006 1:04 PM  
**To:** sharon.gamble@tdhca.state.tx.us  
**Subject:** FW: mercer crossing

060110



mercerc\_c.pdf (496 KB)

Please see attached the following requested information for Mercer Crossing Commercial Association.

Thank you,  
Jordan Wicker  
469-522-4248

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

**From:** JoAnn Smith  
**Sent:** Friday, May 05, 2006 12:00 PM  
**To:** Jordan Wicker  
**Subject:** mercer crossing

-----  
Please open the attached document.  
This document was sent to you using an HP Digital Sender.

**Sent by:** JOANN SMITH <joann.smith@bcminc.com>  
**Number of pages:** 10  
**Document type:** B/W Document  
**Attachment File Format:** Adobe PDF

To view this document you need to use the Adobe Acrobat Reader. For free copy of the Acrobat reader please visit:

<http://www.adobe.com>

For more information on the HP Digital Sender please visit:

<http://www.digitalsender.hp.com>

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

April 13, 2006

R L Lemke

President

Mercer Crossing Property Owner's Association

1800 Valley View Lane

Dallas, Texas 75234

Organization Fax:

Organization Email: [rl.lemke@primeasset.com](mailto:rl.lemke@primeasset.com)

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Evergreen at Farmers Branch, # 060110

Dear R L Lemke:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, April 24. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

The bylaws you submitted do not include a description of the boundaries of the neighborhood organization. According to §50.9(i)(2)(A)(viii) of the QAP, your bylaws must "at a minimum, identify the boundaries of the organization, ..." Submit evidence that the boundaries of the organization were part of the bylaws, articles, or organizational documents on or before March 1, 2006. Evidence must include a copy of the document.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by April 24.**

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**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

## Sharon Gamble

---

**From:** Sharon Gamble  
**Sent:** Thursday, April 13, 2006 4:19 PM  
**To:** 'rl.lemke@primeasset.com'  
**Subject:** Quantifiable Community Participation Deficiency Letter



2006 QCP Def Letter.html (13 K...



2006 QCP Def LetterPage2.html ...

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**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: EVERGREEN AT MERCER CROSSING

Dev. Number: 060110

Organization Name: MERCER CROSSING POA

Date Letter Received: 3/31/06

Reviewer Name: S. GAMBLE

Date Reviewed: 4/5/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries?</u>  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. More specifically:</p> <p>"Neighborhood organizations" DO include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" DO NOT include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p><i>Yes - okay for prep owners association per Kevin b/c includes people living near are another 5/09/06</i></p> <p><i>No - letter says only for residents 5/17/06</i></p>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input checked="" type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>

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**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete?

Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

BOUNDS NOT IN ORG DOC

Date deficiency letter issued: 4/13/06

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): 4/24/06

Date deficiencies received: NO RESPONSE

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: JB

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
<b>FINAL SCORE (Enter from box checked above):</b>		

Has this been entered in the 2006 Database?

Yes  No

**44**





MERCER CROSSING PROPERTY  
OWNERS ASSOCIATION

RECEIVED

MAR 31 2006

LHTC

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

RECEIVED  
MAR 31 2006  
EXECUTIVE

Re: Recording of Neighborhood Organization  
Development #: TDHCA/# 060110  
Development: Evergreen at Mercer Crossing / Farmers Branch  
Development Location: 11600 Block of future Lago Vista West, Farmers Branch,  
Texas 75234

As President of Mercer Crossing Property Owners Association neighborhood organization, I am writing to provide the organization's support for the above-referenced development which is located at 11600 Block of future Lago Vista West, Farmers Branch, Dallas County. Mercer Crossing Property Owners Association is a qualified Neighborhood Organization as further described below.

As the signer of this letter, I am providing the following required information:

RL Lemke  
1800 Valley View Lane  
Suite 300  
Dallas, TX 75234  
(469) 522-4412  
[RL.Lemke@primeasset.com](mailto:RL.Lemke@primeasset.com)

I am also providing the following information for one additional contact, Brad Kyles, for our organization:

Brad Kyles  
1800 Valley View Lane  
Suite 300  
Dallas, TX 75234  
(469) 522-4372  
[Brad.Kyles@primeasset.com](mailto:Brad.Kyles@primeasset.com)

The boundaries of this organization are western boundary: Elm Fork of Trinity River, Southern boundary: Crown Road of Farmers Branch, Eastern boundary: Interstate 35 East, Northern boundary: Valley View Lane of Farmers Branch. Enclosed is documentation that establishes the organization's boundaries. Also enclosed is a map with the geographic boundaries for the organization and the proposed development site clearly marked within the stated boundaries.

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This organization is an organization of persons living near one another within the organization's defined boundaries and has a primary purpose of working to maintain or improve the general welfare of the neighborhood. Attached are our articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization. The organization has three members and three officers. The organization reached its decision to support the proposed development by the property owners discussed the proposed Evergreen at Mercer Crossing on March 1, 2006. The members are completely supportive of the development.

This organization:

- On record as of March 1, 2006, with the Secretary of State as an incorporated entity in good standing. (See enclosed documentation from the Secretary of State.)
- On record as of March 1, 2006, with The Texas Department of Housing and Community Affairs as permitted by the Qualified Allocation Plan and Rules.
- On record, as of March 1, 2006, with Dallas County, in which the development is proposed to be located.

This organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round. The organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round (i.e. hosting a public meeting, provided the "TDHCA Information Packet for the Neighborhoods" to the neighborhood organization or referring the neighborhood organization to TDHCA staff for guidance are acceptable forms of assistance). The Applicant has not provided any "production" assistance for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter.)



MERCER CROSSING PROPERTY  
OWNERS ASSOCIATION

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The reasons for this organization's support of this proposed development are as follows:

1. There is a need for more affordable state of the art senior housing in Farmers Branch.
2. The site is convenient to families in this part of Farmers Branch, as well as retail and medical services to residents.
3. We would like to see certain types of new development and redevelopment in this neighborhood.
4. The proposed development will create new jobs for Southwest Farmers Branch.

We hope this support letter will be helpful to Churchill Residential in its attempt to secure financing for this proposed senior housing community.

Sincerely,

RL Lemke  
President  
1800 Valley View Lane  
Suite 300  
Dallas, TX 75234  
(469) 522-4412  
[RL.Lemke@primeasset.com](mailto:RL.Lemke@primeasset.com)

Attachments:

Map of Organization's Boundaries Showing Development Site  
Documentation of Being on Record with the County or State  
Letter of Registration sent to TDHCA on February 27, 2006

[United States Home](#)

[Information Center](#) | [Custom](#)



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<b>Tracking number</b>	790826854284	<b>Reference</b>	RL Lemke
<b>Signed for by</b>	M.JOVICEVIC	<b>Destination</b>	Austin, TX
<b>Ship date</b>	Feb 24, 2006	<b>Delivered to</b>	Shipping/Receiving
<b>Delivery date</b>	Feb 27, 2006 7:40 AM	<b>Service type</b>	Priority Envelope
		<b>Weight</b>	0.5 lbs.

**Status** Delivered

Date/Time	Activity	Location	Details
<b>Feb 27, 2006</b>	7:40 AM <b>Delivered</b>	Austin, TX	
	6:41 AM On FedEx vehicle for delivery	AUSTIN, TX	
<b>Feb 25, 2006</b>	7:21 AM At local FedEx facility	AUSTIN, TX	Package not due for delivery
	6:43 AM At dest sort facility	AUSTIN, TX	
	5:54 AM At local FedEx facility	AUSTIN, TX	
	5:44 AM At dest sort facility	AUSTIN, TX	
	4:14 AM Departed FedEx location	MEMPHIS, TN	
<b>Feb 24, 2006</b>	8:59 PM Left origin	DALLAS, TX	
	6:42 PM Picked up	DALLAS, TX	
	3:30 PM Package data transmitted to FedEx		

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<input type="text"/>	English	<input type="checkbox"/>	<input type="checkbox"/>
<input type="text"/>	English	<input type="checkbox"/>	<input type="checkbox"/>

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MERCER CROSSING PROPERTY  
OWNERS ASSOCIATION

---

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

Re: Recording of Neighborhood Organization

I am writing to request that my neighborhood organization Mercer Crossing Property Owners Association, be registered with the Texas Department of Housing Community Affairs for the purposes of Quantifiable Community Participation, § 50.9(i)(2), Texas Administrative Code.

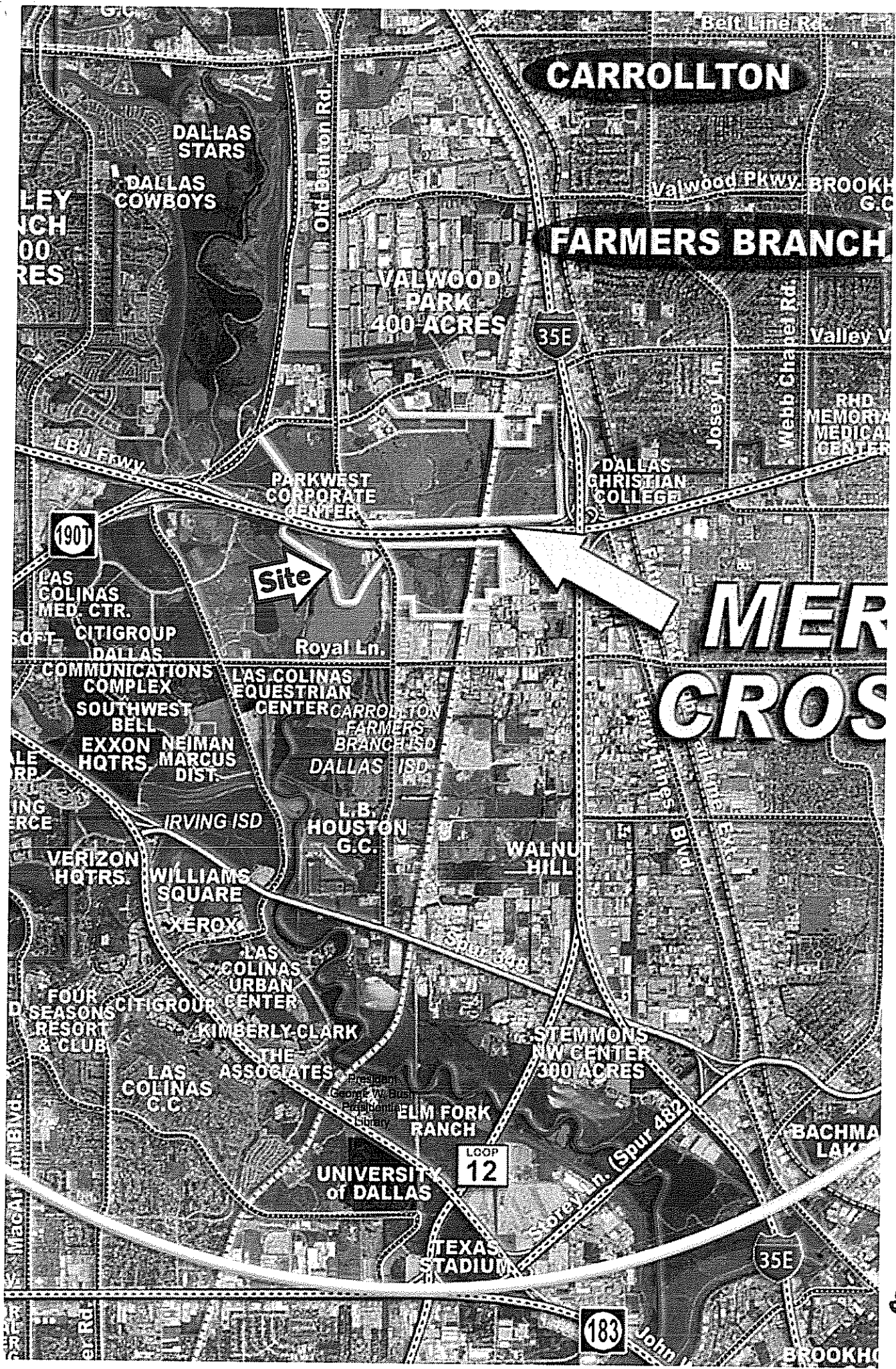
As required, following is a list of the names and positions for each of the organization's officers.

President: RL Lemke  
Vice President: Brad Kyles  
Vice President: John Cook

The boundaries of this organization are western boundary: Elm Fork of Trinity River, Southern boundary: Crown Road of Farmers Branch, Eastern boundary: Interstate 35 East, Northern boundary: Valley View Lane of Farmers Branch. Enclosed is documentation that establishes the organization's boundaries. Also enclosed is a map with geographic boundaries for the organization clearly marked.

Sincerely,

RL Lemke  
1800 Valley View Lane  
Suite 300  
Dallas, TX 75234  
(469) 522-4412  
[RL.Lemke@primeasset.com](mailto:RL.Lemke@primeasset.com)



# CARROLLTON

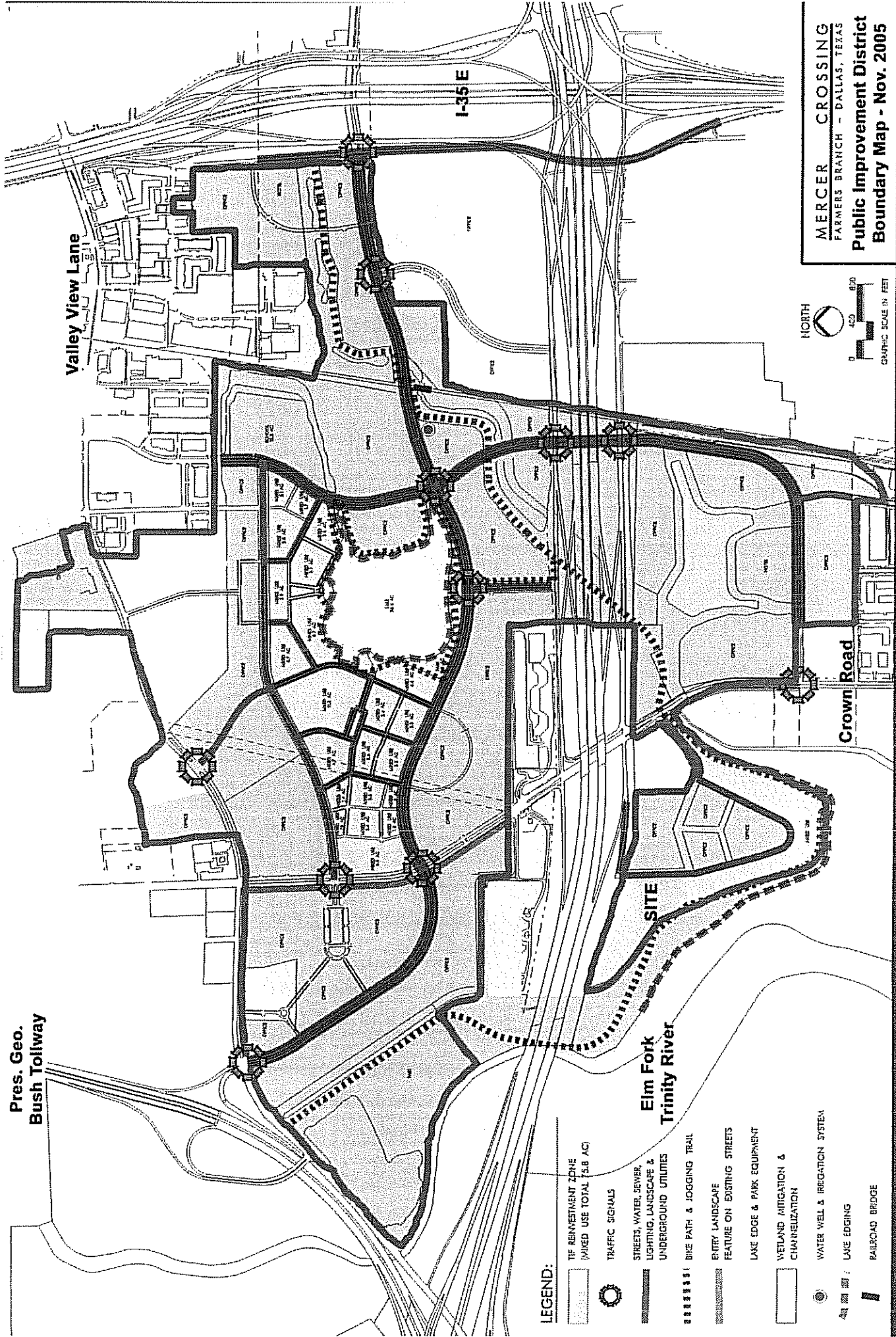
# FARMERS BRANCH

# MER CROS

Site

LOOP 12

183



Pres. Geo.  
Bush Tollway

Valley View Lane

I-35 E

Crown Road

Elm Fork  
Trinity River

SITE

**LEGEND:**

THICK BOUNDARY LINE  
(MAILED USE TOTAL 13.8 AC)

TRAFFIC SIGNALS

STREETS, WATER, SEWER,  
LIGHTING, LANDSCAPE &  
UNDERGROUND UTILITIES

BIKE PATH & JOGGING TRAIL

ENTRY LANDSCAPE  
FEATURE ON EXISTING STREETS

LAKE EDGE & PARK EQUIPMENT

WETLAND MITIGATION &  
CHANNELIZATION

WATER WELL & IRRIGATION SYSTEM

LAKE EDGING

RAILROAD BRIDGE

NORTH



0 400 800  
GRAPHIC SCALE IN FEET

MERCER CROSSING  
FARMERS BRANCH - DALLAS, TEXAS  
Public Improvement District  
Boundary Map - Nov. 2005

**BYLAWS**

**OF**

**MERCER CROSSING**

**COMMERCIAL ASSOCIATION, INC.,**

**a Texas Non-Profit Corporation**

**Dated as of February 28, 2006**



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**BYLAWS**  
**OF**  
**MERCER CROSSING COMMERCIAL ASSOCIATION, INC.**

These Bylaws of Mercer Crossing Commercial Association, Inc. ("Bylaws") govern the affairs of Mercer Crossing Commercial Association, Inc. (the "Association"), a non-profit corporation organized under the Texas Business Organizations Code.

**ARTICLE ONE**  
**OFFICES**

**1.01 Principal Office.** The principal office of the Association shall be located at 1800 Valley View Lane, Suite 300, Dallas, Texas 75234. The Association may have such other offices either within or without the State of Texas as the Board of Directors may determine or as the affairs of the Association may require from time to time. Meetings of Members and Directors may be held at such places within or without the State of Texas as may be designated by the Board of Directors.

**1.02 Registered Office and Registered Agent.** The Association shall have and continuously maintain in the State of Texas a registered office and a registered agent. The registered office may be, but need not be, the same as the principal office of the Association. The registered office or the registered agent, or both, may be changed from time to time by the Board of Directors.

**ARTICLE TWO**  
**PURPOSE AND PARTIES**

**2.01 Purpose.** The purpose for which the Association is formed to govern that certain real property situated in the City of Farmers Branch, Dallas County, State of Texas, described in that certain Declaration of Covenants, Conditions and Restrictions for Mercer Crossing Commercial Property in Dallas County, Texas (as the same may hereafter be amended, the "Declaration"), recorded in the Real Property Records of Dallas County, Texas, which property, together with any property hereafter made subject to the terms of the Declaration in accordance with the terms, thereof, is referred to in the Declaration and herein as the "Properties".

**2.02 Parties.** All present and future Owners, tenants or future tenants of any Unit, or any other person who might use in any manner the facilities of the Properties are subject to the Declaration, these Bylaws and any Rules of the Association that may be adopted from time to time. The mere acquisition, lease or rental of any Unit, or the mere act of occupancy of a Unit by any person or entity will signify that the Declaration, these Bylaws and Rules are accepted, approved, ratified, and will be complied with by that person or entity.

### ARTICLE THREE DEFINITIONS

The definitions contained in the Declaration, as amended, are incorporated herein by reference and all of such terms and phrases shall have the meanings herein as ascribed in the Declaration unless otherwise specifically redefined herein.

### ARTICLE FOUR MEMBERSHIP AND VOTING RIGHTS

**4.01 Membership.** Each and every Owner shall automatically be a Member of the Association without the necessity of any further action on the part of such Owner, subject to the terms of the Declaration, the Certificate of Formation (the "Certificate"), these Bylaws, and the Rules from time to time promulgated by the Association. Membership in the Association ("Membership") shall be appurtenant to and may not be separated from the interest of the Owner in and to any portion of the Properties. Ownership of a Unit shall be the sole qualification for being a Member; provided, however, that a Member's voting rights, as herein described, or privileges in the Common Area, or both, may be regulated or suspended as provided in the Declaration, these Bylaws, and/or the Rules. No person or entity shall be a Member by reason of ownership of any easement, right-of-way, or mineral interest. In addition, any person or entity that holds an interest in and to all or any part of the Properties merely as security for the performance of an obligation shall not be a Member. There shall be only one membership per Unit, and if a Unit is owned by more than one person, all co-Owners shall share the privileges of such membership, subject to the Board regulation and the restrictions on voting set forth in Section 4.03 and all co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights and privileges may be exercised by the Owner, if a natural person, or, in the case of an Owner which is a corporation, partnership or other legal entity, by any officer, director, partner, or trustee, or by any other individual designated by the Owner from time to time in a written instrument provided to the Secretary of the Association.

**4.02 Transfer.** Membership may not be severed from ownership of any Unit nor may Membership in any way be transferred, pledged, mortgaged or alienated except upon the sale or assignment of the Owner's interest in all of the Unit and then only to the purchaser or assignee as the new Owner thereof. Membership shall not be severed by the encumbrance of an Owner of all or any part of a Unit. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation shall be void and of no further force or effect, and will be so reflected upon the books and records of the Association. Any transfer of the fee title to a Unit or to a tract of parcel or real estate out of or a part of the Properties, shall automatically operate a transfer Membership to the new Owner thereof. If an Owner fails or refuses to transfer the membership registered in such Owner's name to the transferee, the Association shall have the right to record the transfer upon its books and records.

**4.03 Classes of Voting Membership and Voting Rights.** The Association shall have two (2) classes of Membership as described in paragraph 3.3 of the Declaration and below, each class of membership having voting powers as described in the Declaration and below:

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**A. Class "A".** Class "A" Members shall be all Owners. Each Class "A" Member shall be entitled to one (1) vote per \$1,000 of Unit Assessed Value of such Owner's Unit; provided that no votes shall be exercised on account of any property which is exempt from assessments under paragraph 8.10 of the Declaration. If there is more than one Owner of any Unit, the votes for such Unit shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. In the absence of such advice, the vote for such Unit shall be suspended if more than one co-Owner seeks to exercise it. Any Owner may assign the right to cast all or a portion of the votes allocated to its Unit by written proxy filed with the Secretary of the Association in accordance with these Bylaws.

**B. Class "B".** The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve or withhold approval of all actions proposed under the Declaration, the Bylaws and the Certificate, are specified in the relevant sections of the Declaration, the Bylaws and the Certificate. The Class "B" Member may appoint all of the members of the Board during the Class "B" Control Period, as specified in the Bylaws, which appointment or approval may be by written consent without any requirement of a meeting of Members. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the Declaration and in the Bylaws. the Class "B" membership shall terminate upon the earlier of:

- (i) two years after termination of the Class "B" Control Period; or
- (ii) when, in its discretion, the Declarant so determines and unequivocally declares in a recorded instrument signed and notarized by Declarant and recorded in the Real Property Records.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Units which it owns, whether improved or unimproved.

**4.04 Multiple Owner Votes.** Where there are multiple Owners of a Unit it is not intended by any provision of the Declaration or these Bylaws that each of the Owners shall be entitled to cast the votes allocated to the Unit nor may fractional votes be cast. For example, where three persons own a Unit, they shall jointly be entitled to vote the one vote allocated to the Unit and shall not be entitled to case a full vote each. When more than one person or entity owns the interest or interests in and to any Unit, as required for Membership in the Association, every person or entity shall be a Class A Member, and the vote for the Unit shall be exercised as they, among themselves, collectively determine and they shall designate one person to case the vote or execute a written consent, as applicable. The Owners of the Unit will notify the Association, in writing, or the person so designated. Such notice will not be valid unless signed by all Owners of the Unit. The Association shall not be required to recognize the vote or written assent of any multiple Owners except the vote or written assent of the Owner designate in writing executed by all of the multiple Owners and delivered to the Association. If multiple Owners are unable to agree among themselves

as to how the one vote per Unit shall be cast, the Owners shall forfeit the right to vote on the matter in question. If more than one person or entity purports to exercise the voting rights with respect to any Unit on any matter in question, none of the votes shall be counted in tabulating the vote on the matter and the votes shall be deemed void.

**4.05 Suspension of Voting Rights.** The voting rights of any Member may be suspended by the Board for any period during which any Assessment levied by the Association remains past due, unless the Member is in good faith contesting the validity or amount of the Assessment. The voting rights of any Member may also be suspended by the Board for a period not to exceed sixty (60) days for an infraction of the Rules set forth in the Declaration.

**4.06 Quorum, Notice and Voting Requirements.** The following provisions shall apply after the existence of the Class B Control Period and at any time a meeting of Members is required to be held:

**A. Quorum.** The presence at the initial meeting of Members entitled to cast, or of proxies entitled to cast, twenty percent (20%) of the votes of all Owners, regardless of class, shall constitute a quorum for any action except as otherwise provided in the Certificate, the Declaration or these Bylaws. If the required quorum is not present or represented at the meeting, one additional meeting may be called, subject to the notice requirements set forth below, and the required quorum at such second meeting shall be one-half (½) of the required quorum at the preceding meeting; provided, however, that no second meeting shall be held more than thirty (30) days following the first meeting.

**B. Notice.** Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of the notice, postage prepaid, at least ten (10) but not more than sixty (60) days before the meeting to each member, addressed to the Member's address last appearing on the books of the Association, or supplied by the member to the Association for the purpose of notice. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**C. Majority Vote.** Any action taken at a duly called meeting of the Members at which a quorum is present shall require the assent of the majority of all of the votes of those who are voting in person or by proxy, regardless of class.

**4.07 Annual Meetings.** The first annual meeting of the Members shall be held within one (1) year after the date of incorporation of the Association. Thereafter, the annual meeting shall be set by the Board so as to occur not later than one hundred twenty (120) calendar days after the close of the Association's prior fiscal year. The time and place of all annual meetings shall be determined by the Board. The Board shall give written notice of the place of holding of the meeting to all Members.

**4.08 Special Meetings.** Special meetings of the Members may be called at any time by the Declarant, by the President, by the Board, or upon the written request for a special meeting from

Members who are entitled to vote at least fifty percent (50%) of the outstanding votes of the Members, regardless of class.

**4.09 Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Proxies shall be revocable and shall automatically cease upon conveyance by the Member of that Member's Unit, or upon receipt by the Secretary of the Association of notice of the death or judicially declared incompetence of the Member. Unless otherwise provided in the proxy, no proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided therein, except that the maximum term of any proxy shall be three (3) years from the date of execution.

**4.10 Conduct of Meetings.** At every meeting of Members, the President of the Association (or in his absence, the Vice President) shall act as Chairman. The Secretary of the Association (or in his absence, any person appointed by the President) shall act as Secretary at all meetings of the Members.

**4.11 Action By Written Consent.** Any action which may be taken by the Members at a regular or special meeting may be taken without a meeting if done in compliance with relevant provisions of the Texas Business Organizations Code, and these Bylaws. Without limiting the generality of the foregoing, any action required by the Texas Business Organizations Code to be taken at a meeting of the Members or any action that may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of Members as would be necessary to take that action at a meeting at which all of the Members were present and voted. Each written consent shall comply with the requirements of Section 6.202 of the Texas Business Organizations Code as amended. Prompt notice of the taking of any action by the members without a meeting by less than unanimous written consent shall be given to all Members who did not consent in writing to the action.

## **ARTICLE FIVE BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE**

**5.01 Number of Directors.** The affairs of the Association shall be managed by a Board of Directors who may exercise all such powers of the Corporation and do all such lawful acts and things as are necessary. The initial Board of Directors shall consist of the three directors named in the Certificate (the "Board"). Except as provided in Section 5.02, the directors shall be elected by the Members. Directors do not have to be Members of the Association. The members of the initial Board or their successors, shall serve until the first annual meeting of the Members. Until the expiration of the Class B Control Period, the Declarant may appoint all of the members of the Board. Thereafter, the number of members of the Board shall be as may be fixed from time to time by resolution of the Board, but the number of Directors shall not be less than three (3) nor more than fifteen (15).

**5.02 Term of Office.** The directors shall be selected by the Declarant each year until the expiration of the Class B Control Period. After the expiration of the Class B Control Period, the Members, voting regardless of class, shall elect one half of the directors, but not less than two (2) directors for a term of one (1) year each and the balance of directors (one (1) director) for a term of



two (2) years. At each annual meeting thereafter the Members, voting regardless of class, shall elect persons to replace those directors whose terms have expired.

**5.03 Removal; Vacancies.** Any individual director may be removed from the Board, with or without cause, prior to the expiration of such director's term of office by the person(s) entitled to elect, designate, or appoint the director until the expiration of the Class B Control Period, any vacancies on the Board shall be filled subject to the following provisions:

**A. Vacancies by Death or Resignation.** In the event of the death or resignation of a director, a successor director shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the deceased or resigning director.

**B. Vacancies by Removal.** Vacancies created by the removal of a director shall be filled only by a vote of Members holding a majority of the votes. The new director shall serve for the unexpired term of the removed director.

**C. Vacancies by Increase in Directorships.** Any vacancy to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting or at a special meeting of Members called for that purpose.

**5.05 Indemnification of Officers and Directors.** The Association shall indemnify directors, officers, employees and agents of the Association to the extent required and permitted by the Texas Business Organizations Code, as amended from time to time. The Association may purchase and maintain insurance on behalf of any director or officer or may enter into other arrangements, such as creating a trust fund, establishing a form of self-insurance, or establishing a letter of credit, guaranty or surety arrangement, in connection with indemnification of directors and officers; provided, however, that in no event shall the grant of a security interest or other lien on the assets of the Association ever be given to secure an indemnity obligation under this Section 5.05.

**5.06 Compensation and Loans.** No director shall receive compensation for any service the director may render to the Association. However, directors shall be reimbursed for actual expenses incurred in the performance of their duties of office. No loans may be made by the Association to any officer or director of the Association.

## ARTICLE SIX NOMINATION AND ELECTION OF DIRECTORS

**6.01 Nominations.** After the expiration of the Class B Control Period, nominations for election to the Board shall be made by a Nominating committee. Nominations may also be made from the floor at the annual meeting. The Nominating committee shall consist of a Chairman, who shall be a member of the Board, and two or more Members. The Nominating committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting of the Members, to serve from the close of that annual meeting until the close of the next annual meeting and the appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it in its discretion shall determine, but not less than the number of vacancies that are to be filled. Nominations must be made from Owners or, where

an Owner is not an individual person, an officer, director, shareholder, partner or representative of an Owner.

**6.02 Election of Board.** The Board of Directors shall be selected by the Declarant each year until the expiration of the Class B Control Period. Thereafter, directors shall be elected by members at the annual meeting. At the elections the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE SEVEN MEETINGS OF DIRECTORS

**7.01 Regular Meetings.** Regular meetings of the Board shall be held at the times and at the places within or without the State of Texas that may be fixed from time to time by resolution of the Board. If the meeting date falls upon a Saturday, Sunday or legal holiday, then that meeting shall be held at the same time on the next day which is not a Saturday, Sunday or legal holiday. Notice of the agenda and place of meeting shall be delivered either personally, by mail, by telephone, telegraph, facsimile communication equipment or electronic transmission (email) to the Board members not less than twenty four (24) hours prior to the meeting. However, notice of a meeting need not be given to Board members who have signed a waiver of notice or a written consent to the holding of the meeting. Attendance in person at a meeting, except where a director attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened, shall constitute waiver of notice and the director's consent to the holding of the meeting. Participation by a director in a regular meeting by telephone or similar communication equipment shall constitute waiver of notice and attendance in person at that meeting.

**7.02 Special Meetings.** Special meetings of the Board shall be held when called by written notice signed by the President or by any two (2) directors other than the President. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be sent to all directors by mail not less than three (3) days prior to the scheduled time of the meeting provided that notice of the meeting need not be given to Board members who have signed a waiver of notice or a written consent to the holding of the meeting. An officer of the Association shall make reasonable efforts to notify all directors of the meeting by telephone. Attendance in person at a meeting, except where a director attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened, shall constitute waiver of notice and the director's consent to the holding of the meeting. Participation by a director in a special meeting by telephone or similar communication equipment shall constitute waiver of notice and attendance in person at that meeting.

**7.03 Quorum.** A majority of the total number of directors constituting the Board shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

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**7.04 Open Meetings.** All meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.

**7.05 Executive Session.** The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, disciplinary matters, and orders of business of a similar nature. The general topic or nature of any and all business to be considered in executive session shall first be announced in open session.

**7.06 Action by Written Consent.** Any action which may be taken by the directors at a regular or special meeting may be taken without a meeting if done in compliance with relevant provision of the Texas business Organizations Code, and these Bylaws. without limiting the generality of the foregoing, any action required by the Texas Business Organization Code to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors or of any committee may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of Directors or committee members as would be necessary to take that action at a meeting at which all of the Directors or members of the committee were present and voted. Each written consent shall comply with the requirements of the Texas Business Organization Code, as amended. Prompt notice of the taking of any action by the Directors or any committee without a meeting by less than unanimous written consent shall be given to all Directors or committee members who did not consent in writing to the action. Any action so approved shall have the same effect as though taken at a meeting of the Board or the committee. The Board or any committee may hold duly called meetings between directors or committee members by conference, telephone or other similar communications equipment by means of which all participants in the meeting can hear each other.

**7.07 Telephone Meetings.** Subject to the provisions of law, members of the Board of Directors, or members of any committee designated by such Board may participate and hold a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant hereto shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

## **ARTICLE EIGHT POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**8.01 General.** The affairs of the Association shall be conducted by the Board. The Board shall have the powers and duties that are necessary for the performance and administration of the purposes of the Association as set forth in the Certificate.

**8.02 Powers and Duties.** In addition to the powers and duties enumerated in the Declaration or elsewhere in these Bylaws, and without limiting the generality thereof, the Board, for the mutual benefit of the Members, shall have the following powers and/or duties:

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A. **Enforcement.** If, as and when the Board, in its sole discretion, deems necessary it may take any action to enforce the terms and provisions of the Declaration, the Certificate and these Bylaws by appropriate means and carry out the obligations of the Association thereunder, including without limitation, the expenditure of funds of the Association, the employment fo legal counsel and accounting services, the commencement of legal proceedings (including without limitation, litigation that may be necessary to collect Assessments, Fines and foreclose liens for which provisions are made in the Declaration), the promulgation and enforcement of the Rules which may include the establishment of a system of fines and/or penalties enforceable as special individual assessments as provided in Declaration, and to enjoin and/or seek legal damages from any Owner for violation of those provisions or Rules.

B. **Taxes.** To execute all declarations of ownership for tax assessment purposes and to pay any and all real and personal property taxes and other charges or assessments assessed against the Common Area, if any, unless the taxes, charges or assessments are separately assessed to all or any of the Owners, in which they shall be paid by those Owners.

C. **Borrow Money.** To borrow funds to pay costs of operation secured by assignment or pledge of its rights against delinquent Owners to the extent deemed advisable by the Board.

D. **Establish Reserves.** To establish and maintain a working capital and/or contingency fund in an amount to be determined by the Board.

E. **Establish Rules.** To make reasonable Rules for the operation and use of the Common Area and to amend the Rules from time to time.

F. **Delegate and Employ.** To delegate its powers and duties to committees, officers or employees as provided in these Bylaws, employ a manager or other persons and contract with independent contractors or managing agents who have professional experience to perform all or any part of the duties and responsibilities of the Association.

G. **Incidental Powers.** To have all powers necessary or incidental to the operation and management of the Association and the Common Area, including but not limited to the payment of all common Expenses and the establishment of Design Guidelines and fulfillment of all items specified in the Declaration.

## ARTICLE NINE OFFICERS

9.01 **Enumeration of Officers.** The officers of the Association shall consist of a President, one or more Vice-Presidents (the number to determined by the Board), a Secretary, a Treasurer and any other officers that may be elected in accordance with the provisions of this Article.

**9.02 Multiple Officers.** Any two (2) or more offices may be held by the same person.

**9.03 Election of Officers.** At its organizational meeting following the incorporation of the Association, the directors shall elect officers. Thereafter, the election of officers shall take place at the first meeting of the Board following each annual meeting of the Members. New offices may be created and filled at any meeting of the Board.

**9.04 Term.** The officers shall be elected annually by the Board and each shall hold office for one (1) year unless an officer shall sooner resign, be removed, or otherwise become disqualified to serve.

**9.05 Special Appointments.** The Board may elect other officers or appoint other agents that the affairs of the Association may require, each of whom shall hold office for the period, have the authority, and perform the duties that the Board may, from time to time, determine.

**9.06 Resignation and Removal.** Any officer may be removed from office by the Board with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Any resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

**9.07 Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to fill the vacancy shall serve for the remainder of the term of the replaced officer.

**9.08 Duties.** The duties of the officers are as follows:

**A. President.** The President shall be the chief executive officer of the Association and shall, in general, supervise and control all of the business and affairs of the Association. The President shall (i) preside at all meetings of the Board; (ii) see that orders and resolutions of the Board are carried out; and (iii) perform any other duties that may be required by the Board.

**B. Vice President.** The Vice President, if one is elected by the Board, shall (i) act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and (ii) exercise and discharge any other duties that may be required by the President or the Board. The Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

**C. Secretary.** The Secretary shall (i) record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; (ii) if required, keep the corporate seal of the Association and affix it on all papers requiring said seal; (iii) serve notice of meetings of the Board and of the Members; (iv) keep appropriate current records showing the Members of the Association together with their addresses; and (v) perform any other duties that may be required by the Board. The Assistant Secretary, or if there be more than one, the Assistant Secretaries in the order determined by the Board of Directors, shall, in the absence,

refusal to act, or disability of the Secretary, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

**D. Treasurer.** The Treasurer shall (i) receive and deposit in appropriate bank accounts all monies of the Association; (ii) disburse the funds as directed by resolution of the Board; (iii) maintain the financial records of the Association; and (iv) perform any other duties of a similar nature that may be required by the Board. If no Treasurer is elected by the Board, the Secretary of the Association shall carry out the responsibilities of the Treasurer. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. The Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors, shall, in the absence, refusal to act, or disability of the Treasurer, perform the duties and exercise the powers of the Treasurer and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

**9.09 Compensation.** The compensation of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving compensation by reason of the fact that he is also a director of the Corporation.

## ARTICLE TEN COMMITTEES OF THE BOARD

**10.01 Board Committees.** The Board may, by resolution adopted by a majority of the directors then in office, designate one or more committees, each consisting of two or more directors or non-Board members to serve at the pleasure of the Board. Any committee, to the extent provided in the resolution of the Board creating such committee, shall have all the authority set forth in the resolution of the Board, except that no committee, regardless of the authority granted in such Board resolution, shall have the authority of the Board to:

- (a) Amend the Certificate;
- (b) Take any final action on matters which, under the Texas Business Organizations Code, also requires the approval of the Board of Directors;
- (c) Fill vacancies on the Board or in any committee;
- (d) Amend or repeal Bylaws or adopt new Bylaws;
- (e) Amend or repeal any resolution of the Board which by its express terms is not so amendable or repealable;
- (f) Approve a plan of merger or consolidation or recommend the sale, lease or exchange of all or substantially all of the property and assets of the Corporation other than in the usual and regular course of its business;

(g) Approving a voluntary dissolution of the Corporation or a revocation thereof; or

(h) Approve any transaction (i) to which the Corporation is a party and one or more directors who have a material financial interest are a party, or (ii) between the Corporation and any person in which one or more of its directors has a material financial interest.

The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board or any member thereof, of any responsibility imposed by law.

**10.02 Other Committees.** The President may appoint such other committees, from time to time as required, consisting of Board members or non-Board members.

**10.03 Term.** All committees shall be reappointed each year following the election of officers of the Corporation.

**10.04 Meetings and Actions of Committees.** Meetings and actions of committees shall be governed by, held and taken in accordance with, the provisions of the resolutions of the Board of Directors creating such committee or by resolution of the committee. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records of the Corporation. The Board of Directors may adopt rules for the government of any committee not inconsistent with the provision of these Bylaws. To the extent that no rules are adopted for government of any such committee, the rules of these Bylaws applicable to the Board shall be deemed substituted therefor.

**10.05 Advisory Board.** The Board may establish an Advisory Board whose members will be individuals with expertise in areas within the Corporation's objectives. The number of members of the Advisory Board is within the discretion of the Board of Directors. The Advisory Board shall provide recommendations and advise the Board of Directors at the request of the Board of Directors. Representatives of the Advisory Board of Directors may be invited to meetings of the Board of Directors and/or any committee chosen by the Board.

**10.06 Honorary Board of Directors.** The Board may establish an Honorary Board of Directors whose members have served the Corporation, or the community in general in a way in which the Board determines should be honored by making such individual members of the Honorary Board of Directors. The Board of Directors may, in its discretion, appoint an Honorary Chairman and an Honorary Vice-Chairman of the Honorary Board. The term of membership on the Honorary Board of Directors is within the sole discretion of the Board of Directors and shall be reviewed by the Board at best annually.

**ARTICLE ELEVEN  
INDEMNIFICATION OF OFFICERS, DIRECTORS AND OTHERS**

The Association shall indemnify any person who is or was a Director, Officer, agent or employee of the Association and any nominee or designee of the Association who is not or was not an Officer, agent or employee of the Association but who is or was serving at the Association's request as a Director, Officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust other enterprise or employee benefit plan, as provided in this Article Eleven.

**11.01 Definitions.** For purposes of this Article Eleven, the following terms shall have the following meanings:

A. **"Director"** means any person who is or was a Director of the Association and any person who, while a Director of the Association, is or was serving at the request of the Association as a Director, Officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

B. **"Expenses"** include court costs and attorneys' fees.

C. **"Official Capacity"** means as follows:

(i) When used with respect to a Director, the office of Director in the Association; and

(ii) When used with respect to a person other than a Director, the elective or appointive office in the Association held by the Officer or the employment or agency relationship undertaken by the employee or agent on behalf of the Association; but

(iii) In both subsections (i) and (ii) above, Official Capacity does not include service for any other foreign or domestic corporation or any partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

D. **"Proceeding"** means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative, any appeal in such an action, suit or proceeding and any inquiry or investigation that could lead to such an action, suit or proceeding.

**11.02 Persons To Be Indemnified.** The Association shall indemnify, to the extent provided in Section 11.04, the following:

A. Any person who is or was a director, officer, employee or agent of the Association; and



**B.** Any person who is not or was not an officer, employee or agent of the Association but who is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

**11.03 Standards.** The following standards shall govern the indemnification provided by this Article Eleven:

**A.** The Association shall indemnify a person named in Section 11.02 who was, is or is threatened to be made a named defendant or respondent in a Proceeding because the person holds or has held a position named in Section 11.2 only if it is determined, in accordance with Section 11.05, that the person:

- (i) Conducted himself in good faith;
- (ii) Reasonably believed the following:
  - (a) In the case of conduct in his Official Capacity, that his conduct was in the Association's best interests; and
  - (b) In all other cases, that his conduct was at least not opposed to the Association's best interests; and
  - (c) In the case of any criminal Proceeding, had no reasonable cause to believe his conduct was unlawful.

**B.** Notwithstanding Subsection A of this Section 11.03, a person named in Section 11.02 shall not be indemnified for obligations resulting from a Proceeding as follows:

- (i) In which the person is found liable on the basis that personal benefit was improperly received by him, whether or not the benefit resulted from an action taken in the person's Official Capacity; or
- (ii) In which the person is found liable to the Association.

**C.** The termination of a Proceeding by judgment, order, settlement or conviction, or on a plea of nolo contendere or its equivalent shall not of itself be determinative that the person did not meet the requirements set forth in this Section 11.3. A person shall be deemed to have been found liable in respect of any claim, issue or matter only after the person shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom.

**11.04 Extent.** A person shall be indemnified under Section 11.03 against judgments, penalties (including excise and similar taxes), fines, settlements and reasonable Expenses actually incurred by the person in connection with the Proceeding, but, if the person is found liable to the Association or is found liable on the basis that personal benefit was improperly received by the person, the indemnification shall be limited to reasonable Expenses actually incurred by the person in connection with the Proceeding and shall not be made in respect of any proceeding in which the person shall have been found liable for willful or intentional misconduct in the performance of his duty to the Association.

**11.05 Determination That Standards Have Been Met.** A determination that the standards of Section 11.03 have been satisfied must be made as follows:

A. By a majority vote of a quorum consisting of Directors who at the time of the vote are not named defendants or respondents in the Proceeding;

B. If such a quorum cannot be obtained, by a majority vote of a committee of the Board of Directors, designated to act in the matter by a majority vote of all Directors, consisting solely of two (2) or more Directors who at the time of the vote are not named defendants or respondents in the Proceeding;

C. By special legal counsel selected by the Board of Directors or a committee of the Board of Directors by vote as set forth in Subsection A or Subsection B of this Section 11.5, or, if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all Directors; or

D. By the Members in a vote that excludes the vote of Directors who are named defendants or respondents in the Proceeding.

**11.06 Authorization of Indemnification; Determination as to Reasonableness of Expenses.** The authorization of indemnification and the determination as to the reasonableness of Expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, the authorization of indemnification and the determination as to the reasonableness of Expenses must be made in the manner specified by Subsection C of Section 11.5 for the selection of special legal counsel.

**11.07 Mandatory Indemnification.** Notwithstanding any other provision of this Article Eleven to the contrary, a person named in Section 11.02, by reason of his holding a position named in Section 11.02, shall be indemnified by the Association to the extent and under the circumstances as follows:

A. To the extent of reasonable Expenses incurred by him in connection with a Proceeding in which he is a named defendant or respondent, because of his position, if he has been wholly successful, on the merits or otherwise, in the defense of the Proceeding;

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**B.** To the extent of the indemnification ordered by the court and the Expenses incurred in securing indemnification, as awarded by the court, if, in a suit for the indemnification required by Subsection A of this Section 11.07, a court of competent jurisdiction determines that the person is entitled to indemnification under Subsection A of this Section 11.07 and orders indemnification; and

**C.** To the extent of the indemnification which may be ordered by a court of competent jurisdiction (which it determines is proper and equitable), if, upon the application of a person named in Section 11.02, the court determines, after giving any notice the court considers necessary, that the person is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the person has met the requirements set forth in Subsection A of Section 11.03 or has been found liable in the circumstances described in Subsection B of Section 11.03; provided, however, that the indemnification ordered by the court shall be limited to reasonable Expenses actually incurred by the person in connection with the Proceeding if the person is found liable by the Association, on the basis that personal benefit was improperly received by him.

**11.08 Advance Payment.** Reasonable Expenses incurred by a person named in Section 11.02 who was, is or is threatened to be made a named defendant or respondent in a Proceeding may be paid or reimbursed by the Association in advance of the final disposition of the Proceeding after the Association receives a written affirmation by the person of his good faith belief that he has met the standard of conduct necessary for indemnification under this Article Eleven and a written undertaking by or on behalf of the person to repay the amount paid or reimbursed if it is ultimately determined that the he has not met that standard. The written undertaking must be an unlimited general obligation of the person but need not be secured. It may be accepted without reference to financial ability to make repayment.

**11.09 Reimbursement of Other Expenses.** Notwithstanding any other provision of this Article Eleven, the Association shall pay or reimburse Expenses incurred by a person named in Section 11.02, by reason of his holding a position named in Section 11.02, in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not a named defendant or respondent in the Proceeding.

**11.10 Insurance.** The Association may purchase and maintain insurance on behalf of any person who holds or has held any position named in Section 11.2 against any liability asserted against him and incurred by him in such capacity or arising out of his status as such a person, whether or not the Association would have the power to indemnify him against that liability under this Article Eleven.

**11.11 Reports.** Any indemnification of or advance of Expenses to a person in accordance with this Article Eleven shall be reported in writing to the Members with or before the notice or waiver of notice of the next meeting of the Members and, in any case, within the 12-month period immediately following the date of the indemnification or advance.

**ARTICLE TWELVE  
ASSESSMENTS**

71

The Declaration specifically sets forth the rights, obligations and liabilities of the Association and its Members relative to the levy, collection and use of Assessments, and those provisions are incorporated herein by reference for all purposes.

### ARTICLE THIRTEEN BOOKS AND RECORDS

**13.01 Inspection by Members.** The Membership register, books of account and minutes of meetings of the Members, of the Board and of committees shall be made available for inspection and copying by any Member or by the Member's appointed representative, at any reasonable time and for a purpose reasonably related to the Member's interest, at the office of the Association or at any other place that the Board may designate.

**13.02 Rules for Inspection.** The Board shall establish reasonable rules with respect to notice to be given to the custodian of the records by the Member desiring to make the inspection, the hours and days of the week when an inspection may be made, and payment of the cost of reproducing copies of requested documents.

**13.03 Inspection by Directors.** Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical property owned by the Association. The rights of inspection by a director includes the right to make extra copies of documents.

### ARTICLE FOURTEEN AMENDMENT

These Bylaws and, to the extent permitted by the Texas Business Organizations Code, the Certificate, may be amended by the Board at a regular or special meeting of the Board by a vote or written consent, as provided in Article Seven of these Bylaws; provided, however, until the time that the Class B Control Period shall have ceased, neither these Bylaws nor the Certificate, may be amended by the Board without the prior written approval of the Class B Member. Additionally, these Bylaws and the Certificate may be amended by the Members at a regular or special meeting of the Members by a vote (in person or by proxy) or written consent, regardless of class, as provided in Article Four of these Bylaws; provided, however, until such time as the Class B Membership shall have ceased, neither these Bylaws nor the Certificate, may be amended by the Members without the prior written approval of the Class B Member.

### ARTICLE FIFTEEN MISCELLANEOUS

**15.01 Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.

**15.02 Interpretation.** In the case of any conflict between the Certificate and these Bylaws, the Certificate shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the case of any conflict between the Declaration and the laws

of the State of Texas governing non-profit corporations, the laws of the State of Texas shall control; provided, however, to the extent reasonably practical, the Certificate, Bylaws and Declaration shall be construed and interpreted together as consistent and non-conflicting documents.

**15.03 Non Profit Corporation.** The Association is a Non-Profit Corporation which has been organized and shall be operated solely and exclusively for the purposes that are specified in its Certificate. No part of the Association's property or earnings shall ever inure (other than by acquiring, constructing or providing management, maintenance and care of Association property and other than by a rebate of excess membership dues, fees or assessments) to the benefit of any Member, Director, Officer or employee of the Association. The Association shall not pay or distribute any dividends or other income to its Members, Directors or Officers. No Member, Director, Officer or employee shall ever receive or be lawfully entitled to receive any profit from the operations of the Association. Nothing herein shall prevent the payment to its Members, Directors and Officers of reasonable compensation for services rendered and the reimbursement to its Members, Directors and Officers of reasonable expenses that are incurred in connection with the Association's affairs.

The foregoing was unanimously adopted as the Bylaws of Mercer Crossing Commercial Association, Inc. by the Board of Directors as of February 28, 2006.

\_\_\_\_\_  
R.L. Lemke, Director

\_\_\_\_\_  
Bradley J. Kyles, Director

\_\_\_\_\_  
John Cook, Director

**MERCER CROSSING COMMERCIAL ASSOCIATION, INC.**  
**a Texas Non-Profit Corporation**

STATE AND DATE OF ORGANIZATION: Texas -- February 27, 2006

ENTITY FILE NO.: 80061944

FEI NO.: \_\_\_\_\_

LOCATION: 1800 Valley View Lane, Suite 300 MAILING ADDRESS: Same.  
Dallas, Texas 75234  
Attn: R.L. Lemke

TELEPHONE: \_\_\_\_\_  
FACSIMILE: \_\_\_\_\_

DIRECTORS: R.L. Lemke                      REQUIRED NO. PER BYLAWS: Not less than three (3)  
John Cook                              Until expiration of Class B Control Period, the Declarant may  
Bradley J. Kyles                      appoint all members of the Board of Directors; thereafter, the  
  number of directors shall be as fixed from time to time by  
  resolution of the Board, but not less than three (3) nor more  
  than fifteen (15)

OFFICERS: R.L. Lemke                      President, Secretary and Treasurer  
John Cook                              Vice President, Assistant Treasurer and Assistant Secretary  
Bradley J. Kyles                      Vice President, Assistant Treasurer and Assistant Secretary

---

<u>State/Date of Qualification</u>	<u>Registered Agent</u>	<u>Registered Office</u>
Texas 02/27/06	Steven C. Metzger	3626 N. Hall Street, Suite 800 Dallas, Texas 75219-5133

---

**OWNERSHIP INFORMATION**

Members in two classes. Class A (based upon unit of assessed value) and Class B (the Declarant).

Declaration of Covenants, Conditions and Restrictions for Mercer Crossing Commercial Property dated July \_\_\_\_, 2004 (the "Declaration") made by Transcontinental Realty Investors, Inc. ("TCI") as the Declarant is the governing instrument for this entity. The initial Declaration covers only 60 acres of land owned by the Declarant. Others may be added by Supplemental Declaration.

This is a Texas non-profit corporation formed for the purpose of providing for the maintenance, preservation and architectural control of the real property described in the Declaration.

---

ANNUAL MEETING DATE:  
First Annual Meeting to be held within one (1) year after date of incorporation. Thereafter, Annual Meetings shall occur not later than 120 calendar days after the close of the Association's prior fiscal year (December 31).

PRINCIPAL ACTIVITIES:  
See description above.

CURRENT STATUS: Active

LOCATION OF CORPORATE MINUTE BOOK AND STOCK RECORDS AND LOCATION OF MEMBERSHIP RECORDS:

1800 Valley View Lane, Suite 300  
Dallas, Texas 75234

74

2006 HTC APPLICATION CYCLE  
NEIGHBORHOOD REGISTRATION WITH TDCHA CHECKLIST  
§50.9(i)(2) OF THE 2006 QAP

060110

Organization Name: MERCER CROSSING PROPERTY OWNERS ASSOC Date Letter Received: 2/28/06

Reviewer Name: S. GAMBE Date Reviewed: 3/6/06

1. Is the received date on or before March 1, 2006: Yes  No

If no, do not proceed. This letter is ineligible. If yes, proceed.

2. Includes Contact Name: Yes  No

3. Includes Mailing Address: Yes  No

4. Includes Phone Number: Yes  No

5. Includes Names and Positions of Officers: Yes  No

6. Includes Written Description of Geographic Boundaries: Yes  No

7. Includes Map of Geographic Boundaries: Yes  No

8. The map matches the written description for boundaries: Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency briefly:

NA

Were all items complete? Yes  No

If no, date deficiency letter issued: NA

Date deficiencies received: NA

Were all deficiencies resolved? NA Yes  No

Has this been entered in the 2006 Database? Yes  No

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MERCER CROSSING PROPERTY

OWNERS ASSOCIATION

Ms. Edwina Carrington  
Executive Director  
Attention: Recording of Neighborhood Organization  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

RECORDED

FEB 28 2006

LATC

Re: Recording of Neighborhood Organization

I am writing to request that my neighborhood organization Mercer Crossing Property Owners Association, be registered with the Texas Department of Housing Community Affairs for the purposes of Quantifiable Community Participation, § 50.9(i)(2), Texas Administrative Code.

As required, following is a list of the names and positions for each of the organization's officers.

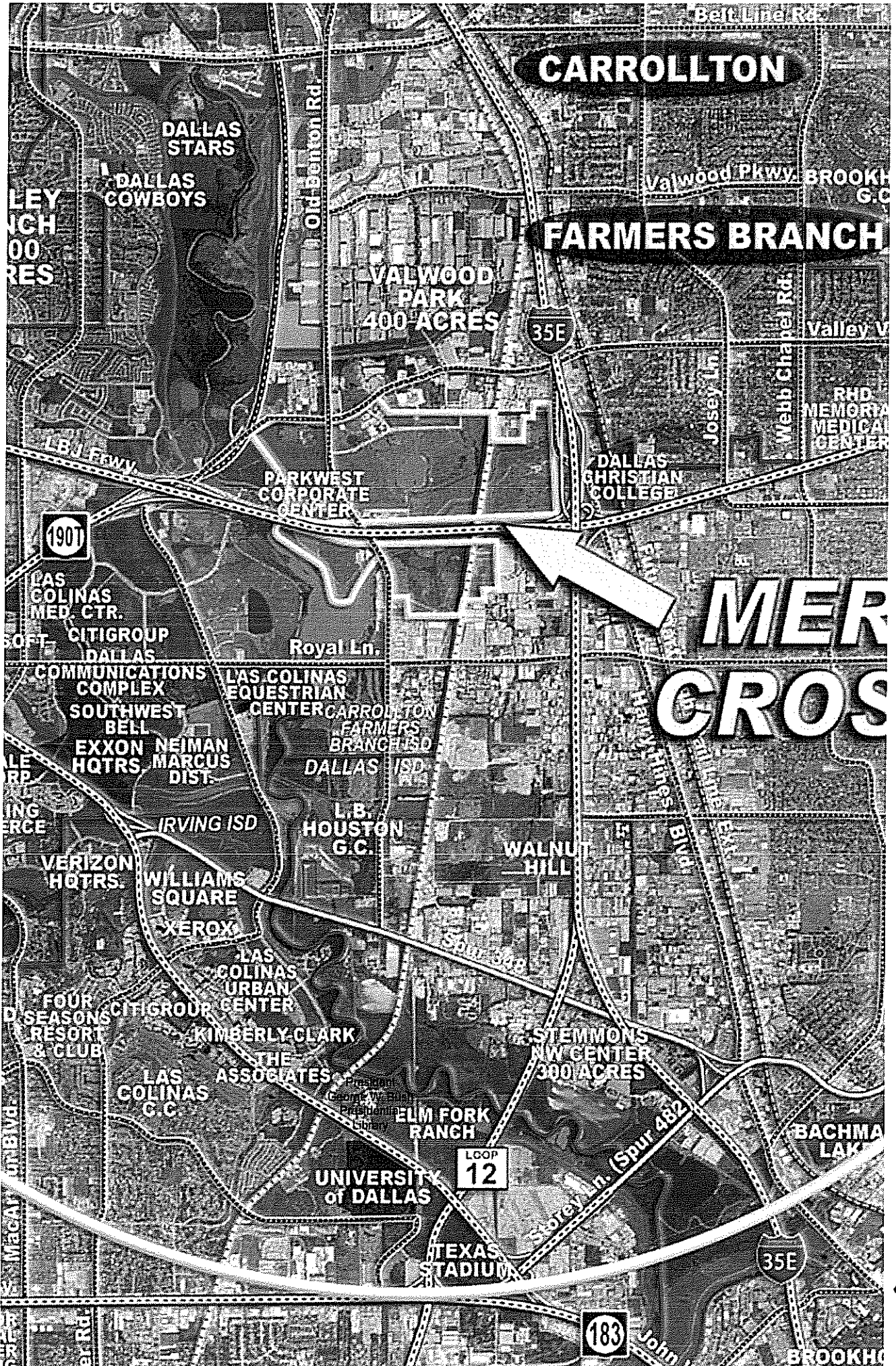
President: RL Lemke  
Vice President: Brad Kyles  
Vice President: John Cook

The boundaries of this organization are western boundary: Elm Fork of Trinity River, Southern boundary: Crown Road of Farmers Branch, Eastern boundary: Interstate 35 East, Northern boundary: Valley View Lane of Farmers Branch. Enclosed is documentation that establishes the organization's boundaries. Also enclosed is a map with geographic boundaries for the organization clearly marked.

Sincerely,

RL Lemke  
1800 Valley View Lane  
Suite 300  
Dallas, TX 75234  
(469) 522-4412  
[RL.Lemke@primeasset.com](mailto:RL.Lemke@primeasset.com)





**CARROLLTON**

**FARMERS BRANCH**

**MER  
CROS**

Pres. Geo.  
Bush Tollway

Valley View Lane

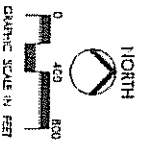
I-35 E

- LEGEND:**
- THE REIMPROVEMENT ZONE (PAVED USE TOTAL 758 AC)
  - TRAFFIC SIGNALS
  - STREETS WATER SEWER LIGHTING LANDSCAPE & UNDERGROUND UTILITIES
  - BIKE PATH & JOGGING TRAIL
  - ENTRY LANDSCAPE FEATURE ON EXISTING STREETS
  - LAKE EDGE & PARK EQUIPMENT
  - WETLAND MITIGATION & CHANNELIZATION
  - WATER WELL & IRRIGATION SYSTEM
  - LAKE EDGING
  - RAILROAD BRIDGE

Elm Fork  
Trinity River

SITE

Crown Road



**MERCER CROSSING**  
FARMERS BRANCH - DALLAS, TEXAS  
Public Improvement District  
Boundary Map - Nov. 2005

78

**060170**

**Orchard Park at**

**Willowbrook**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Orchard Park at Willowbrook- 060170**

By April 3, 2006, the Department received a letter from the AAM 12 Ltd./Skillcraft Architectural Control Committee requesting that their letter be considered for points for Quantifiable Community Participation (QCP). QCP points, statutorily required under §2306.6710 Texas Government Code, are described in §50.9(i)(2) of the 2006 Qualified Allocation Plan and Rules (QAP) and outlines an explicit set of criteria that must be satisfied. To assist neighborhoods in submitting their letters, the Department released a packet for Neighborhood Organizations that included the information needed, as well as a template letter.

In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

The Department submitted a deficiency notice on May 4, 2006, requesting information required by the QAP. A second notice was issued on May 9, 2006 requesting evidence that the organization is a neighborhood organization as defined by the QAP. In their May 11, 2006 response to both notices, the organization did not submit sufficient evidence that it is a neighborhood organization as defined by the QAP. Instead it affirmed that it is comprised of three owners, one of which is a Church. It was implied but not said that someone lives in the church. It was determined that this is not an organization of "persons living near one another".

The applicant is appealing the eligibility of the letter based on the applicant's assertion that the Department's decision not to accept "any" neighborhood organization on record contravenes statute and that public policy is not well served by an overly-restrictive definition of neighborhood organizations. The applicant asserts that property owner associations are

neighborhood organizations per the QAP and that the QAP defines "person" in a way not limited to individuals.

However, §50.9(i)(2)(A)(iv) of the QAP is explicit that, "A 'neighborhood organization' is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood." AAM 12 Ltd./Skillcraft Architectural Control Committee is comprised solely of non-resident property owners and therefore it is not an organization of persons living near one another. Therefore, it is not eligible as a neighborhood organization.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Orchard Willowbrook L.P.
Site Location:	9701 Grant Rd.
City/County:	Houston/ Harris County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Elderly
Region:	6
Type of Development:	New Construction
Units:	195
Credits Requested:	\$1,200,000

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

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In our review the letter was found to be ineligible and was awarded a score of 12. Note that scores will range from a maximum of +24 for the strongest position of support to +12 for the neutral position to 0 for the strongest position of opposition. This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

The Department submitted a deficiency notice on May 4, 2006, requesting information required by the QAP. A second notice was issued on May 9, 2006 requesting evidence that the organization is a neighborhood organization as defined by the QAP. In their May 11, 2006 response to both notices, the organization did not submit sufficient evidence that it is a neighborhood organization as defined by the QAP. Instead it affirmed that it is comprised of three owners, one of which is a Church. It was implied but not said that someone lives in the church. It was determined that this is not an organization of "persons living near one another".

The applicant is appealing the eligibility of the letter based on the applicant's assertion that the Department's decision not to accept "any" neighborhood organization on record contravenes statute and that public policy is not well served by an overly-restrictive definition of neighborhood organizations. The applicant asserts that property owner associations are

neighborhood organizations per the QAP and that the QAP defines "person" in a way not limited to individuals.

However, §50.9(i)(2)(A)(iv) of the QAP is explicit that, "A 'neighborhood organization' is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood." AAM 12 Ltd./Skillcraft Architectural Control Committee is comprised solely of non-resident property owners and therefore it is not an organization of persons living near one another. Therefore, it is not eligible as a neighborhood organization.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Orchard Willowbrook L.P.
Site Location:	9701 Grant Rd.
City/County:	Houston/ Harris County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Elderly
Region:	6
Type of Development:	New Construction
Units:	195
Credits Requested:	\$1,200,000

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

## Non-Resident Property Owners

### §50.9(i)(2) Quantifiable Community Participation from Neighborhood Organizations on Record with the State or County and Whose Boundaries Contain the Proposed Development Site.

(A) Basic Submission Requirements for Scoring...the letter (and enclosures) must be received by the Department no later than April 3, 2006...The organization's letter (and enclosures) must:

- (i) state the name and location of the proposed Development...
- (ii) be signed by...comparable head of the organization, and provide the street and/or mailing addresses, phone numbers, and e-mail addresses and/or facsimile numbers... and for one additional contact for the organization;
- (iii) establish that the organization has boundaries, state what the boundaries are, and establish that the boundaries contain the proposed development site. A map must be provided with the geographic boundaries of the organization and the proposed Development site clearly marked within those boundaries;
- (iv) establish that the organization is a "neighborhood organization." A "neighborhood organization" is defined as an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. "Neighborhood organizations" include homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents). "Neighborhood organizations" do not include broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity. Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations." Organizations whose boundaries include an entire city are generally not "neighborhood organizations."
- (v) include documentation showing that the organization is on record as of March 1, 2006 with the state or county in which the Development is proposed to be located. ...If an organization's status with the Secretary of State is shown as "forfeited," "dissolved,"...the organization will not be considered on record with the state... As an option to be considered on record with the state...must be received by the Department no later than March 1, 2006...
- (vi) accurately state that the neighborhood organization was not formed by any Applicant, Developer, or any employee or agent of any Applicant in the 2006 tax credit Application Round, that the organization and any member did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition, and has not provided any assistance other than education and information sharing to the neighborhood organization to meet the requirements of this subparagraph for any application in the Application Round (i.e. hosting a public meeting, providing the "TDHCA Information Packet for Neighborhoods" to the neighborhood organization, or referring the neighborhood organization to TDHCA staff for guidance). Applicants may not provide any "production" assistance to meet these requirements for any application in the Application Round (i.e. use of fax machines owned by the Applicant, use of legal counsel related to the Applicant, or assistance drafting a letter for the purposes of this subparagraph).
- (vii) state the total number of members of the organization and provide a brief description of the process used to determine the members' position of support or opposition...
- (viii) include the organization's articles of incorporation and/or bylaws and/or organizational documents created on or before March 1, 2006, that, at a minimum, identify the boundaries of the organization, identify the officers of the organization and clearly indicate the purpose of the organization.
- (ix) The boundaries in effect for the organization on March 1, 2006...Annexations occurring after that time to include a Development site will not be considered eligible. A Development site must be entirely contained within the boundaries of the organization...
- (x) Letters...may not be provided via the Applicant which includes facsimile and email communication.

(B) Scoring of Letters (and Enclosures). The input must clearly and concisely state each reason for the organization's support for or opposition to the proposed Development.

- (i) ...The Department may consider any relevant information specified in letters from other neighborhood organizations regarding a development in determining a score.
- (ii) ... Input that evidences unlawful discrimination against classes of persons protected by Fair Housing law or the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered.
- (iii) In general, letters that meet the requirements of this paragraph and
  - (I) establish three or more reasons for support...( +24 points) or opposition (zero);
  - (II) establish two reasons...+18 points for support...
  - (III) establish one reason for support ... +13 points for support...
  - (IV) that do not establish a reason...neutral (+12 points).
- (iv) Applications for which no letters from neighborhood organizations... a neutral score of +12 points.



**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Deny the applicant's appeal of scoring of 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Issue a determination on the appeal.

**Background and Recommendations**

**I. Orchard Park at Willowbrook- 060170**

This Applicant is appealing the eligibility of the QCP letter submitted for the Application.

The letter was ineligible because of the following:

The Department submitted a deficiency notice on May 4, 2006, requesting information required by the QAP. A second notice was issued on May 9, 2006 requesting evidence that the organization is a neighborhood organization as defined by the QAP. In their May 15, 2006 response to both notices, the organization did not submit sufficient evidence that it is a neighborhood organization as defined by the QAP.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Orchard Willowbrook L.P.
Site Location:	9701 Grant Rd.
City/County:	Houston/ Harris County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Elderly
Region:	6
Type of Development:	New Construction
Units:	195
Credits Requested:	\$1,200,000

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

# **Board Appeal/ Executive Director Appeal**



**ORCHARD  
COMMUNITIES**  
P. O. Box 130567  
Houston, Texas  
772219

**PHONE**  
713.223.1864  
**FAX**  
713.223.1853

**MISSION**  
Creating strong and stable  
communities by developing  
affordable housing, increasing  
neighborhood services, and  
building family assets

May 22, 2006

Mr. Michael Gerber, Executive Director  
Texas Department of Housing and Community Affairs  
ATTN: Jennifer Joyce  
221 East 11th Street  
Austin, TX 78701

RE: Appeal of Final Score for Orchard Park at Willowbrook (TDHCA # 060170)

Dear Mr. Gerber,

We would be grateful for your kind consideration of our appeal of the scoring of the letter of support from the Architectural Control Committee which governs the proposed site of Orchard Park at Willowbrook.

We seek to increase the supply of affordable housing for households earning less than 30% and 50% of the area median income, a population we have served successfully for many years. In order to score enough points to compete in the tax credit program we must qualify for community participation points by finding a vacant commercial site governed by a homeowners association or property owners association. However, most such associations only cover subdivisions of single-family lots or planned-unit developments.

We were fortunate to find the proposed site in an underserved part of our service area. We contracted for the subject site because we believed the agency would accept "written statements from any neighborhood organization on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site" (Chapter 2306.6710(b)(1)(B)).

We respectfully request your review of the committee's support letter since:

1. The department's scoring of the architectural control committee's letter contravenes the statute by not accepting written statements from "any" neighborhood organization on record.
2. The QAP states that "Neighborhood Organizations" include property owner associations.
3. The QAP defines "person" and uses the term in a way not limited to individuals (e.g. 50.11(a)(5)).
4. As difficult as it is to find good sites in the present environment, public policy is not well-served by an overly-restrictive definition of neighborhood organizations.

We would be grateful if you would reconsider your scoring of the letter of support from the architectural control committee, which is an association of multiple property owners that was on record with Harris County before the tax credit program existed, and whose boundaries contain (without expansion) the proposed development site.

Respectfully submitted,

Stephan Fairfield, Manager of GP  
Orchard Willowbrook L.P.

RECEIVED  
MAY 22, 2006  
LHNTC  
MAY 22 PM 2:22



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- 9% HTC Competitive Application

RECEIVED

MAY 22 2006

LHTC

Appeal Election Form: 060170, Orchard Park at Willowbrook

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

If my appeal is denied by the Executive Director, I:

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

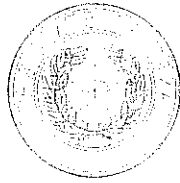
Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed [Signature]  
Title Manager of HO  
Date 22 May 2006

Please fax or email to the attention of Jennifer Joyce: (fax) 512.475.0764 or 512.475.1895  
(email) jennifer.joyce@tdhca.state.tx.us

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
Executive Director

Mr. Stephan Fairfield  
Orchard Willowbrook L.P.  
P.O. Box 130567  
Houston, TX 77219  
Telephone: (832) 725-8855  
Telecopier: (713) 223-1853

**Re: Appeal Received for Orchard Park at Willowbrook - 060170**

Dear Mr. Fairfield:

### Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 22, 2006 regarding the eligibility of a letter from the AAM 12 Ltd./Skillcraft Architectural Control Committee requesting that their letter be considered for points for Quantifiable Community Participation (QCP).

The letter was ineligible because AAM 12 Ltd./Skillcraft Architectural Control Committee does not qualify as a "neighborhood organization" as required by the §50.9(i)(2)(A)(iv) of the Qualified Allocation Plan and Rules (QAP). This section specifically states that, "A 'neighborhood organization' is defined as an organization of persons **living near one another** within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood." AAM 12 Ltd./Skillcraft Architectural Control Committee is comprised solely of non-resident property owners.

This determination was made based on the fact that on May 4, 2006, requesting information required by the QAP. A second notice was issued on May 9, 2006 requesting evidence that the organization is a neighborhood organization as defined by the QAP. In their May 11, 2006 response to both notices, the organization did not submit sufficient evidence that it is a neighborhood organization as defined by the QAP. Instead it affirmed that it is comprised of three owners, one of which is a Church. It was implied but not said that someone lives in the church.

WWW.TDHCA.STATE.TX.US

221 EAST 11<sup>th</sup> ▪ P.O. BOX 13941 ▪ AUSTIN, TEXAS 78711-3941 ▪ (800) 525-0657 ▪ (512) 475-3800

Mr. Fairfield  
June 1, 2006  
Page 2 of 2

You are appealing the eligibility of the letter based on the assertion that the Department's decision not to accept "any" neighborhood organization on record contravenes statute and that public policy is not well served by an overly-restrictive definition of neighborhood organizations. You also asserts that property owner associations are neighborhood organizations per the QAP and that the QAP defines "person" in a way not limited to individuals.

AAM 12 Ltd./Skillcraft Architectural Control Committee is comprised solely of non-resident property owners and therefore it is not an organization of persons living near one another. Therefore, it is not eligible as a neighborhood organization.

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

# QCP Documentation



TRANSMISSION VERIFICATION REPORT

TIME : 05/17/2006 15:45  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BR0G4J729978

DATE, TIME	05/17 15:45
FAX NO./NAME	92818738156
DURATION	00:00:26
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 17, 2006

Ray Betz  
Chief Executive Officer  
AAM 12 Ltd./Skillcraft Architectural Control Committee  
610 West Greens Road  
Houston, Texas 77067  
Fax: (281) 873-8156  
Email: rdagley@betzcompanies.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Park at Willowbrook, # 060170

Dear Ray Betz:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

The Department submitted a deficiency notice on May 4, 2006, requesting information required by the QAP. A second notice was issued on May 9, 2006 requesting evidence that the organization is a neighborhood organization.

14



**Texas Department of Housing and Community Affairs**  
**Multifamily Finance Production Division**  
**2006 Quantifiable Community Participation**

---

May 17, 2006

Ray Betz  
Chief Executive Officer  
AAM 12 Ltd./Skillcraft Architectural Control Committee  
610 West Greens Road  
Houston, Texas 77067  
Fax: (281) 873-8156  
Email: rdagley@betzcompanies.com

Re: Response from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Park at Willowbrook, # 060170

Dear Ray Betz:

I am writing regarding the letter you submitted in response to the deficiency letter for the purpose of scoring Quantifiable Community Participation (QCP) points for the above-referenced application. Thank you for responding to the request.

The Texas Department of Housing and Community Affairs (the Department) has reviewed the letter and the additional documentation you submitted and compared it to the minimum requirements for the letter as required under the Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. Unfortunately, in our review, one or more requirements still have not been satisfied as further described below.

The Department submitted a deficiency notice on May 4, 2006, requesting information required by the QAP. A second notice was issued on May 9, 2006 requesting evidence that the organization is a neighborhood organization as defined by the QAP. In their May 15, 2006 response to both notices, the organization did not submit sufficient evidence that it is a neighborhood organization as defined by the QAP.

Therefore, because your deficiency has not been satisfied your organization's letter will not be considered further for scoring. However, please be assured that the Department values all public input and while the Department will be unable to assign points to your letter the Department will still record your input in the Application's file and provide the Board of the Department with a summary of your comment for their information and consideration.

Thank you again for your active involvement in our application process. If you have any questions, please do not hesitate to contact me at 512.475.2213.

Sincerely,

*Robbye Meyer*

Robbye Meyer  
Interim Director of Multifamily Finance Production

15



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation



*faxed & emailed 5/9/06*

May 9, 2006

Ray Betz  
Chief Executive Officer  
AAM 12 Ltd./Skillcraft Architectural Control Committee  
610 West Greens Road  
Houston, Texas 77067

Organization Fax: (281) 873-8156      Organization Email: rdagley@betzcompanies.com

Second Contact: *5/11 PC TO R. DAGLEY. LEFT VMA RE 5/44 5/9 NOTICES.*

Second Contact Fax:      Second Contact Email:

Second Contact Phone: *5/12 - PC FROM TONIA BENNETT. PLUS FORWARD NOTICE TO AEL. SENT VIA EMAIL, CONFIRMED REC'D.*

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Park at Willowbrook, # 060170      *5/15 - PC TO T. BENNETT. WILL RESPOND TODAY.*

Dear Ray Betz:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

**The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Wednesday, May 18. Submission by Friday, May 12 is encouraged to enable the Department to expedite the final review of your letter.**

In a final review of your letter and documentation submitted, it appears that your organization may be comprised of non-resident property owners who do not live in the boundaries of the organization. The QAP defines a "neighborhood organization" as, "an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood. While your organization may INCLUDE non-resident property owners as members, it may not be exclusively



**Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation**

comprised only of non-resident property owners.

In order for this letter to be eligible you must submit a certification that your neighborhood organization meets the definition above. The certification must also state that it is not comprised solely of non-resident property owners and that it does have active members who live near one another within the defined boundaries that contain the Development site.

Please note that this deficiency does not replace the outstanding deficiency notice sent to you on May 4 (attached). This is in addition to the other requirements.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by May 18.**

**Please note that should you not submit any or all of the required documentation as outlined above, your letter will not be eligible for QCP. However, the support or opposition will be presented to the Board for consideration as comment from your organization.**

If you have any questions please call Sharon Gamble at 1-800-525-0657 or directly at 512.475.4610. I am here to help you. Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter.

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production



*COPY*

610 W. Greens Road  
Houston, Texas 77067  
281-873-4444/phone 281-873-8156/fax  
www.betzcompanies.com

FACSIMILE TRANSMITTAL SHEET

TO: SHARON GAMBLE

FROM: TONIA BENNETT

COMPANY: TDHCA

DATE: MAY 15, 2006

Multifamily Housing Specialist

FAX NUMBER: 512-475-1895

TOTAL NO. OF PAGES INCLUDING COVER:

4

PHONE NUMBER:

SENDER'S REFERENCE NUMBER:

RE: ORCHARD PARK AT WILLOWBROOK

YOUR REFERENCE NUMBER:

#0160170

URGENT    FOR REVIEW    PLEASE COMMENT    PLEASE REPLY    FOR YOUR INFORMATION

Attached is the response to the deficiency letters dated May 4, 2006 & May 9, 2006.

*CONFIDENTIALITY NOTICE: The information contained in this message may be privileged and confidential. It may also be protected from disclosure or be a privileged work product or proprietary information. This information is intended for the exclusive use of the addressee(s). If you are not the intended recipient, please notify the sender immediately by replying to this message and you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee(s)), copying or taking of any action because of this information is strictly prohibited.*

# THE BETZ COMPANIES

COMMERCIAL REAL ESTATE SINCE 1976

May 11, 2006

Ms. Sharon Gamble  
Multi Family Housing Specialist  
P.O. Box 13941  
Austin, Texas 78711-3941

Re: Notices Dated May 4<sup>th</sup> and May 9<sup>th</sup> regarding Quantifiable Community Participation for Orchard Park at Willowbrook, #070170

Thank you for your letter, to which we are responding item by item below.

Item 1: Need Second Contact:

Here is an additional contact:

Ron Dagley  
610 West Greens Road  
Houston, TX 77067  
(281) 873-4444 x 226  
(281) 873-8156 fax

Item 2: Authority to Sign

AAM 12/Ltd./Skillcraft Architectural Control Committee was established by the Declaration of Architecture Covenants and Use Limitations on December 7, 1979, recorded at Clerk's File No. 9358185 of Harris County, Texas (previously sent), and including 13.7764 acres of land described therein. The Declaration recites at paragraph 8 that the Architectural Control Committee shall be composed of all owners of any portion of the 13.7764 acre tract. Each owner has a vote equal to the percentage ratio of his acreage to the total acreage. As reflected in the title report, Perry/Grant Ltd. owns 11.24 acres of the site. I signed the letter as the sole general partner of Perry/Grant Ltd. A copy of the partnership's report with the Secretary of State is attached.

Item 3: Boundaries and Development Site:

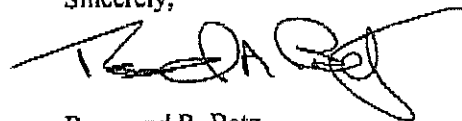
Attached is a map of the site within a bold line, and within the site the development location is noted by hashed lines.

Item 4: Owner Residency

We certify that the Architectural Control Committee meets the definition of a neighborhood organization, has a primary purpose of working to maintain or improve the general welfare of the property covered by the organization, is not comprised solely of non-resident property owners, but is comprised of three owners, one of which, Northwest Chinese Baptist Church, resides within the organization's defined boundaries at 13130 Perry Road.

Thank you for the opportunity to provide this additional information.

Sincerely,



Raymond R. Betz,  
AAM 12 Ltd./Skillcraft Architectural Control Committee

Reports Unit  
P.O. Box 12028  
Austin, Texas 78711-2028



Roger Williams  
Secretary of State

Office of the Secretary of State  
PERIODIC REPORT - LIMITED PARTNERSHIP

File Number: 2674610  
Filing Fee: \$50.00

Page 1 of 1

1. The limited partnership name is:  
**PERRY/GRANT LTD.**

2. It is organized under the laws of: *(set forth state or foreign country)*  
**Texas**

**FILED**  
In the Office of the  
Secretary of State of Texas

3. The name of the registered agent is:  
**Raymond R Betz**  
*(Make changes here):*

**APR 05 2006**

**Corporations Section**

4. The registered office address, which is identical to the business office address of the registered agent in Texas, is:  
**610 WEST GREENS ROAD  
Houston, TX 77067**

*(Make changes here-use street or building address; see Instructions):*

5. The address of the principal office in the United States where the records are to be kept or made available is:  
**610 WEST GREENS ROAD  
Houston, TX 77067**

*(Make changes here):*

6. The names and addresses of all general partners of the limited partnership are:  
*(Address changes for existing general partners are allowed. For name changes, see Instruction 6.)*

<u>Name</u>	<u>Address</u>	<u>City/ State/Zip</u>
Raymond R Betz	610 WEST GREENS ROAD	Houston, TX 77067

**Execution:**

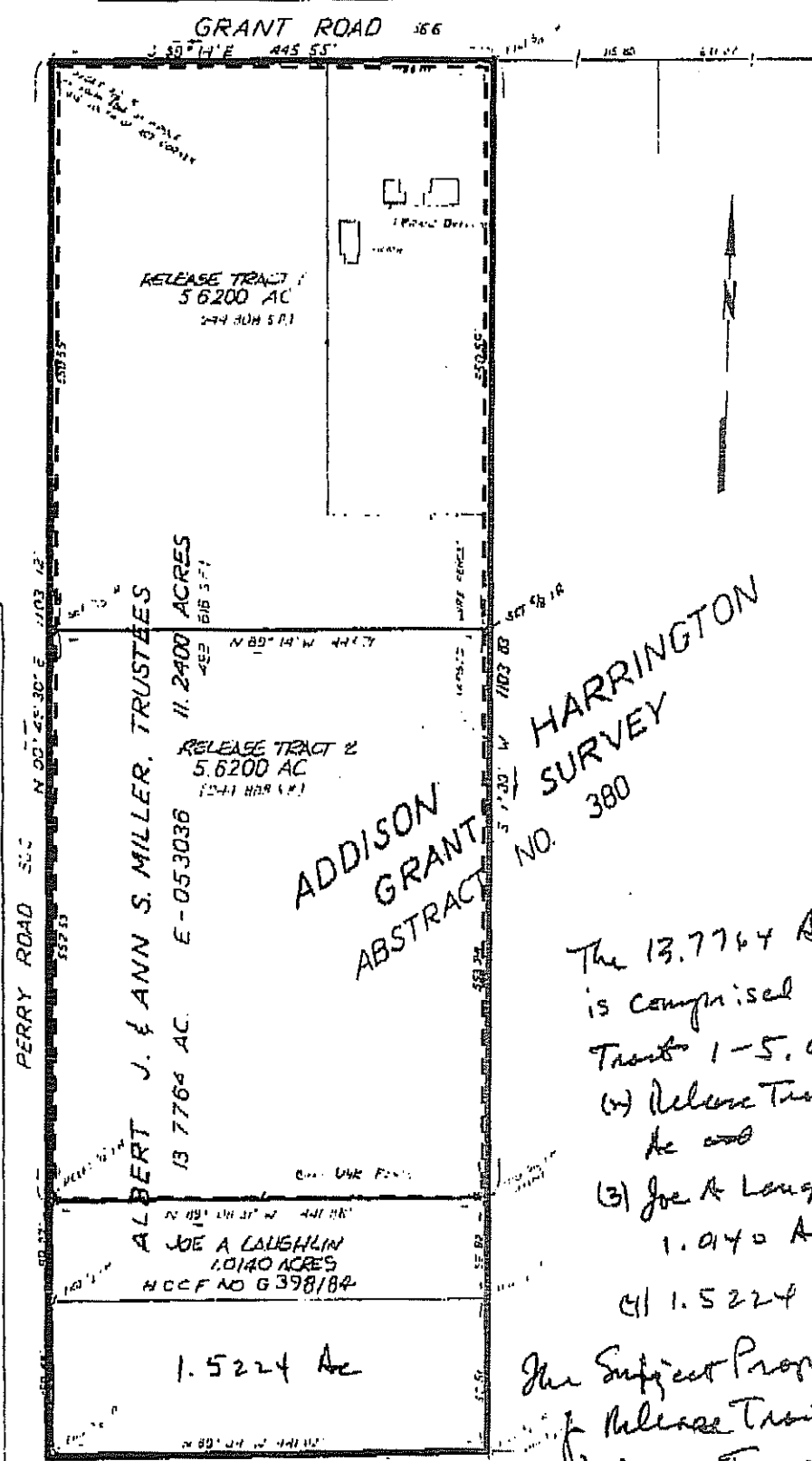
The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Date: 3/31/06

Signed on behalf of the limited partnership

Raymond R. Betz  
By (general partner)

**20**



The 13.7764 Acre Tract is comprised of (1) Release Tracts 1-5, 6200 Ac (2) Release Tract 2 - 5,620.0 Ac and (3) Joe A Laughlin Tract - 1.0140 Ac and (4) 1.5224 Ac tract

The Subject Property consists of Release Tract 1 and Release Tract 2



**Sharon Gamble**

---

**From:** Tonia Bennett [tbennett@betzcompanies.com]

**Sent:** Monday, May 15, 2006 3:58 PM

**To:** 'Sharon Gamble'

**Subject:** Needed Information for AAM 12 Ltd.

22

**Sharon Gamble**

---

Ms. Gamble,

Please find attached our response to the deficiency letters dated May 4, 2006 and May 9, 2006. Please let me know if you need any further information.

Thank you,

*Tonia Bennett*

**The BETZ Companies**

610 West Greens Road

Houston, TX 77067

281.873.4444 x221

281.873.8156 fax

Visit our website at [www.betzcompanies.com](http://www.betzcompanies.com)



**CONFIDENTIALITY NOTICE:** *The information contained in this message may be privileged and confidential. It may also be protected from disclosure or be a privileged work product or proprietary information. This information is intended for the exclusive use of the addressee(s). If you are not the intended recipient, please notify the sender immediately by replying to this message and you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee(s)), copying or taking of any action because of this information is strictly prohibited.*

23

**Sharon Gamble**

---

**From:** Tonia Bennett [tbennett@betzcompanies.com]  
**Sent:** Friday, May 12, 2006 9:18 AM  
**To:** 'Sharon Gamble'  
**Subject:** RE: Important: Needed information for AAM 12 Ltd.

Thank you.

---

**From:** Sharon Gamble [mailto:sharon.gamble@tdhca.state.tx.us]  
**Sent:** Friday, May 12, 2006 9:16 AM  
**To:** 'tbennett@betzcompanies.com'  
**Subject:** FW: Important: Needed information for AAM 12 Ltd.

Per your request.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]  
**Sent:** Tuesday, May 09, 2006 6:13 PM  
**To:** 'rdagley@betzcompanies.com'  
**Cc:** 'Sharon Gamble'  
**Subject:** Important: Needed information for AAM 12 Ltd.

So sorry, the last e-mail did not have the May 4 letter as I indicated I would attach. Thank you.

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Jennifer Joyce  
**Sent:** Tuesday, May 09, 2006 6:11 PM  
**To:** 'rdagley@betzcompanies.com'  
**Cc:** 'Sharon Gamble'  
**Subject:** Important: Needed information for

Please note the attached document outlining important information needed for the QCP letter submitted.

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

24

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

**From:** Jason Burr [mailto:jason.burr@tdhca.state.tx.us]  
**Sent:** Tuesday, May 09, 2006 5:32 PM  
**To:** 'Jennifer Joyce'  
**Subject:**

Thanks,

*Jason Burr*

Multifamily Data Specialist  
Texas Department of Housing and Community Affairs  
jason.burr@tdhca.state.tx.us  
ph 512.475.3986  
fax 512.475.0764

25



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Ray Betz  
Chief Executive Officer  
AAM 12 Ltd./Skillcraft Architectural Control Committee  
610 West Greens Road  
Houston, Texas 77067

*copy*

Organization Fax: (281) 873-8156      Organization Email: rdagley@betzcompanies.com

Second Contact:

Second Contact Fax:

Second Contact Email:

Second Contact Phone:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Park at Willowbrook, # 060170

Dear Ray Betz:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems relevant to clarify information contained in your letter. §50.9(g)(2) of the QAP indicates that, "If the Department determines to request additional information, it will do so by e-mail or facsimile to the e-mail address or facsimile number provided with the organization's letter. If the deficiencies are not clarified or corrected in the Department's determination within seven business days from the date the e-mail or facsimile is sent to the organization, the organization's letter will not be considered further for scoring and the organization will be so advised."

The items listed below are those items that need to be provided to the Department no later than 5:00 p.m. on Monday, May 15. Submission prior to that date is encouraged to enable the Department to expedite the final review of your letter.

The QCP letter you submitted did not contain a second contact person for your organization. If there is an additional contact person, provide the street and/or mailing addresses, phone numbers, and email addresses and/or facsimile numbers.



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

✓ You signed your letter on behalf of Perry/Grant, Ltd, by Raymond R. Betz Interests, Inc. and as its CEO. Provide evidence that you have authority to sign on behalf of AAM 12 Ltd./Skillcraft Architectural Control Committee.

✓ We reviewed the map you submitted, and your boundaries and the location of the development are still not clear. Submit a map marked to clearly identify the boundaries of your organization and the location of the proposed site within those boundaries.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be received, not merely postmarked, by May 15.

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

**THE BETZ**  
**COMPANIES**

COMMERCIAL REAL ESTATE SINCE 1976

May 11, 2006

Ms. Sharon Gamble  
Multi Family Housing Specialist  
P.O. Box 13941  
Austin, Texas 78711-3941

Re: Notices Dated May 4<sup>th</sup> and May 9<sup>th</sup> regarding Quantifiable Community Participation for Orchard Park at Willowbrook, #070170

Thank you for your letter, to which we are responding item by item below.

Item 1: Need Second Contact:

Here is an additional contact:

Ron Dagley  
610 West Greens Road  
Houston, TX 77067  
(281) 873-4444 x 226  
(281) 873-8156 fax

Item 2: Authority to Sign

AAM 12/Ltd./Skillcraft Architectural Control Committee was established by the Declaration of Architecture Covenants and Use Limitations on December 7, 1979, recorded at Clerk's File No. 9358185 of Harris County, Texas (previously sent), and including 13.7764 acres of land described therein. The Declaration recites at paragraph 8 that the Architectural Control Committee shall be composed of all owners of any portion of the 13.7764 acre tract. Each owner has a vote equal to the percentage ratio of his acreage to the total acreage. As reflected in the title report, Perry/Grant Ltd. owns 11.24 acres of the site. I signed the letter as the sole general partner of Perry/Grant Ltd. A copy of the partnership's report with the Secretary of State is attached.

Item 3: Boundaries and Development Site:

Attached is a map of the site within a bold line, and within the site the development location is noted by hashed lines.

Item 4: Owner Residency

We certify that the Architectural Control Committee meets the definition of a neighborhood organization, has a primary purpose of working to maintain or improve the general welfare of the property covered by the organization, is not comprised solely of non-resident property owners, but is comprised of three owners, one of which, Northwest Chinese Baptist Church, resides within the organization's defined boundaries at 13130 Perry Road.

Thank you for the opportunity to provide this additional information.

Sincerely,



Raymond R. Betz,  
AAM 12 Ltd./Skillcraft Architectural Control Committee

Reports Unit  
P.O. Box 12028  
Austin, Texas 78711-2028



Roger Williams  
Secretary of State

Office of the Secretary of State  
PERIODIC REPORT - LIMITED PARTNERSHIP

File Number: 2674610

Page 1 of 1

Filing Fee: \$50.00

1. The limited partnership name is:  
**PERRY/GRANT LTD.**

2. It is organized under the laws of: (set forth state or foreign country)  
**Texas**

~~FILED~~  
In the Office of the  
Secretary of State of Texas

3. The name of the registered agent is:  
**Raymond R Betz**  
(Make changes here):

APR 05 2006

Corporations Section

4. The registered office address, which is identical to the business office address of the registered agent in Texas, is:

**610 WEST GREENS ROAD  
Houston, TX 77067**

(Make changes here-use street or building address; see Instructions):

5. The address of the principal office in the United States where the records are to be kept or made available is:

**610 WEST GREENS ROAD  
Houston, TX 77067**

(Make changes here):

6. The names and addresses of all general partners of the limited partnership are:  
(Address changes for existing general partners are allowed. For name changes, see Instruction 6.)

<u>Name</u>	<u>Address</u>	<u>City/ State/Zip</u>
Raymond R Betz	610 WEST GREENS ROAD	Houston, TX 77067

**Execution:**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

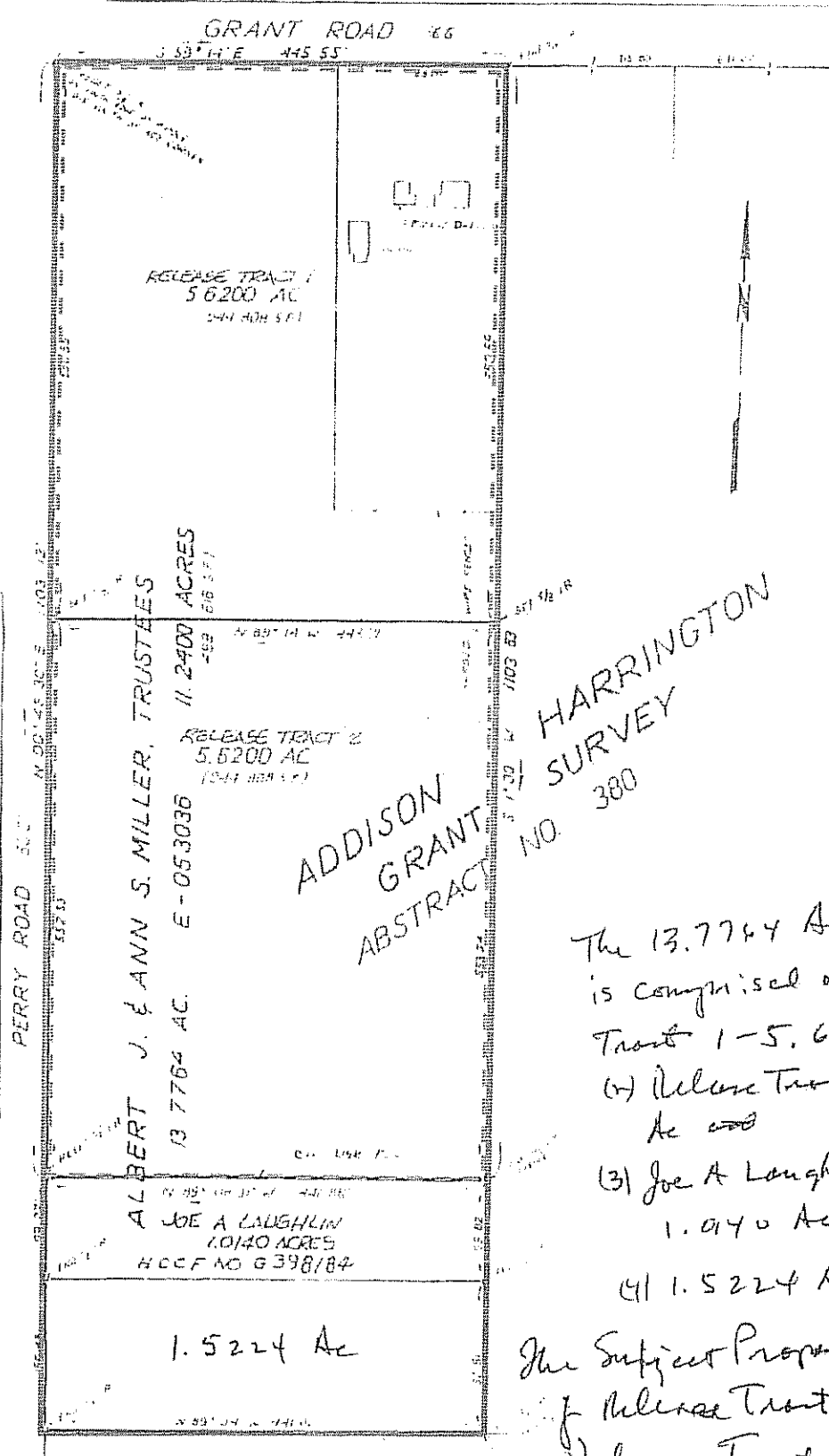
Date: 3/31/06

Signed on behalf of the limited partnership

Raymond R. Betz  
By (general partner)

29





The 13.7764 Acre Tract  
 is comprised of (1) Release  
 Tract 1 - 5.6200 Ac  
 (2) Release Tract 2 - 5.6200  
 Ac  
 (3) Joe A Laughlin tract -  
 1.0140 Ac and  
 (4) 1.5224 Ac tract

The Subject Property consists  
 of Release Tract 1 and  
 Release Tract 2

TRANSMISSION VERIFICATION REPORT

TIME : 05/09/2006 17:42  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BROG4J729978

DATE, TIME	05/09 17:41
FAX NO. /NAME	92818738156
DURATION	00:01:15
PAGE(S)	04
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 9, 2006

Ray Betz

Chief Executive Officer

AAM 12 Ltd./Skillcraft Architectural Control Committee

610 West Greens Road

Houston, Texas 77067

Organization Fax: (281) 873-8156      Organization Email: rdagley@betzcompanies.com

Second Contact:

Second Contact Fax:

Second Contact Email:

Second Contact Phone:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Park at Willowbrook, # 060170

Dear Ray Betz:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems

31

**Jennifer Joyce**

---

**From:** Jennifer Joyce  
**Sent:** Tuesday, May 09, 2006 6:11 PM  
**To:** 'rdagley@betzcompanies.com'  
**Cc:** 'Sharon Gamble'  
**Subject:** Important: Needed information for

Please note the attached document outlining important information needed for the QCP letter submitted.

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Jason Burr [mailto:jason.burr@tdhca.state.tx.us]  
**Sent:** Tuesday, May 09, 2006 5:32 PM  
**To:** 'Jennifer Joyce'  
**Subject:**

Thanks,  
**Jason Burr**  
Multifamily Data Specialist  
Texas Department of Housing and Community Affairs  
[jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us)  
ph 512.475.3986  
fax 512.475.0764

**Jennifer Joyce**

---

**From:** Jennifer Joyce  
**Sent:** Tuesday, May 09, 2006 6:13 PM  
**To:** 'rdagley@betzcompanies.com'  
**Cc:** 'Sharon Gamble'  
**Subject:** Important: Needed information for AAM 12 Ltd.

So sorry, the last e-mail did not have the May 4 letter as I indicated I would attach. Thank you.

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Jennifer Joyce  
**Sent:** Tuesday, May 09, 2006 6:11 PM  
**To:** 'rdagley@betzcompanies.com'  
**Cc:** 'Sharon Gamble'  
**Subject:** Important: Needed information for

Please note the attached document outlining important information needed for the QCP letter submitted.

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Jason Burr [mailto:jason.burr@tdhca.state.tx.us]  
**Sent:** Tuesday, May 09, 2006 5:32 PM  
**To:** 'Jennifer Joyce'  
**Subject:**

Thanks,

**Jason Burr**

Multifamily Data Specialist  
Texas Department of Housing and Community Affairs  
jason.burr@tdhca.state.tx.us  
ph 512.475.3986  
fax 512.475.0764

33

## Jennifer Joyce

---

**From:** Jennifer Joyce  
**Sent:** Tuesday, May 09, 2006 6:11 PM  
**To:** 'rdagley@betzcompanies.com'  
**Cc:** 'Sharon Gamble'  
**Subject:** Important: Needed information for

Please note the attached document outlining important information needed for the QCP letter submitted.

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Jason Burr [mailto:jason.burr@tdhca.state.tx.us]  
**Sent:** Tuesday, May 09, 2006 5:32 PM  
**To:** 'Jennifer Joyce'  
**Subject:**

Thanks,  
**Jason Burr**  
Multifamily Data Specialist  
Texas Department of Housing and Community Affairs  
[jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us)  
ph 512.475.3986  
fax 512.475.0764

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Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

You signed your letter on behalf of Perry/Grant, Ltd, by Raymond R. Betz Interests, Inc. and as its CEO. Provide evidence that you have authority to sign on behalf of AAM 12 Ltd./Skillcraft Architectural Control Committee.

We reviewed the map you submitted, and your boundaries and the location of the development are still not clear. Submit a map marked to clearly identify the boundaries of your organization and the location of the proposed site within those boundaries.

Please submit the above requested documentation to the attention of Sharon Gamble, Multifamily Housing Specialist at [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us) or via fax at 512.475.1895 or 800.733.5120. While email and fax responses are strongly encouraged, the regular mail address for responses is: Sharon Gamble, TDHCA, Multifamily Finance Production, P.O. Box 13941, Austin TX 78711-3941. Note that the documents must be **received, not merely postmarked, by May 15.**

Thank you again for your active involvement in our application process and I look forward to receiving the requested documentation to enable a final review of your letter. If you have any questions please call Sharon Gamble at 512.475.4610.

**Please be advised that Sharon Gamble will be in her office on Thursday, May 4 until 5:00 pm but will not be in her office on Friday, May 5. She will return on Monday, May 8 and will return all messages at that time.**

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production

TRANSMISSION VERIFICATION REPORT

TIME : 05/04/2006 14:47  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	05/04 14:47
FAX NO./NAME	92818738156
DURATION	00:00:41
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Multifamily Finance Production Division  
2006 Quantifiable Community Participation

May 4, 2006

Ray Betz

Chief Executive Officer

AAM 12 Ltd./Skillcraft Architectural Control Committee

610 West Greens Road

Houston, Texas 77067

Organization Fax: (281) 873-8156

Organization Email: rdagley@betzcompanies.com

Second Contact:

Second Contact Fax:

Second Contact Email:

Second Contact Phone:

Re: Letter from your Neighborhood Organization for Quantifiable Community Participation  
Orchard Park at Willowbrook, # 060170

Dear Ray Betz:

I am writing regarding the letter you submitted for the purpose of scoring Quantifiable Community Participation points for the above-referenced application. Thank you for providing your input.

The Department has reviewed the letter you submitted and compared it to the minimum requirements for the letter as required under the 2006 Qualified Allocation Plan and Rules (QAP) that govern the Housing Tax Credit Program this year. In our review, one or more requirements have not been satisfied. As permitted under the QAP, the Department may request that you provide additional information or documentation that it deems

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**Sharon Gamble**

---

**From:** Sharon Gamble  
**Sent:** Thursday, May 04, 2006 3:20 PM  
**To:** 'rdagley@betzcompanies.com'  
**Subject:** QCP Deficiency Letter #060170

Here is a soft copy of the document that was faxed to you today. I will be in my office today until 5:00 pm. Please note that I will be out of the office on Friday, May 5. I will be back on Monday morning. If you have any questions, you may call me or email me and I will contact you on Monday. Please reply to this email as soon you receive it as confirmation of receipt.

Sharon D. Gamble  
Multifamily Housing Specialist  
Texas Department of Housing  
and Community Affairs  
(512) 475-4610

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**THE BETZ**  
**COMPANIES**  
 COMMERCIAL REAL ESTATE SINCE 1976

March 31, 2006

RECEIVED  
 MAR 31 2006  
 LIHTC

Ms. Edwina Carrington  
 Executive Director  
 Attn: Neighborhood Input  
 Texas Department of Housing and Community Affairs  
 221 East 11<sup>th</sup> Street  
 Austin, TX 78701-2410

**RE: Quantifiable Community Participation  
 Development #060170  
 Development: Orchard Park at Willowbrook  
 Development Location: 9701 Grant Rd., Houston, TX 77070**

As the managing agent for the majority owner of the AAM 12 Ltd./Skillcraft Architectural Control Committee, I am writing to provide the entity's support for the above-referenced development which is located at 9701 Grant Road in Houston, Harris County. AAM 12/Ltd./Skillcraft Architectural Control Committee is a qualified Neighborhood Organization as further described below.

The boundaries of this entity are the boundaries of the 13.7764 acre tract of land off the west end of the 100 acre tract out of the Addison Harrington Grant, as recorded in Abstract No. 360 in Harris County. Enclosed is documentation that establishes the entity's boundaries. The proposed development is within those boundaries. Also enclosed is a map with the geographic boundaries of the entity and the proposed development site clearly marked within those boundaries.

This entity is an organization of property owner's within the entity's defined boundaries and has the primary purpose of instituting and carrying out a uniform plan or scheme for the development and sale of the property. Attached are our Declaration of Restrictive Covenants and Use Limitations that identify the boundaries of the entity and clearly indicate the purpose of the entity. The committee has 3 members. The committee reached its decision to support the proposed development by polling the members. This entity is on record, as of March 1, 2006, with Harris County, in which the development is proposed to be located.

This entity was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round, nor has the entity or any

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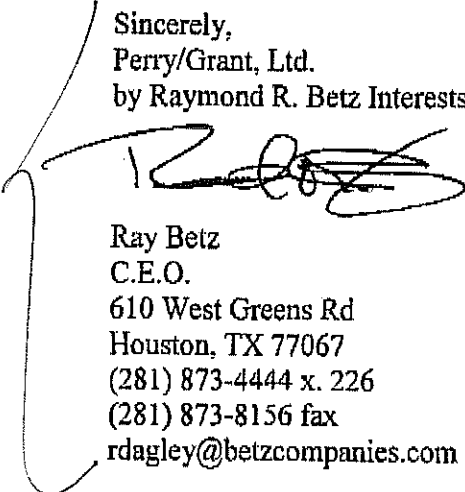
member of the entity accepted money or a gift to cause the association to take its position of support or opposition. The Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round. The Applicant has not provided any "production" assistance for any application in the Application Round.

The entity supports the proposed development for the following reasons:

1. A senior living community would fit the quiet enjoyment of the area;
2. The architect has a track record of designing projects that enhance and blend with the surroundings;
3. The area is growing and lacks affordable senior living options;
4. Area families will appreciate the option of bringing senior family members within their reach care;
5. The Methodist Willowbrook Hospital and other senior amenities are located nearby;  
and
6. The Applicant has a good reputation locally for community-friendly developments.

Thank you for the opportunity to provide our input. We encourage you to award credits to Orchard Park at Willowbrook

Sincerely,  
Perry/Grant, Ltd.  
by Raymond R. Betz Interests, Inc., Its Managing Agent



Ray Betz  
C.E.O.  
610 West Greens Rd  
Houston, TX 77067  
(281) 873-4444 x. 226  
(281) 873-8156 fax  
rdagley@betzcompanies.com

Attachments:

Map of Entity's Boundaries showing Development Site

Declaration of Restrictive Covenants and Use Limitations on Record with Harris County



*Leath*

**6358185**

*146-88-2376*

REC-127

**146-88-2376**

**DECLARATION OF RESTRICTIVE COVENANTS  
AND USE LIMITATIONS**

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

*19*

THAT AAM-12 LTD., by and through ALBERT J. MILLER and ANN S. MILLER as General Partners, ALBERT J. MILLER, Trustee, and ANN S. MILLER, Trustee, and joined by SKILKRAFT PLUMBING CONTRACTORS, INC., a Texas corporation, for the purposes of instituting and carrying out a uniform plan or scheme for the development and sale of a 13.7764 acre tract of land in Harris County, Texas, described by notes and bounds on Exhibit "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes called the "land", do hereby DECLARE, ADOPT, IMPOSE and DESIGNATE, and by these presents have DECLARED, ADOPTED, IMPOSED and DESIGNATED, on behalf of AAM-12 LTD. and SKILKRAFT PLUMBING CONTRACTORS, INC., and their successors, legal representatives and assigns, as the owner of all such lands the hereinafter recited restrictive covenants and use limitations covering all such lots thereof, with it being expressly herein provided that all such restrictive covenants and use limitations shall become a part of all contracts for sale, contracts for deed, deeds and other legal instruments whereby the title or possession of any part or portion of such property as hereafter conveyed or transferred, such restrictive covenants and use limitations being as follows, to-wit:

1. That all of the above described lands and premises used hereafter for non-residential purposes as approved by the herein established Architecture Control Committee shall be subject to these restrictions. Any substantial change in use or purpose must be approved in advance from such Architecture Control Committee and such approval shall not be unreasonably denied. In no event whatsoever will any portion of the above described land be used at any time for any purpose which results in a deterioration or diminution in value of any other portion of the above described land.

146-88-2377

2. Any structure erected on the above described land, or any portion thereof, shall be set back at least thirty (30) feet from the right of way line of the roadway adjacent thereto and shall be constructed of material whose quality is equivalent to or better than Stran Steel. Such structure must be constructed with a minimum roof overhang of four (4') feet for sides exposed to public roadways and two (2') feet for all other sides. Any driveways to the rear of such improvements must be constructed of concrete. The majority of the first floor of the surface area exposed to public roadways must be covered with a brick veneer or stone rainscot. Such rainscot must wrap around each corner of such exposure for a minimum distance of ten (10') feet. A masonry panel whose minimum height is ten (10') feet will be required above the main entrance of the structure.

3. Within the above required thirty (30') foot setback shall be constructed a sidewalk parallel to the right of way line of the roadway adjacent thereto and a concrete parking lot with curb, provided, however, that no more than seventy-five (75%) percent of the total square feet in such setback frontage will be used for parking and the balance shall be landscaped as required by the Architecture Control Committee. Notwithstanding any minimum landscaping requirements established by the Architecture Control Committee, the landscaping of such setback frontage must include a ten (10') foot evergreen or live oak tree. Upon completion such parking lot shall not be used for construction equipment parking or overnight parking.

4. The northernmost and southernmost boundary lines of any tract conveyed out of the above described land shall be fenced with a seven (7') foot cable link fence with cross hatch aluminum. The quality of such fences shall equal or exceed that of a Sear's "Custodian" framework. Security tops are permitted. Provided, however, the northernmost boundary line of the northernmost tract of land shall not be required to be fenced. Any tract whose boundaries are immediately adjacent to such a fence shall not be required to fence that boundary line. Maintenance of such fences shall be the equal responsibility of the owners of the tracts adjacent thereto.

5. Material storage to a height of ten (10') feet will be allowed in that portion of the property which does not front on any public road. Such

146-88-2378

storage may temporarily exceed ten (10') feet if covered with a steel lean-to. In no event whatsoever shall rubbish be allowed to accumulate for more than one (1) week.

6. Floodlights may be used so long as they do not exceed fifteen (15') feet in height and focus upon the owner's property. Loud speakers may be used for music and employee communications, so long as volume levels are restricted. Use of such speakers are restricted to the hours of 7:00 A.M. to 8:00 P.M.

7. All owners of any tract conveyed out of the land agree to join any water and sewage district to be created and to bear a proportionate share of such expenses based upon the ratio of such owner's acreage to the above described land.

8. All plans and specifications for construction of any improvements on the above described land, or on any portion conveyed by AAM-12 LTD., shall be approved by the Architecture Control Committee. Until such time as AAM-12 LTD. has sold or conveyed all of the above described land, the Architecture Control Committee shall be composed solely of AAM-12 LTD. acting by and through its General Partners. After the sale or conveyance of all of the above described land, the Architecture Control Committee shall be composed of all owners of any portion of the above described land. Each member shall be entitled to notice of meetings and to a vote equal to the percentage ratio of his acreage to the total above described land. The decisions of the Architecture Control Committee shall be by simple majority of the votes cast. No structure, building or fence shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architecture Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, use and location with respect to topography and finish grade elevation. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant.

The restrictive covenants and use limitations herein provided for on such land are hereby declared to be covenants running with the land and shall be fully binding upon all persons acquiring title to any such parcels, including

145-88-2379

the right to acquire title to any such parcels by contract or otherwise, of said land whether by descent, devise, purchase or otherwise, and any person by the acceptance to title to any parcel of said land, including any person procuring the right by contract to acquire title to any parcel of said land, shall thereby agree and covenant to abide by and fully perform the foregoing restrictive covenants and use limitations thereon, and shall be conclusively presumed to have constructive notice of the restrictive covenants and use limitations herein provided for on such land by virtue of the filing hereof in the Deed Records of Harris County, Texas, and with this being true without regard to whether or not such person has actual notice of these restrictive covenants and use limitations on such land by reference hereto in the instrument or instruments under which he acquired title to, or the right to acquire title to, any parcel of land.

The restrictive covenants and use limitations herein published and impressed on all parcels of said lands shall be binding on all of the owners of parcels or portions of said land for a period of fifteen (15) years from and after the date hereof, and from and after such date shall automatically be extended for an additional term of fifteen (15) years unless by a vote of three-fourths (3/4) of the record owners of such land calculated on an acreage basis, taken prior to expiration of said fifteen (15) years and filed for record in the Deed Records of Harris County, Texas, it is agreed that these restrictive covenants and use limitations shall terminate as to said land.

It is expressly understood that the undersigned, its successors, legal representatives or assigns, or any one or more of the owners of parcels of said land, shall have the right to enforce the restrictive covenants and use limitations herein provided for on such land by injunction, either prohibitory or mandatory or both, in order to prevent a breach thereof or to enforce the observance thereof, which remedy however shall not be exclusive and the undersigned, its successors, legal representatives and assigns, or any other person or persons, owning parcels of said land, injured by virtue of any breach of the restrictive covenants and use limitations herein provided for on such land shall accordingly have their remedy for the damages suffered by any breach, and in

FILED  
 DEC 12 4 28 PM 1979  
*Charles S. Beckman*  
 COUNTY CLERK  
 HARRIS COUNTY, TEXAS

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146-88-2380

connection therewith it is controllingly understood that in the event of a breach of these restrictive covenants and use limitations by the owner of any parcel of said land it will be conclusively presumed that the owners of other parcels of said land have been injured thereby.

WITNESS OUR HANDS this the 7th day of DECEMBER 1979.

AAH-12 LTD.

*602*

BY: *Albert J. Miller*  
ALBERT J. MILLER, General Partner

BY: \_\_\_\_\_  
ANN S. MILLER, General Partner

*Albert J. Miller*  
ALBERT J. MILLER, Trustee

*Ann S. Miller*  
ANN S. MILLER, Trustee

SKELKRAFT PLUMBING CONTRACTORS, INC.

BY: *John E. Michel Pass*

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared ALBERT J. MILLER, an General Partner of AAH-12 LTD. and as Trustee, known 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, in the capacity therein stated and as the act and deed of said AAH-12 LTD. and as the act and deed of said Trustee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 7th day of December, 1979.



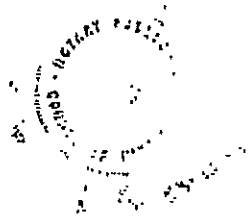
*Deborah Kay Ellis*  
NOTARY PUBLIC in and for  
Harris County, TEXAS  
Name: *Deborah Kay Ellis*  
My Commission Expires: *4-3-80*

146-88-2381

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared ANN S. MILLER, as General Partner of AAM-12 LTD. and as Trustee, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said AAM-12 LTD. and as the act and deed of said Trustee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 9th day of August, 1979.

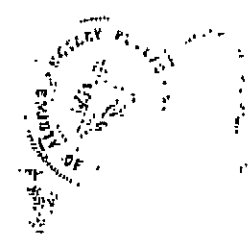


Deborah Kaye Ellis  
NOTARY PUBLIC in and for  
Harris County, T E X A S  
Name: DEBORAH KAYE ELLIS  
My Commission Expires: 4-3-80

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Frank B. Lewis of SKILKRAFT PLUMBING CONTRACTORS, INC., known 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, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 6th day of Dec, 1979.



Frank B. Lewis  
NOTARY PUBLIC in and for  
Harris County, T E X A S  
Name: FRANK B. LEWIS  
My Commission Expires: 11-30-80

Ret. to:  
Capital Title Co. Inc.  
Eleven Greenway Plaza Suite 100  
Houston, Texas 77046

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146-88-2382

S U R V E Y O F

11.7754 ACRES TRACT OF LAND BEING THE WEST END OF TRACT BEARING 100 ACRES TRACT OUT OF THE ADDISON HARRINGTON UNIT, ABSTRACT NO. 350, IN HARRIS COUNTY, TEXAS, CONVEYED TO GUY D. REATH BY J. V. REATH AND WIFE, FLORENCE, SAID BY DEED DATED IN THE PUBLIC COUNTY DEED RECORDS, and being more particularly described as follows:

BEING at a 5/8 inch iron rod set at fence corner for the Northeast corner of this tract at the intersection of the Easterly right-of-way line of Perry Road and the Southerly right-of-way line of Grant Road as occupied, from which a 5/8 inch iron rod found in the Easterly right-of-way line of Perry Road bears N 89° 14' 00" W a distance of 92.42 feet;

THENCE S 89° 14' 00" E along the Southerly right-of-way line of Grant Road (55.6 feet wide) and along a fence line, a distance of 445.55 feet to a 5/8 inch iron rod set for the northeast corner of this tract at fence corner, from which a 3/4 inch iron rod found for an occupied fence corner at a 20' wide tract out of said 100 acre tract, recorded in Volume 1122, Page 702 of the Harris County Deed Records, bears S 89° 14' 00" E along the Southerly right-of-way line of Grant Road a distance of 945.64 feet;

THENCE S 70° 00' W along a fence line a distance of 1304.41 feet to a 3/8 inch iron rod set for corner in the Southerly line of said 100 acre tract 9.85 feet North of fence corner, from which an old 1 inch iron pipe found in the Easterly line of said 100 acre tract bears S 89° 01' 00" E along the Southerly line of said 100 acre tract a distance of 949.21 feet;

THENCE N 89° 04' 00" W along the Easterly line of said 100 acre tract a distance of 491.02 feet to a 3/4 inch iron rod found for corner at fence corner in the Easterly right-of-way line of Perry Road (50 feet wide);

THENCE N 0° 48' 30" E along the Easterly right-of-way line of Perry Road and along a fence line, bearing 31.0 feet, right of and perpendicular to a 3/8 inch iron rod at 612.97 feet, in all a total distance of 1353.12 feet to the PLACE OF BEGINNING, and containing 13.7754 acres of land.

V. T. BARKSPRESSER

STATE OF TEXAS  
 COUNTY OF HARRIS

I HEREBY CERTIFY that the foregoing was filed in the Public Records on the date and at the time herein shown by me, and was duly acknowledged, in the presence of the Public Records of Harris County, Texas as

DEC 12 1979

*John L. ...*  
 COUNTY CLERK,  
 HARRIS COUNTY, TEXAS

# THE BETZ COMPANIES

Raymond R. Betz Interests, Inc.  
Betz Commercial Brokerage, Inc.

Betz Realty Investors, LC  
Betz/US Storage Ventures

# Fax

RECEIVED  
MAR 9 1 2006  
LIHTC

To: TX Dept of Housing & Community Affairs, Attn: Executive Director  
From: Tonia Bennett

Fax: 512-475-0764 Pages: 11

Phone: Date: November 8, 2005

Re: Quantifiable Community Participation for Development #060170

610 West Greens Road, Houston, Texas 77067-4594 281/873-4444 Fax 281/873-8156  
Investment Real Estate Commercial Brokerage Property Management Development Leasing

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**2006 HTC APPLICATION CYCLE  
REVIEW OF QCP LETTER  
§50.9(i)(2) OF THE 2006 QAP**

Dev. Name: ORCHARD PARK AT WILLOW BROOK Dev. Number: 080170  
 Organization Name: AAM 12 LTD / SKILLMIST ARCHITECTURAL Date Letter Received: 3/31/06  
 Reviewer Name: S. GAMBLE CONTROL COMMITTEE Date Reviewed: 4/16/06

**Part I: Eligibility Requirements (must be met to be scored) – Review Closely Even if Template Utilized!**

1.	Letter (and attachments) received by Dept. no later than April 1, 2006? <b>If No, do not proceed. Letter is ineligible.</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
2.	a. Does the letter state the name of the development? b. Does the letter state the location of the development?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3.	Is the letter signed by the chairman of the board, chief executive officer, or comparable head of the organization?	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
4.	a. Does the letter provide the signer's street or mailing address? b. Does the letter provide a phone number? c. Does the letter provide an e-mail address or fax number?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
5.	a. Does the letter provide the extra contact's street or mailing address? b. Does the letter provide the extra contact's a phone number? c. Does the letter provide extra contact's e-mail address or fax number?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
6.	a. Does the letter establish that the organization has boundaries? b. Does the letter state what the boundaries are and establish that the boundaries contain the proposed development site? c. Is a map provided showing the geographic boundaries of the organization and the proposed Development site <u>clearly marked within those boundaries</u> ?  Note: Boundaries utilized must be those in effect on March 1, 2006. Boundaries must entirely contain the development site (partial not okay).	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
7.	Are there articles of incorp., bylaws or organizational docs provided? a. Do they show the organization was created by March 1, 2006? b. Do they identify the boundaries? c. Are the boundaries the same as those in the letter and on the map? d. Are the officers identified? e. Does it clearly indicate the purpose of the organization?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

8.	<p>Does the letter and/or documentation establish that the organization is a "neighborhood organization?"</p> <p>A "neighborhood organization" is defined as an organization <u>of persons living near one another</u> within the organization's defined boundaries that contain the proposed Development site and that has a <u>primary purpose of working to maintain or improve the general welfare of the neighborhood</u>. More specifically:</p> <p>"Neighborhood organizations" <b>DO</b> include: homeowners associations, property owners associations, and resident councils (only for Rehabilitation or demolition with New Construction applications in which the council is commenting on the rehabilitation or demolition/ New Construction of the property occupied by the residents).</p> <p>"Neighborhood organizations" <b>DO NOT</b> include: broader based "community" organizations; organizations that have no members other than board members; chambers of commerce; community development corporations; churches; school related organizations; Lions, Rotary, Kiwanis, and similar organizations; Habitat for Humanity; Boys and Girls Clubs; charities; public housing authorities; or any governmental entity.</p> <p>Organizations whose boundaries include an entire county or larger area are not "neighborhood organizations."</p> <p>Organizations whose boundaries include an entire city are generally not "neighborhood organizations."</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9.	<p>Does the letter and/or documentation show that the organization was:</p> <p>a. on record as of March 1, 2006</p> <p>b. With the state or county in which the Development is proposed to be located? Check appropriate recording entity: (City is NOT acceptable)</p> <p><input type="checkbox"/> Secretary of State (Shows status - status cannot be "forfeited", "dissolved" or similar status)</p> <p><input type="checkbox"/> TDHCA (is on approved TDHCA Registry List)</p> <p><input checked="" type="checkbox"/> County Clerk record/letter or for property owner's association county record showing management certificate</p> <p>Only showing a request to state/county asking to be on record is not enough!</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
10.	<p>a. Does the letter state the total number of members of the organization?</p> <p>b. Does the letter provide a brief description of the process used to determine the members' position of support or opposition?</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
11.	<p>Does the letter state that the organization was not formed by any Applicant, Developer or any employee or agent of any Applicant in the 2006 Housing Tax Credit application round; that the organization, and any members, did not accept money or a gift to cause the neighborhood organization to take its position of support or opposition; and that the Applicant has not provided any assistance, other than education and information sharing, to the neighborhood organization for any application in the Application Round.</p>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

**Part II: Deficiency (must be resolved to be scored)**

Were all items originally complete? Yes  No

If any items are not provided or are not clearly satisfied, a deficiency letter must be provided to the organization. Describe the deficiency(ies) briefly:

NO SECOND CONTACT; BAD MAP; NO SIGNING AUTHORITY

Date deficiency letter issued: \_\_\_\_\_

Via Fax  or Email

Due Date (MUST be 7 business days from date sent): \_\_\_\_\_

Date deficiencies received: \_\_\_\_\_

Were all deficiencies resolved? Enter staff initials: \_\_\_\_\_

Yes  No

**Part III: Site Confirmation**

Prior to assigning a score: Compare the development location in the letter and map to the site location in the Application.

Is it the same site? Enter staff initials: JB

Yes  No

**Part III: Scoring**

In general, letters that meet the requirements of the QAP, will be scored as follows. Note if concerns of fair housing, etc. Look at letter and evidence together for points. **CHECK ONLY ONE BOX!!**

Letter must clearly and concisely state each reason for the organization's support or opposition	SUPPORT	OPPOSITION
Letter and evidence establish three+ reasons	<input checked="" type="checkbox"/> +24	<input type="checkbox"/> 0
Letter and evidence establish two reasons	<input type="checkbox"/> +18	<input type="checkbox"/> +6
Letter and evidence establish one reason	<input type="checkbox"/> +13	<input type="checkbox"/> +11
No reason established / Reason Unclear - Neutral	<input type="checkbox"/> +12	
<b>FINAL SCORE (Enter from box checked above):</b>		

Has this been entered in the 2006 Database?

Yes  No

**060219**

**Providence Estates**



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Providence Estates- 060219**

This Applicant is appealing the eligibility of the scoring determination for the Application.

The scoring was reduced because of the following:

§50.9(i)(23)- Third Party Funding Commitment Outside of a QCT: In order to be eligible for this point the application must be located outside of a Qualified Census Tract (QCT). Evidence is required to be submitted in the application to substantiate the point for this item. In a deficiency notice dated April 11, 2006, the applicant was provided the opportunity to submit evidence that the Development site is located outside a QCT, but the applicant did not respond to that request because he did not notice that the documentation was requested.

It should be noted that the applicant submitted the deficiency response at 4:55 pm on the day that the deficiency documentation was due by 5:00 pm. Had he submitted the documentation even a few hours earlier, staff would have most likely identified that the documentation was not submitted and would have contacted the applicant to get the evidence by 5:00 pm.

The applicant is appealing the scoring determination based on the applicant's assertion that he responded to the deficiency item that contained the request; however, the applicant overlooked the request for evidence of location outside a QCT, as it was in the last sentence of the deficiency item. The applicant provided documentation to address the deficiency request as an attachment to the appeal letter.

It is clear that the applicant did not submit the required evidence in the application or within the deficiency response period as required by §50.9(d)(4) of the 2006 Qualified Allocation Plan and Rules (QAP).

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant: R.T. Louise-Airport, Ltd.  
Site Location: S.E. Corner of Louise & Airport  
City/County: Rosenberg/ Fort Bend County  
Regional Allocation Category: Urban/Exurban  
Set-Aside: None  
Population Served: Family  
Region: 6  
Type of Development: New Construction  
Units: 168  
Credits Requested: \$1,000,000

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

### Deficiency Language

(4) Administrative Deficiencies. 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. Because the review for Eligibility and Selection, and Threshold Criteria may occur separately, Administrative Deficiency requests may be made several times. The Department staff will request clarification or correction in a deficiency notice in the form of a facsimile, email (if an email address is provided by the Applicant) and a telephone call to the Applicant and one other party identified by the Applicant in the Application advising that such a request has been transmitted. If Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling 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 seven 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.

§50.9(i)(23):

**(23) Third-Party Funding Commitment Outside of Qualified Census Tracts.** Applications may qualify to receive 1 point for this item. (2306.6710(e)(1)) Evidence that the proposed Development has documented and committed third-party funding sources and the Development is located outside of a Qualified Census Tract. The provider of the funds must attest to the fact that they are not the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application and attest that none of the funds committed were first provided to the entity by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application. The commitment of funds (an application alone will not suffice) must already have been received from the third-party funding source and must be equal to or greater than 2% of the Total Development costs reflected in the Application. Funds from the Department's HOME and Housing Trust Fund sources will not qualify under this category. The third-party funding source cannot be a loan from a commercial lender.

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Deny the applicant's appeal of scoring of 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Issue a determination on the appeal.

**Background and Recommendations**

**I. Providence Estates- 060219**

This Applicant is appealing the eligibility of the scoring determination for the Application.

The scoring was reduced because of the following:

§50.9(i)(19)- Qualified Census Tracts with Revitalization: In order to be eligible for this point the application must be located inside of a Qualified Census Tract. You are not eligible for this point because you are located outside a Qualified Census Tract. In a deficiency notice dated April 11, 2006 you were provided the opportunity to submit evidence that the Development site is located outside a QCT. You did not respond to that request. (1 point requested, 0 points awarded)

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	R.T. Louise-Airport, Ltd.
Site Location:	S.E. Corner of Louise & Airport
City/County:	Rosenberg/ Fort Bend County
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Family
Region:	6
Type of Development:	New Construction
Units:	168
Credits Requested:	\$1,000,000

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

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# **Board Appeal/ Executive Director Appeal**

VIA FACSIMILE: 512-475-0764

May 18, 2006

Jennifer Joyce  
Texas Department of Housing & Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

RE: Providence Estate, TDHCA Number 060219

RECEIVED  
MAY 18 2006  
LH/TC

Ms. Joyce,

Please accept this letter as the formal appeal of R.T. Louise-Airport, Ltd. for the proposed Providence Estates, TDIICA #060219, in reference to the Final Scoring Notice which was received on May 15<sup>th</sup>, 2006. The partnership is appealing the "Score Awarded by Department (Does not include QCP and Elected Official Points)" – whereas 1 point was deducted since we did not provide evidence that the Development Site is located outside a QCT as requested in a deficiency noticed dated April 11<sup>th</sup>, 2006.

The partnership did respond to the deficiency notice in a timely basis, however, in our haste, did not realize there was an additional request to Item #5 of the deficiency notice. While the partnership responded to the question in Item #5, it did not provide evidence that the Development Site is located outside a QCT, as it was requested in the last sentence of Item #5 of the deficiency notice.

Enclosed, you will evidence showing that the Development Site is located in census tract 6752.00, which is not a QCT. Should you need any further information, please let me know. The partnership therefore respectfully requests that you consider our appeal for Providence Estates.

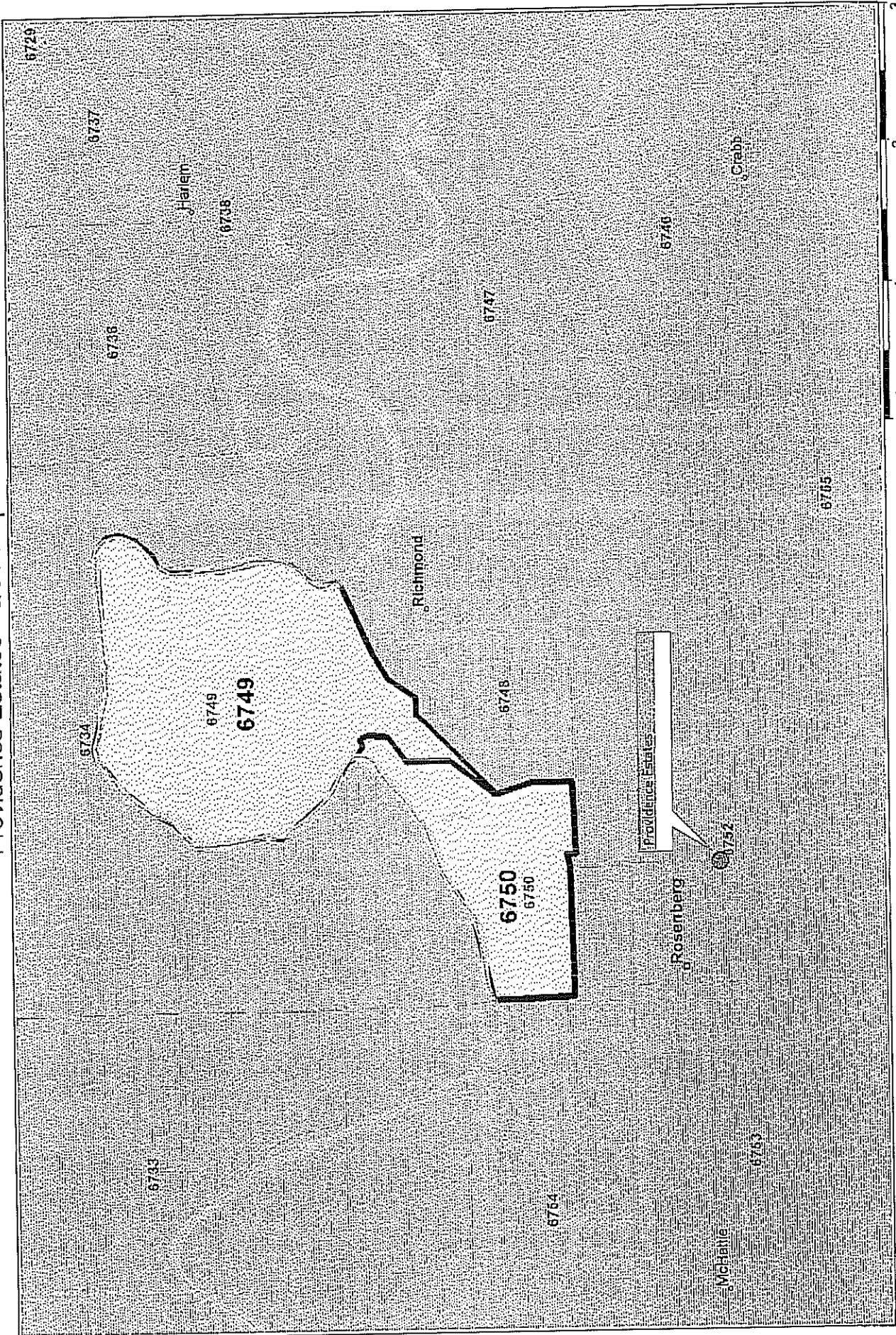
Thank your for your time and consideration.

Sincerely,



Manish Verma  
R.T. Louise-Airport, Ltd.

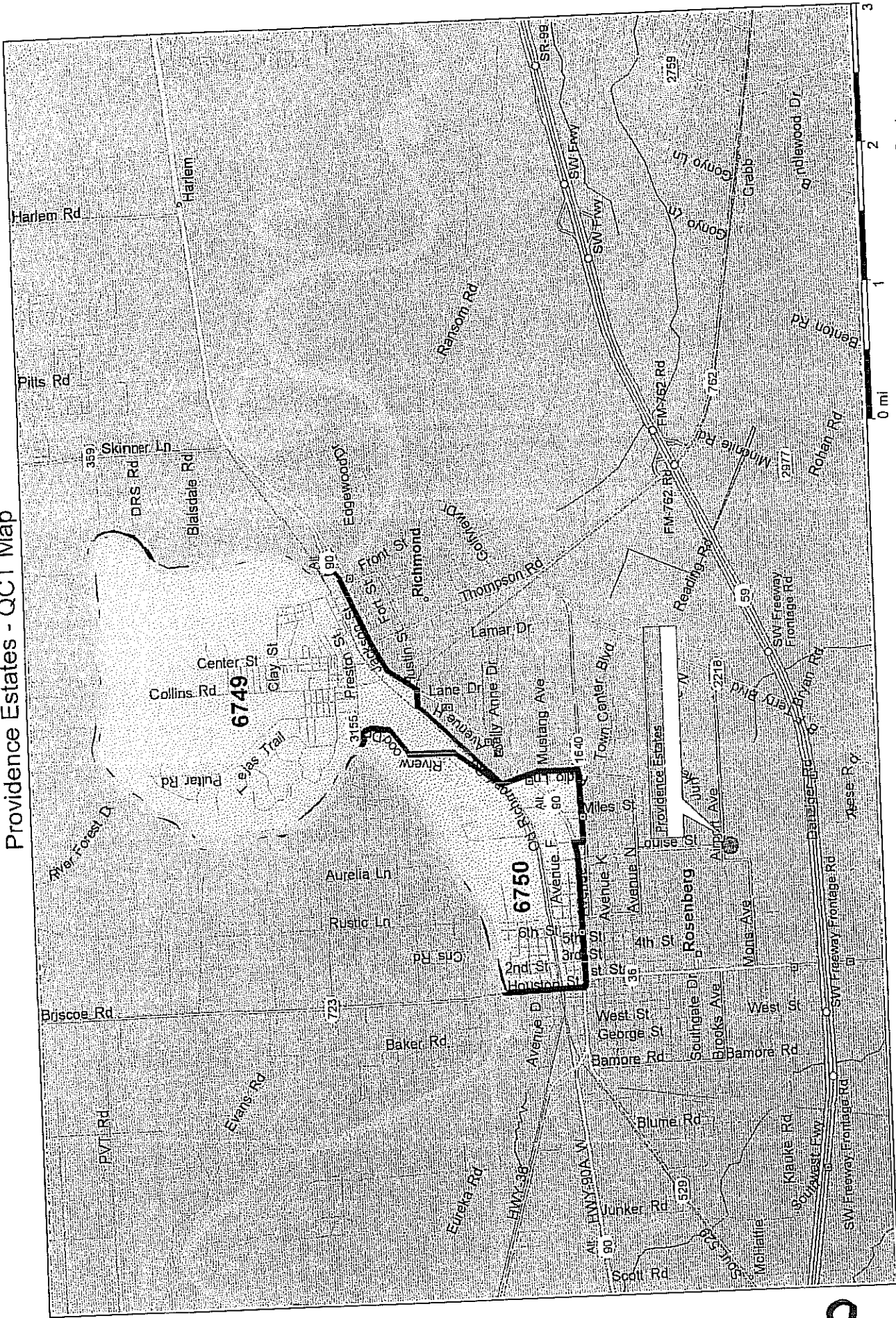
Providence Estates - QCT Map



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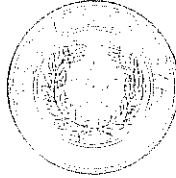


Providence Estates - QCT Map



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# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY

Governor

**BOARD MEMBERS**

Elizabeth Anderson, *Chair*

Shadrick Bogany

C. Kent Conine

Dionicio Vidal (Sonny) Flores

Vidal Gonzalez

Norberto Salinas

June 1, 2006

MICHAEL GERBER

*Executive Director*

Mr. Manish Verma

R.T. Louise-Airport, Ltd.

45 NE Loop 410, Ste. 290

San Antonio, TX 78216

Telephone: (210) 240-8376

Telecopier: (210) 493-7573

**Re: Appeal Received for Providence Estates - 060219**

Dear Mr. Verma:

**Appeal Review**

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 18, 2006 regarding your request for points under §50.9(i)(23)-Third Party Funding Commitment Outside of a Qualified Census Tract (QCT.)

You were ineligible for the point for this section because evidence was not submitted in the application or deficiency response to substantiate the point for this item. In a deficiency notice dated April 11, 2006, you were provided the opportunity to submit evidence that the Development site is located outside of a QCT, but you did not respond to that request.

In your appeal you assert that you responded to the deficiency item that contained the request but you overlooked the request for evidence of location outside a QCT, as it was in the last sentence of the deficiency item.

It should be noted that you submitted the deficiency response at 4:55 pm on the day that the deficiency documentation was due by 5:00 pm. Had you submitted the documentation even a few hours earlier, staff would have most likely identified that the documentation was not submitted and would have contacted you to get the evidence by 5:00 pm. While I recognize that you submitted the required documentation in your appeal, it was received well after the deficiency response

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11

Mr. Verma  
June 1, 2006  
Page 2 of 2

deadline as required by §50.9(d)(4) of the 2006 Qualified Allocation Plan and Rules (QAP).

It is clear that you did not submit the required evidence in the application or within the deficiency response period.

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

# Scoring Documentation



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

Date Issued: 05/15/06

R.T. Louise-Airport, Ltd.  
Manish Verma  
45 NE Loop 410, Ste. 290  
San Antonio, TX 78216  
Phone #: (210) 240-8376  
Fax #: (210) 493-7573

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

**RE: 2006 9% Housing Tax Credit (HTC) Competitive Application for Providence Estates**  
**TDCHA Number: 060219**

Attention: Manish Verma

The Texas Department of Housing and Community Affairs (the Department) has completed its Eligibility and Selection Criteria Review of the above-referenced application as further described in §50.9(d)(1) of the 2006 Qualified Allocation Plan and Rules (QAP). Below, a summary is provided of the score requested, as calculated by the Applicant, followed by the score requested, as calculated by the Department. The two numbers differ if the Applicant's calculation was incorrect. The next score shown is the score awarded to the application by the Department, followed by the difference between the score requested (as calculated by the Department) and the score awarded. An explanation of the reason(s) for any differences, including points denied, is provided at the top of the second page of this notice. The next scoring items show the number of points awarded for each of the three categories for which points could not be requested by the applicant: Quantifiable Community Participation (QCP) from neighborhood organizations, letters of support or opposition from state senators and letters of support or opposition from state representatives. This is followed, in bold, by the final cumulative number of points awarded by the Department to the above-referenced Application.

Please note that if you were awarded points under §50.9(i)(5), this notice only provides an explanation of any point deductions for that item. A separate addendum is attached, "Addendum A" which details which sources qualified for the score under this section. It is important to note this addendum because should this application receive an award of tax credits, at the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the local political subdivision for the sufficient local funding to the Department. Only eligible sources identified in the addendum may be submitted and may not be substituted with any source not listed pursuant to §50.9(i)(5).

To the extent that a threshold review is not yet completed for this application, pursuant Section 50.9(d)(3), the final score may still change, in which case you will be notified.

Allocation  Urban/Exurban      Set Asides:     USDA     Non Profit     At Risk

Score Requested by Applicant (Does not include QCP and Elected Official Points):	157
Score Requested as Calculated by Department (Does not include QCP and Elected Official Points):	157
Score Awarded by Department (Does not include QCP and Elected Official Points):	156
Difference between Requested and Awarded (Does not include QCP and Elected Official Points):	1
Points Awarded for Quantifiable Community Participation:	12
Points Awarded for Input from State Senator:	0
Points Awarded for Input from State Representative:	-7
<b>Final Score Awarded to Application by Department:</b>	<b>161</b>



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

**Page 2 of Final Scoring Notice: 060219, Providence Estates**

**Explanation for Difference between Points Requested and Points Awarded by the Department (explanation does not include QCP and Elected Official Points):**

§50.9(i)(19)- Qualified Census Tracts with Revitalization: In order to be eligible for this point the application must be located inside of a Qualified Census Tract. You are not eligible for this point because you are located outside a Qualified Census Tract. In a deficiency notice dated April 11, 2006 you were provided the opportunity to submit evidence that the Development site is located outside a QCT. You did not respond to that request. (1 point requested, 0 points awarded)

A formal Appeals Policy exists for the HTC Program. If you wish to appeal this scoring notice (including set-aside eligibility), you must file your appeal with the Department no later than 5:00 p.m., Monday, May 22, 2006. If an appeal is denied by the Executive Director, an applicant may appeal to the Board. THE DEPARTMENT STRONGLY SUGGESTS that you submit your appeal to the Executive Director no later than Thursday, May 18 by 5:00 p.m. in order to allow any denied appeals to be added to the June 9, 2006 Board agenda. The restrictions and requirements relating to the Appeals Policy can be found in Section 50.17(b) of the 2006 OAP.

In an effort to increase the likelihood that Board appeals related to scoring and set-asides are heard at the June 9 Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director the form requests that the applicant automatically be added to the Board agenda. Note that the completion of the form will add the applicant to the agenda, but that an actual appeal to the Board must be received by the Department by 5:00 p.m. Wednesday, May 31, 2006. All appeals should be submitted to the attention of Jennifer Joyce.

A posting of all completed final application scores will be publicized on the Department's website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) by Friday, May 19 at 5:00 p.m. A list of those developments being recommended at the June 26 Board meeting will also be available on the website no later than June 19, 2006. If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Jennifer Joyce by facsimile (512.475.0764 or 512.475.1895) or email to [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us).

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production Division



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

**Addendum A- Notice of Department's Determination of points for §50.9(i)(5)**

The purpose of this Addendum is to notify you of the Department's determination of which evidence you submitted qualified for points for §50.9(i)(5), which has a total possible point value of 18. Additionally, this notice serves as a record of whether or not evidence of a commitment of funds has been received pursuant to this section. If you did not apply for these points, please disregard this notice.

Below, a summary is provided of each scoring item for which you were awarded points for §50.9(i)(5). For each source of funding, the source is eligible if the box to the left of "Funding Source #" is checked. If the box is not checked, the source is ineligible and an explanation of ineligibility is provided. Below each bolded Funding Source section, a description of the source is detailed. The last portion of each section is labeled, "Commitment Outstanding". If this box is checked, the Department does not have a record of receiving a commitment for the eligible source of funding, and points associated with this item are conditioned upon receipt at commitment. It should be noted that pursuant to §50.9(i)(5), when the commitment is submitted to the Department, the Local Political Subdivision must attest to the fact that any funds committed were not first provided to the Local Political Subdivision by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision or subsidiary. If this box is not checked, no further evidence is required.

Also note that pursuant to Section 50.9(i)(5), substitutions of any source of funding not named as eligible in this notice will not be accepted.

**Funding Source #1- If not checked, reason for ineligibility:**

Local Political Subdivision: Fort Bend HFC  
Type of Source: Loan  
Points Value for Source: 18  
Value of Source: \$600,000.00  
Commitment Outstanding:

**Funding Source #2- If not checked, reason for ineligibility:**

Local Political Subdivision: Fort Bend Comm. Development Corp.  
Type of Source: Loan  
Points Value for Source: 18  
Value of Source: \$600,000.00  
Commitment Outstanding:

**Funding Source #3- If not checked, reason for ineligibility:**

Local Political Subdivision: City of Rosenberg  
Type of Source: In Kind/ Similar  
Points Value for Source: 18  
Value of Source: \$600,000.00  
Commitment Outstanding:

**Funding Source #4- If not checked, reason for ineligibility:**

Local Political Subdivision:  
Type of Source:  
Points Value for Source: 0  
Value of Source:  
Commitment Outstanding:

**Total Points Awarded Under Section 50.9(i)(5):**

**18**

16





**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

**Appeal Election Form: 060219, Providence Estates**

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 22, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

**If my appeal is denied by the Executive Director, I:**

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed [Signature]  
Title Arthur M.P.  
Date 5/18/06

Please fax or email to the attention of Jennifer Joyce: (fax)  
512.475.0764 or 512.475.1895  
(email) jennifer.joyce@tdhca.state.tx.us

**060138**

**Residences at Eastland**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of scoring for a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Residences at Eastland - 060138**

This Applicant is appealing the eligibility of the scoring determination for the Application.

The scoring was reduced because of the following:

§50.9(i)(11)- Development Includes the Use of Existing Housing as part of a Community Revitalization Plan: The application proposes tearing down a residential unit existing on a piece of property and combining other properties to build 146 multifamily units under an existing enterprise zone plan approved by the city that meets the qualifications for a Community Revitalization Plan. The city plan does call for affordable housing and the development as proposed would in fact qualify for inclusion in the Community Revitalization Plan as it will "create" affordable housing. Therefore, the plan itself is eligible under the definition of "Community Revitalization Plan". The Federal Code at 26 USC 42(m)(c)(iii) states that "the selection criteria set forth in a qualified allocation plan must include (iii) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan". The application must be to replace "existing housing." It has been determined that the application does not replace "existing housing" because there is an implied reasonableness associated with what constitutes "housing." In this case we do not find that the application is replacing existing housing.

In the applicant's appeal, it is asserted that the application meets the requirements of this section as a Rehabilitation/ New Construction Development. Staff does not disagree with the applicant on this point. The applicant also points to the 2005 award of points for an application which demolished 2 unoccupied single-family houses. Additionally, it is asserted that because the 1 house is an existing housing, it meets the requirements of the 2006 Qualified Allocation Plan and Rules (QAP.)

The clear intent of federal law and the QAP is to upgrade existing housing and provide more quality affordable housing to benefit local communities as they make efforts to revitalize

designated areas. Federal law provides the "use of existing housing" for selection criteria. The QAP uses a capitalized but non-defined term of "existing Residential Development." Looking at the totality of the circumstances, a single unoccupied home on a significant lot that will be replaced by 146 units does not seem to qualify as either existing housing or a Residential Development.

As to your point regarding decisions made in 2005, each year the Board crafts new rules in the form of a new QAP. Even when the exact language of the rule does not change, key changes in interpretation may have impact. From 2005, the Department has changed a Board Member, an Executive Director, a General Counsel and numerous other staff. While the Department's goal is to be as consistent as possible and provide signposts to interested parties, where there is a fundamental disagreement with previous interpretations, there is room for and an obligation to change.

Relevant documentation related to this appeal is provided behind the Board Action Request

Applicant:	FW-Eastland Housing Partners, Ltd.
Site Location:	5500 Eastland St.
City/County:	Fort Worth/ Tarrant
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Family
Region:	3
Type of Development:	New Construction/ Rehabilitation
Units:	146
Credits Requested:	\$1,200,000

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

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§§50.3(22) and 50.9(i)(11)

**§50.3(22) Community Revitalization Plan**--A published document, approved and adopted by the local governing body by ordinance or resolution, that targets specific geographic areas for low-income residential Developments (serving residents at or below 60% of the area median income).

**§50.9(i)(11)\_Development Includes the Use of Existing Housing as part of a Community Revitalization Plan (Development Characteristics)**. Applications may qualify to receive 7 points for this item. (42(m)(1)(C)(iii)) The Development is an existing Residential Development and the proposed Rehabilitation or demolition and reconstruction is part of a Community Revitalization Plan. Evidence of the Community Revitalization Plan and a map showing the boundaries of the Community Revitalization Plan and the location of the Development site within the boundaries must be submitted.

# **Board Appeal/ Executive Director Appeal**

# LOCKE LIDDELL & SAPP LLP

ATTORNEYS & COUNSELORS

100 CONGRESS  
SUITE 300  
AUSTIN, TX 78701-4042

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(512) 305-4700  
(512) 305-4800  
www.lockeliddell.com

Direct Number: (512) 305-4707  
email: cbast@lockeliddell.com

May 30, 2006

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
221 West 11<sup>th</sup> Street  
Austin, Texas 78701

Re: Residences at Eastland in Fort Worth (the "Project")  
TDHCA No. 060138

Dear Mr. Gerber:

We have been engaged to represent the applicant for the above-referenced Project. Our client's application for low-income housing tax credits included a request for seven (7) points under Section 50.9(i)(11) of the Qualified Allocation Plan:

The Development is an existing Residential Development and the proposed Rehabilitation or demolition and reconstruction is part of a Community Revitalization Plan.

The applicant has been notified that the proposed Project does not qualify for such points and wishes to appeal this determination.

## Background Information

The site on which the proposed Project would be developed contains a dilapidated house, pictures of which were provided in the tax credit application. Although many might consider this house unsuitable for living, it was rented and occupied as recently as November 2005. Our client proposes to demolish this house as part of its development plan, providing 146 units of new housing, with 140 of those units being reserved for low-income tenants.

The applicant and the Department agree:

- that the existing residence is located on the site for the proposed Project; and
- that the site is within the boundaries of a Community Revitalization Plan and the Project qualifies as an activity under that plan.

5

- The applicant and the Department differ as to whether the demolition of the existing residence will allow the Project to qualify for seven (7) points under Section 50.9(i)(11) of the QAP. Specifically, the Department's counsel has opined that the demolition of the existing residence does not allow the applicant to qualify for these points. See Mr. Hamby's memorandum, attached as Exhibit A.

### Points to Consider

The applicant firmly believes that the demolition of the existing residence is sufficient for it to receive points under Section 50.9(i)(11) of the QAP. Consider the following:

- **The Department approved points for an application with this same fact pattern in 2005.**

The 2005 QAP and the 2006 QAP contain identical language with regard to this matter. In 2005, Oak Timbers – Fort Worth South (TDHCA No. 05088) applied for and received seven (7) points under this selection item. Oak Timbers proposed the construction of 168 new units, with 160 of them being reserved for low-income tenants. The project site contained two (2) homes that were dilapidated and in disrepair. *Why would the demolition of two homes qualify for points in 2005 but the demolition of one home does not qualify in 2006?*

- **Applicants should be able to rely on consistency in Department interpretations.**

As you know, when an applicant for tax credits selects a site for development, it does so with a view toward the overall points an application will receive. The points that can be received pursuant to the QAP, and the Department's past interpretation of those point criteria, all factor in to an applicant's decision as to whether to pursue a particular project. When language in the QAP is identical from one year to the next, it is reasonable for an applicant to assume that the Department's interpretation of that language will stay the same. Our client incurred significant expense to pursue the Project, based on that reliance. It assumed that the Department would treat Residences at Eastland the same way it treated Oak Timbers. This assumption was reasonable and should not be frustrated by a new interpretation that is inconsistent with past practice.

- **The Department's interpretation implies a materiality standard that is not expressly stated in the QAP.**

Department Counsel's memorandum states as follows:

"Existing housing" implies some form of replacement. While new construction could qualify, it has to be related to existing housing. There is a materiality test associated with what constitutes housing. The threshold could in fact be very low based on a reasonable person standard. That number could float and be based on many factors, but a number of less than 1% should not be considered to be the replacement of existing housing under either the Code of [sic] the QAP for additional points.

As noted above, the house on this site is existing housing in that it is capable of occupancy, even though it is unsuitable by decent, safe housing standards. This meets the clear language of the QAP. Department Counsel suggests a materiality standard that is not expressly stated in the QAP. Further, Department Counsel suggests that a determination of what is material could differ from applicant to



applicant, based on the facts of the situation. Department Counsel's interpretation actually gives more uncertainty for applicants. This is contrary to the clearly stated goal of Department Board and staff to "level the playing field". A level playing field would require that each applicant be assured of receiving points in an objective manner, based on meeting the clear language of the QAP. Instead, Department Counsel suggests using a subjective interpretation by which materiality could differ from application to application. Taking this to its logical conclusion, an applicant that wants to be competitive would be required to seek a Department Counsel ruling as to whether it meets the materiality standard before deciding whether to spend the funds to submit an application.

### Conclusion

Please reconsider awarding the applicant points under Section 50.9(i)(11) of the QAP for demolition of existing housing that is part of a Community Revitalization Plan. The applicant believes the plain language of the 2006 QAP, and past practice of the Department, mandate the award of these points. If the Executive Director denies this appeal, the applicant requests to have it heard by the Board at the next available Board meeting. Thank you.

Sincerely,



Cynthia L. Bast

Cynthia L. Bast

cc: Brooke Boston  
Jennifer Joyce

**Exhibit A**

**TDHCA Counsel Memorandum**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**LEGAL DETERMINATION**

**TO:** Jen Joyce; Robbye Meyer; Brooke Boston  
FILE

**FROM:** Kevin Hamby  
General Counsel

**DATE:** May 3, 2006

**RE:** Existing Housing and/or Residential Development

**QUESTION PRESENTED:**

Does one single family residence that is unoccupied meet the definition of Residential Development or existing housing for purposes of receiving points under QAP §50.9(i)(11)?

**SHORT ANSWER:**

No. This Legal Determination will replace the memo issued on 04/14/2006 on materiality as it clarifies and expands on the same topic.

**FACTS:**

An applicant has requested points under QAP §50.9(i)(11) for tearing down a residential unit existing on a piece of property and combining other properties to build 146 multi family units under an existing enterprise zone plan approved the city that meets the qualifications for a Community Revitalization Plan.

**LEGAL ANALYSIS:**

The issue in this matter is not the city Community Revitalization Plan. The city plan does call for affordable housing and the development as proposed would in fact qualify for inclusion in the Community Revitalization Plan as it will "create" affordable housing.

The Federal Code at 26 USC 42((m)(c)(iii) states that "the selection criteria set forth in a qualified allocation plan must include (iii)project characteristics, including whether the project includes the use of *existing housing* as part of a community revitalization plan" (emphasis added).

The Texas QAP addresses this language by stating "the Development is an *existing Residential Development* and the proposed Rehabilitation or demolition and reconstruction is part of a Community Revitalization Plan" (emphasis added). The applicant argues that there is an existing

structure on a piece of property within the proposed development site and that the proposed development site is within a community revitalization plan and therefore they have met the definition and should be awarded points.

Where this logic fails is that both the Federal Law and the Texas QAP contemplate that there is existing housing that is being replaced. While occupancy is not necessarily a requirement, a reasonable person would expect that there be housing being replaced. Even changed uses similar to hotels, hospitals and other multi-living units at least contemplate multiple living possibilities. "Existing housing" implies some form of replacement. While new construction could qualify, it has to be related to existing housing. There is a materiality test associated with what constitutes housing. The threshold could in fact be very low based on a reasonable person standard. That number could float and be based on many factors, but a number of less than 1% should not be considered to be the replacement of existing housing under either the Code of the QAP for additional points.

ANSWER:

No. Replacement of existing housing is a requirement under both the Code and the QAP and therefore this request does not qualify.

# NuRock Companies

580 Decker Drive, Suite 208, Irving, TX 75062  
(972) 745-0756 Fax (678) 218-1496

May 18, 2006

Executive Director  
TDHCA  
P.O. Box 13941  
Austin, TX 78711-3941  
Fax: (512) 475-1895

RE: TDHCA # 060138, Residences at Eastland

Dear Executive Director:

We wish to appeal TDHCA's staff rulings on two Deficiencies, both dated 4/18/2006, as detailed below:

**Deficiency #1:** Volume 1, Tab 1, Part C: The application is for both New Construction and Rehabilitation. However, you only appear to be demolishing one abandoned house. This does not meet the definition of Rehabilitation. Refer to the attached memo from Kevin Hamby dated April 14, 2006. Therefore, revise this exhibit to only include New Construction.

**Response:** NuRock does not contend that the entire project is a Rehabilitation, only that one unit is being Rehabilitated, and thus the project is a combination of New Construction AND Rehabilitation. This is not an issue of points, but the existence of Rehabilitation is considered in the tie-breaker.

The 2006 QAP in 50.3(56) and 50.3(73) defines New Construction and Rehabilitation as:

*(56) New Construction--Any Development not meeting the definition of Rehabilitation.*

*(73) Rehabilitation--The improvement or modification of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices. Rehabilitation may include demolition, reconstruction and adding rooms outside the existing walls of a structure, but adding a housing unit is considered New Construction.*

TDHCA's 2006 Q&A also directly addresses this question:

**§50.3(73) Rehabilitation**

*Q1: Does total demolition and reconstruction down to the footprint count as New Construction or Rehabilitation? If demolition/reconstruction increases the original number of units does that*

*change this determination? If demolition/construction decreases from the original number of units does that change this determination?*

*A1: 100% demolition down to the foundation (footprint) is considered Rehabilitation as defined by §50.2(56) and (73). This applies if the amount of units being built is equal to, greater than or less than amount of units that were demolished.*

There is a recently-vacated single family house on the property. Our intent for this unit is to demolish it to the foundations, and rebuild the same number of units (one) as is currently existing, and as such, this clearly falls under the definition of Rehabilitation under the 2006 QAP and as clarified in the 2006 Q&A.

The question of demolition vs. restoration for this unit was strictly a matter of economics. Had the definition been different and did not allow for demolition, then we would have proposed restoring the unit, which had been occupied as recently as November 2005.

Looked at from a different perspective, consider if NuRock were awarded an allocation, and used money from that allocation to renovate an existing unit, and put that unit in service as an LIHTC unit. In that case, there would be, and could be, no question that Rehabilitation has been done. This certainly would not count as New Construction, and we would certainly be found in non-compliance if we were to try to claim it was New Construction! TDHCA has issued a Q&A stating that "100% demolition down to the foundation (footprint) [and subsequent reconstruction] is considered Rehabilitation".

Mr. Hamby's Legal Determination introduces an implied materiality test which we see neither in the 2006 QAP nor in the 2006 Q&A, and which is not relevant to the question of whether there exists Rehabilitation in this project.

In summary, this application includes a housing unit which clearly falls under the definition of Rehabilitation, as well as housing units which fall under the definition of New Construction. Hence, the Volume 1, Tab 1, Part C as submitted, which references both New Construction AND Rehabilitation, should remain as submitted.

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**Deficiency #3:** Volume 4, Tab 9 (Requested 7, Scored 0). You are not eligible for points because the destruction of one single family house and reconstruction of a larger development is not sufficient to qualify for rehabilitation. Refer to the attached memo from Kevin Hamby dated April 14, 2006.

Further explanation was provided by TDHCA in Final Scoring Notice issued 5/17/06:

§50.9(i)(11) – Development Includes the Use of Existing Housing as part of a Community Revitalization Plan: The application proposes tearing down a residential unit existing on a piece of property and combining other properties to build 146 multifamily units under an existing enterprise zone plan approved by the city that meets the qualifications for a Community Revitalization Plan. The city plan does call for affordable housing and the development as proposed would in fact qualify for inclusion in the Community Revitalization Plan as it will "create" affordable housing. Therefore, the plan itself is eligible under the definition of

"Community Revitalization Plan". The Federal Code at 26 USC 42(m)(c)(iii) states that "the selection criteria set forth in a qualified allocation plan must include (iii) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan". Your application must be to replace "existing housing". It has been determined by the Department's General Counsel that there is a materiality test associated with what constitutes "housing". The threshold could in fact be very low based on a reasonable person standard. That number could float and be based on many factors, but a number of less than 1%, such as this situation where you are proposing to demolish one home and build 146 units is not considered to be "the replacement of existing housing". (7 points requested, 0 points awarded)

**Response:** TDHCA does not argue that the area is not covered by a Community Revitalization Plan, nor is it argued that our existing house is in fact "Existing Housing". It appears to us that the argument is solely that our existing house is not enough existing housing to qualify.

To review, the 2006 QAP in 50.9(i)(11) states:

*(11) Development Includes the Use of Existing Housing as part of a Community Revitalization Plan (Development Characteristics). Applications may qualify to receive 7 points for this item. (42(m)(1)(C)(iii)) The Development is an existing Residential Development and the proposed Rehabilitation or demolition and reconstruction is part of a Community Revitalization Plan. Evidence of the Community Revitalization Plan and a map showing the boundaries of the Community Revitalization Plan and the location of the Development site within the boundaries must be submitted.*

The house is an existing Residential Development located in an area which has a Community Revitalization Plan.

The QAP does not require restoration of existing housing; demolition and reconstruction of existing housing is sufficient.

The QAP requires only that the development "includes the use of Existing Housing"; NuRock contends that even a single unit is sufficient to meet this standard. However, Mr. Hamby in his recent legal opinion has suggested that TDHCA should infer an implied materiality test. Past precedent by TDHCA shows that TDHCA has used an interpretation closer to the former than to the latter:

The relevant language regarding the use of existing housing as part of a Community Revitalization Plan is unchanged between 2005 and 2006. In 2005, project #05088, Oak Timbers - Fort Worth South, a 168-unit Elderly project, received the full 7 points for the use of existing housing. In that case, the existing housing consisted of 2 unoccupied single-family houses on the site, both of which were torn down. Rehabilitation was not claimed because the units were not rebuilt on the footprint, but demolition of the houses was consistent with the Community Revitalization Plan, as is Rehabilitation of the house at Eastland.

Hence, regarding the use of existing housing, THERE IS NO DIFFERENCE between the situation at Oak Timbers and the situation at Residences at Eastland.

In fact, the reconstruction of this unit satisfies both the letter and the spirit of the QAP, as it will be a substantial benefit to the community to remove this potential magnet for mischief, crime, etc in the neighborhood.

In summary, the "Development includes the use of Existing Housing as part of a Community Revitalization Plan", EXACTLY meets the requirements of the QAP, and should be scored full points.

We are doing further research on this issue, and will provide the results when available.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Brad Bell".

Brad Bell  
NuRock Development  
(404) 379-1466



#010138 Residences at Eastland Appeal Info Page 1 of 3

## Jennifer Joyce

---

**From:** Dan Allgeier [dallgeier@nurock.com]  
**Sent:** Tuesday, May 30, 2006 4:08 PM  
**To:** Jennifer Joyce  
**Cc:** cbast@lockeliddell.com; Kevin Hamby; Brad Bell  
**Subject:** RE: #010138 - Residences at Eastland - Appeal Info

We sent a fax cover and the signature page from the scoring notice with the appropriate box checked based on the paper documents in the file. Ms. Bast's response emailed to you today is our "official" response that should go to the Director and Board, if necessary. Our machine automatically prints verifications and they are supposed to go with the paper copy. In the future – emails with scanned documents only!

*Dan Allgeier*

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**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]  
**Sent:** Tuesday, May 30, 2006 3:54 PM  
**To:** Dan Allgeier; Brad Bell  
**Cc:** cbast@lockeliddell.com; Kevin Hamby  
**Subject:** RE: #010138 - Residences at Eastland - Appeal Info

Dan,

We agree that you have indicated in the past you wish to appeal, and I was surprised not to receive anything from you. The log you attached does show that a 2 page submission was sent to us on the 23<sup>rd</sup>, but your appeal cover letter you sent us is for the 18<sup>th</sup>, and the appeal itself is 4 pages, not including the first 2 pages (in other words, what happened to the remaining 4 pages?). Could you please explain? With a reasonable explanation, we will accept your documentation.

In the future, I highly recommend e-mail submission, or a call to our admin staff to ensure that the fax was received (512.475.3340.)

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Dan Allgeier [mailto:dallgeier@nurock.com]  
**Sent:** Tuesday, May 30, 2006 2:07 PM  
**To:** Jennifer Joyce; Brad Bell  
**Cc:** cbast@lockeliddell.com  
**Subject:** RE: #010138 - Residences at Eastland - Appeal Info

We have searched for a fax confirmation of the appeal request form attached to the scoring notice and cannot find it. We have a fax log that shows a fax to 512-475-0764 on May 23, 2006, but can't prove that it is the confirmation for this fax. We requested an appeal in an email on April 21, 2006 again on May 15, 2006. We have sent the appeal documentation to you a couple

5/30/2006

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of times, most recently today. The full board appeal has been emailed to you with the last hour from Cynthia Bast with Vinson & Elkins.

We respectfully request that this scoring notice be appealed.

*Dan Allgeier*

---

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]  
**Sent:** Tuesday, May 30, 2006 11:55 AM  
**To:** Brad Bell  
**Cc:** Dan Allgeier; cbast@lockeliddell.com  
**Subject:** RE: #010138 - Residences at Eastland - Appeal Info

Mr. Bell,

Do you happen to have proof this was faxed? If so, will you please e-mail me a copy? I will process this assuming it was a mistake on our end. As long as you have proof of faxing, I foresee no problem. Thank you.

Please let me know if you have any questions,

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Brad Bell [mailto:bbell@nurock.com]  
**Sent:** Tuesday, May 30, 2006 9:31 AM  
**To:** jennifer.joyce@tdhca.state.tx.us  
**Cc:** Dan Allgeier; cbast@lockeliddell.com  
**Subject:** #010138 - Residences at Eastland - Appeal Info

Jennifer,

The attached fax was sent to you on May 18, but as we did not show up on your Log of Current Appeals I am re-submitting this just in case.

Today you should also receive a letter from Cynthia Bast further detailing our arguments on the issue of use of existing housing.

Please let us know if you have any questions.

Regards,

Brad Bell  
NuRock Development  
580 Decker Drive, Suite 208  
Irving, TX 75062  
(972) 745-0756 (office)  
(404) 379-1466 (cell)  
(678) 297-3433 (fax)

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ACTIVITY REPORT

TIME : 05/30/2006 11:12  
 NAME : NURDOCK WEST  
 FAX : 0  
 TEL : 0  
 SER.# : 000K5J583952

NO.	DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
#104	04/10	12:32	2143607691	50	03	OK	TX ECM
#105	04/11	09:16	15124750764	02:59	11	OK	TX ECM
#106	04/12	09:20	16782101496	24	01	OK	TX ECM
#107	04/12	09:42	16782101496	24	01	OK	TX ECM
#108	04/13	09:10	16782101496	20	01	OK	TX ECM
#109	04/14	08:40	16782101496	01:02	02	OK	TX ECM
#110	04/14	08:59	16782101496	05:26	01	OK	TX ECM
#111	04/15	16:05	10162433769	01:04	04	OK	TX ECM
#112	04/17	09:12	9725198389	49	04	OK	TX ECM
#114	04/18	11:11	9725037779	05:25	01	OK	TX ECM
#115	04/18	11:24	9724099068	00	00	BUSY	TX
#118	04/19	09:24	16782101496	05:07	13	OK	TX ECM
#116	04/19	09:30	9724369715	04:40	13	OK	TX ECM
#120	04/24	11:59	19404983266	19	01	OK	TX ECM
#121	04/24	12:02	9404983266	19	01	OK	TX ECM
	04/26	08:33		56	01	NG	RX ECM
#122	05/02	18:20	15122789337	01:02	01	OK	TX ECM
#123	05/05	08:35	2149651633	01:45	02	OK	TX ECM
#124	05/05	14:11	18173922409	19	01	OK	TX ECM
#125	05/08	07:14	10009932077	24	01	OK	TX ECM
#126	05/09	15:59	9722489276	05:10	09	OK	TX ECM
#127	05/10	12:34	19030563613	49	02	OK	TX ECM
#128	05/11	14:18	18179239304	01:02	02	OK	TX ECM
#129	05/17	07:47	2143607691	02:30	08	OK	TX ECM
#130	05/18	10:22	2143607691	01:39	04	OK	TX ECM
#131	05/22	15:02	4692342082	57	02	OK	TX ECM
#132	05/23	15:19	15124750764	30	02	OK	TX ECM

BUSY: BUSY/NO RESPONSE  
 NG : POOR LINE CONDITION / OUT OF MEMORY  
 CV : COVERPAGE  
 PDL : POLLING  
 RET : RETRIEVAL  
 PC : PC-FAX

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
*Executive Director*

Mr. Dan Allgeier  
FW-Eastland Housing Partners, Ltd.  
580 Decker Drive, Ste. 208  
Irving, TX 75062  
Telephone: (972) 745-0756  
Telecopier: (678) 218-1496

**Re: Appeal Received for Residences at Eastland- 060138**

Dear Mr. Allgeier:

### Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 18, 2006 regarding your request for 7 points under §50.9(i)(11) of the 2006 Qualified Allocation Plan and Rules (QAP).

In order to be eligible for the 7 points under this section, the Development must include the use of existing housing as part of a Community Revitalization Plan (as defined by the QAP). The application proposes tearing down one (1) residential unit existing on a piece of property and combining new construction to build 146 multifamily units. The plan itself is eligible under the definition of "Community Revitalization Plan". However, the Federal Code at 26 USC 42(m)(c)(iii) states that "the selection criteria set forth in a QAP must include (iii) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan". It has been determined that your application does not replace "existing housing" because there is an implied reasonableness associated with what constitutes "housing." In this case we do not find that you are replacing existing housing.

In your appeal, you assert that the application meets the requirements of this section as a Rehabilitation/ New Construction Development. I do not disagree with you on this point. You also point to the 2005 award of points for an application which

WWW.TDCA.STATE.TX.US

221 EAST 11<sup>th</sup> ■ P.O. BOX 13941 ■ AUSTIN, TEXAS 78711-3941 ■ (800) 525-0657 ■ (512) 475-3800

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demolished 2 unoccupied single-family houses. Additionally, you also assert that because the 1 house is an existing housing, you meet the requirements of the QAP.

The clear intent of federal law and the QAP is to upgrade existing housing and provide more quality affordable housing to benefit local communities as they make efforts to revitalize designated areas. Federal law provides the "use of existing housing" for selection criteria. The QAP uses a capitalized but non-defined term of "existing Residential Development." Looking at the totality of the circumstances, a single unoccupied home on a significant lot that will be replaced by 146 units does not seem to qualify as either existing housing or a Residential Development.

As to your point regarding decisions made in 2005, each year the Board crafts new rules in the form of a new QAP. Even when the exact language of the rule does not change, key changes in interpretation may have impact. From 2005, the Department has changed a Board Member, an Executive Director, a General Counsel and numerous other staff. While the Department's goal is to be as consistent as possible and provide signposts to interested parties, where there is a fundamental disagreement with previous interpretations, there is room for and an obligation to change.

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

# Scoring Documentation



**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- 9% HTC Competitive Application**

Date Issued: 05/17/06

FW-Eastland Housing Partners, Ltd.  
 Dan Allgeier  
 580 Decker Drive, Ste. 208  
 Irving, TX 75062  
 Phone #: (972) 745-0756  
 Fax #: (678) 218-1496

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

**RE: 2006 9% Housing Tax Credit (HTC) Competitive Application for Residences at Eastland**  
**TDCHA Number: 060138**

Attention: Dan Allgeier

The Texas Department of Housing and Community Affairs (the Department) has completed its Eligibility and Selection Criteria Review of the above-referenced application as further described in §50.9(d)(1) of the 2006 Qualified Allocation Plan and Rules (QAP). Below, a summary is provided of the score requested, as calculated by the Applicant, followed by the score requested, as calculated by the Department. The two numbers differ if the Applicant's calculation was incorrect. The next score shown is the score awarded to the application by the Department, followed by the difference between the score requested (as calculated by the Department) and the score awarded. An explanation of the reason(s) for any differences, including points denied, is provided at the top of the second page of this notice. The next scoring items show the number of points awarded for each of the three categories for which points could not be requested by the applicant: Quantifiable Community Participation (QCP) from neighborhood organizations, letters of support or opposition from state senators and letters of support or opposition from state representatives. This is followed, in bold, by the final cumulative number of points awarded by the Department to the above-referenced Application.

Please note that if you were awarded points under §50.9(i)(5), this notice only provides an explanation of any point deductions for that item. A separate addendum is attached, "Addendum A" which details which sources qualified for the score under this section. It is important to note this addendum because should this application receive an award of tax credits, at the time the executed Commitment Notice is required to be submitted, the Applicant or Development Owner must provide evidence of a commitment approved by the governing body of the local political subdivision for the sufficient local funding to the Department. Only eligible sources identified in the addendum may be submitted and may not be substituted with any source not listed pursuant to §50.9(i)(5).

To the extent that a threshold review is not yet completed for this application, pursuant Section 50.9(d)(3), the final score may still change, in which case you will be notified.

Allocation  Urban/Exurban      Set Asides:     USDA     Non Profit     At Risk

Score Requested by Applicant (Does not include QCP and Elected Official Points):	158
Score Requested as Calculated by Department (Does not include QCP and Elected Official Points):	158
Score Awarded by Department (Does not include QCP and Elected Official Points):	151
Difference between Requested and Awarded (Does not include QCP and Elected Official Points):	7
Points Awarded for Quantifiable Community Participation:	24
Points Awarded for Input from State Senator:	7
Points Awarded for Input from State Representative:	0
<b>Final Score Awarded to Application by Department:</b>	<b>182</b>

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**Page 2 of Final Scoring Notice: 060138, Residences at Eastland**

**Explanation for Difference between Points Requested and Points Awarded by the Department (explanation does not include QCP and Elected Official Points):**

§50.9(i)(11)- Development Includes the Use of Existing Housing as part of a Community Revitalization Plan: The application proposes tearing down a residential unit existing on a piece of property and combining other properties to build 146 multifamily units under an existing enterprise zone plan approved by the city that meets the qualifications for a Community Revitalization Plan. The city plan does call for affordable housing and the development as proposed would in fact qualify for inclusion in the Community Revitalization Plan as it will "create" affordable housing. Therefore, the plan itself is eligible under the definition of "Community Revitalization Plan". The Federal Code at 26 USC 42((m)(c)(iii) states that "the selection criteria set forth in a qualified allocation plan must include (iii) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan". Your application must be to replace "existing housing." It has been determined by the Department's General Counsel that there is a materiality test associated with what constitutes "housing." The threshold could in fact be very low based on a reasonable person standard. That number could float and be based on many factors, but a number of less than 1%, such as this situation where you are proposing to demolish one home and build 146 units is not be considered to be "the replacement of existing housing". (7 point requested, 0 points awarded)

A formal Appeals Policy exists for the HTC Program. If you wish to appeal this scoring notice (including set-aside eligibility), you must file your appeal with the Department no later than 5:00 p.m., Wednesday, May 24, 2006. If an appeal is denied by the Executive Director, an applicant may appeal to the Board. THE DEPARTMENT STRONGLY SUGGESTS that you submit your appeal to the Executive Director no later than Thursday, May 18 by 5:00 p.m. in order to allow any denied appeals to be added to the June 9, 2006 Board agenda. The restrictions and requirements relating to the Appeals Policy can be found in Section 50.17(b) of the 2006 QAP.

In an effort to increase the likelihood that Board appeals related to scoring and set-asides are heard at the June 9 Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director the form requests that the applicant automatically be added to the Board agenda. Note that the completion of the form will add the applicant to the agenda, but that an actual appeal to the Board must be received by the Department by 5:00 p.m. Wednesday, May 31, 2006. All appeals should be submitted to the attention of Jennifer Joyce.

A posting of all completed final application scores will be publicized on the Department's website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) by Friday, May 19 at 5:00 p.m. A list of those developments being recommended at the June 26 Board meeting will also be available on the website no later than June 19, 2006. If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Jennifer Joyce by facsimile (512.475.0764 or 512.475.1895) or email to [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us).

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production Division



**Addendum A- Notice of Department's Determination of points for §50.9(i)(5)**

The purpose of this Addendum is to notify you of the Department's determination of which evidence you submitted qualified for points for §50.9(i)(5), which has a total possible point value of 18. Additionally, this notice serves as a record of whether or not evidence of a commitment of funds has been received pursuant to this section. If you did not apply for these points, please disregard this notice.

Below, a summary is provided of each scoring item for which you were awarded points for §50.9(i)(5). For each source of funding, the source is eligible if the box to the left of "Funding Source #" is checked. If the box is not checked, the source is ineligible and an explanation of ineligibility is provided. Below each bolded Funding Source section, a description of the source is detailed. The last portion of each section is labeled, "Commitment Outstanding". If this box is checked, the Department does not have a record of receiving a commitment for the eligible source of funding, and points associated with this item are conditioned upon receipt at commitment. It should be noted that pursuant to §50.9(i)(5), when the commitment is submitted to the Department, the Local Political Subdivision must attest to the fact that any funds committed were not first provided to the Local Political Subdivision by the Applicant, the Developer, Consultant, Related Party or any individual or entity acting on behalf of the proposed Application, unless the Applicant itself is a Local Political Subdivision or subsidiary. If this box is not checked, no further evidence is required.

Also note that pursuant to Section 50.9(i)(5), substitutions of any source of funding not named as eligible in this notice will not be accepted.

**Funding Source #1- If not checked, reason for ineligibility:**

Local Political Subdivision: Ft. Worth HFC  
 Type of Source: Loan  
 Points Value for Source: 18  
 Value of Source: \$500,000.00  
 Commitment Outstanding:

**Funding Source #2- If not checked, reason for ineligibility:**

Local Political Subdivision: City of Fort Worth  
 Type of Source: In Kind/ Similar  
 Points Value for Source: 0  
 Value of Source:  
 Commitment Outstanding:

Did not send letter stating value of fee waivers.

**Funding Source #3- If not checked, reason for ineligibility:**

Local Political Subdivision:  
 Type of Source:  
 Points Value for Source: 0  
 Value of Source:  
 Commitment Outstanding:

**Funding Source #4- If not checked, reason for ineligibility:**

Local Political Subdivision:  
 Type of Source:  
 Points Value for Source: 0  
 Value of Source:  
 Commitment Outstanding:

24

**Total Points Awarded Under Section 50.9(i)(5):**

**18**



MULTIFAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- 9% HTC Competitive Application

**Appeal Election Form: 060138, Residences at Eastland**

I am in receipt of my 2006 scoring notice and am filing a formal appeal to the Executive Director on or before May 24, 2006, although the Department recommends submission by May 18, 2006, for processing (attached).

**If my appeal is denied by the Executive Director, I:**

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31 to be placed on the June 9 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Note: If you do not wish to appeal this notice, you do not need to submit this form.

Signed \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Please fax or email to the attention of Jennifer Joyce: (fax)  
512.475.0764 or 512.475.1895  
(email) [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us)

# Deficiency Items



February 22, 2005


Mr. Brad Bell  
NuRock Development  
580 Decker Drive, Suite 208  
Irving, TX 75062

RE: 5500 Eastland

Dear Mr. Bell:

Upon review by my staff it has been determined that the proposed multifamily site of 5500 Eastland is located in the Stop Six Neighborhood Empowerment Zone. If an application for NEZ certification is completed and approved, any development in this area would be eligible to receive city incentives such as the waiving of permit and impact fees. Should you require any further information please feel free to contact me at 817-392-7381.

Sincerely,



Jason T. Hall  
Planning Manager

27

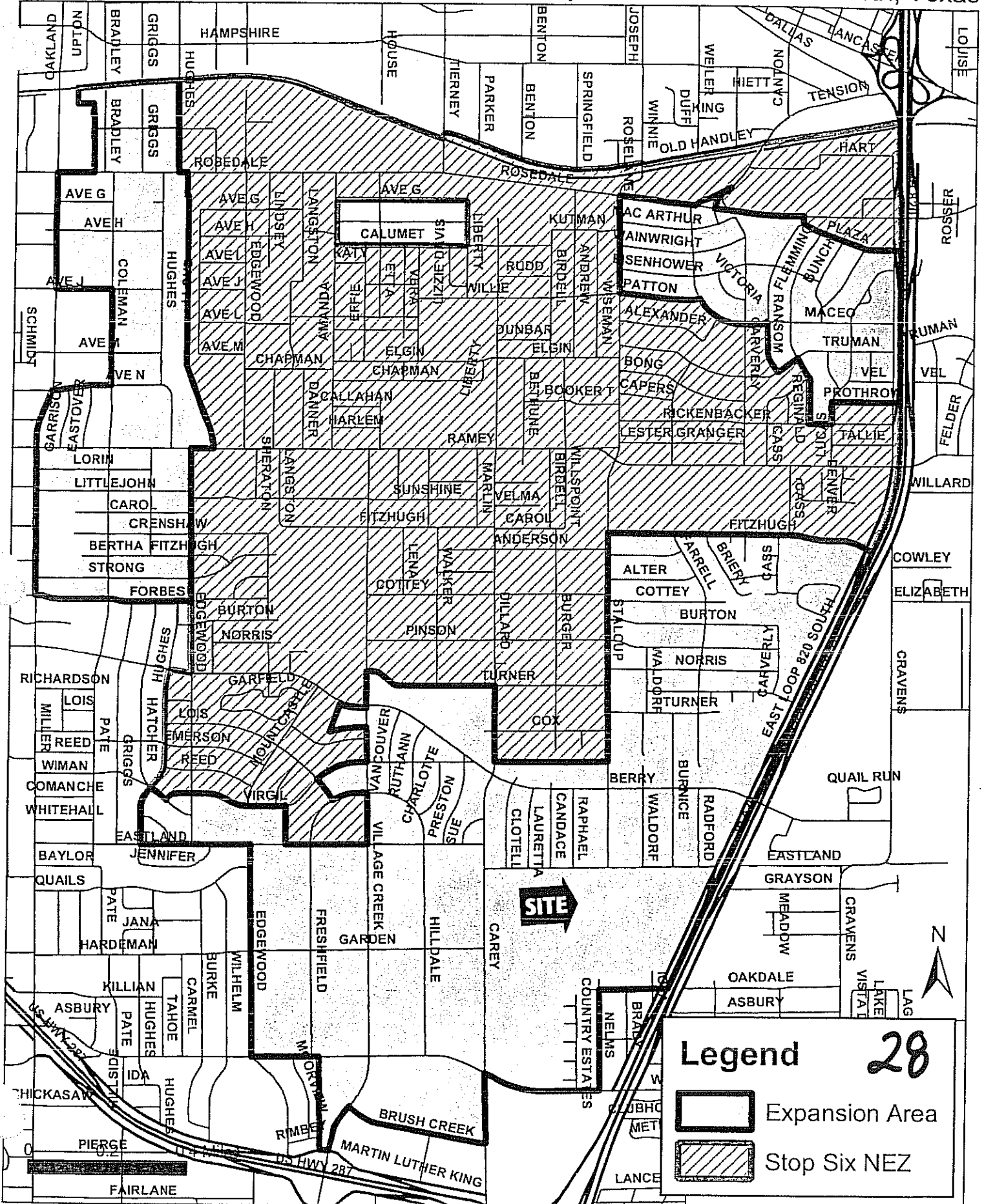


HOUSING DEPARTMENT  
ADMINISTRATION DIVISION

THE CITY OF FORT WORTH \* 1000 THROCKMORTON STREET \* FORT WORTH, TEXAS 76102  
(817) 392-7540 \* FAX (817) 392-7328

# Attachment A: Stop Six NEZ Expansion Map

Fort Worth, Texas





October 21, 2004

Mr. Bob Voelker  
NuRock Companies  
700 East Sandy Lake Road  
Coppell, Texas 75019

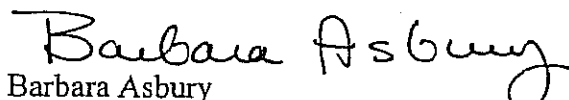
Dear Mr. Voelker:

Based on information received from Mr. Jim Austin, it is my understanding that your organization has signed a sales contract on property on Eastland Street in the 76105 zip code area of Southeast Fort Worth, the James W. Daniel Survey Lot A395, Block 14A01A and Tract 13.

Mr. Austin had previously submitted a Neighborhood Empowerment Zone (NEZ) application; and indicated that your organization may also be interested in pursuing these development incentives that the city provides in designated NEZ areas, for your proposed LIHTC multifamily project. Because this property is located in a NEZ, such a project could be eligible for up to 10 years' abatement on city taxes on the property, as well as waiver of permit and development fees.

Enclosed for your information is a copy of the city's NEZ policy and application. If you would like further information, please contact me at 817-392-7331 or Sarah Odle at 817-392-7316.

Sincerely,

  
Barbara Asbury  
Senior Planner, Housing Department

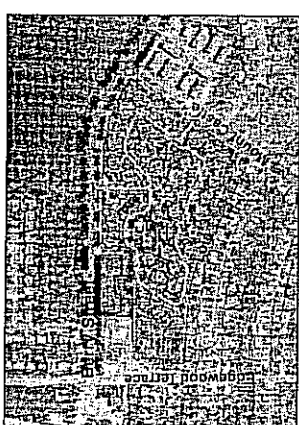
29



HOUSING DEPARTMENT  
ADMINISTRATION DIVISION

THE CITY OF FORT WORTH \* 1000 THROCKMORTON STREET \* FORT WORTH, TEXAS 76102  
(817) 392-7540 \* FAX (817) 392-7328

# Evidence of Community Revitalization Plan



Conceptual Streetscape for Barry Street Target Area

## Historic Stop Six Empowerment Coalition (HSSEC)

- Executive Committee**
- Chairperson: Rav. B. E. George
  - Vice Chairperson: Quincy Taylor
  - Secretary: Alfred J. Crenshaw
  - Treasurer: Sharon Armstrong
- Subcommittee Chairs**
- Organization: Sharon Armstrong
  - Housing/Community Development: Tonya Giddings
  - Economic Development: Linda Morrow
  - Infrastructure: T. C. Webster
  - Public Services/Public Safety: E. L. Knox

## Supporting Organizations/Partners

- Congressman Martin Frost
- State Representative Glenn Lewis
- Southeast Fort Worth Inc.
- Stop Six/Poly Oversight Association
- SEARCH (Southeast Area Churches)
- Taylor to Tailor Home Builders and Restoration Corp.
- Nationwide Development Corp.
- Neighborhood Housing Services
- Ministers Against Crime
- East Fort Worth IMA
- Pentecostal Ministers Union
- Sweet Home Baptist Church
- City of Fort Worth

30

For more information on HSSEC and the Stop Six NEZ plan, please call (817) 645-8242. For more information on the NEZ Program, please call (817) 671-7381.

*Rebuild a community by building partnerships and promoting mixed-use development*

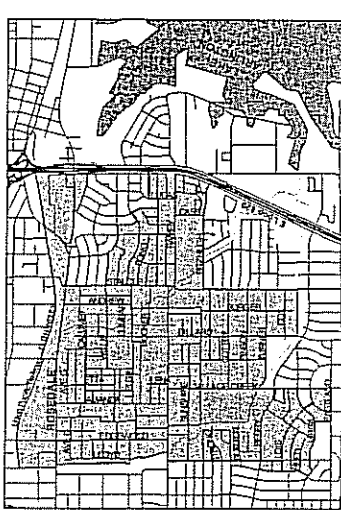
## Stop Six Neighborhood Empowerment Zone

### Strategies and Incentives

Historic Stop Six Empowerment Coalition (HSSEC)

**What is a Neighborhood Empowerment Zone?**  
 Chapter 378 of the Texas Local Government Code, effective in May 1999, authorizes municipalities to create Neighborhood Empowerment Zones (NEZs) and provide tax and other incentives to create or rehabilitate affordable housing, promote economic development, or improve the quality of social services, education, or public safety for residents of the NEZ. Pursuant to this law, the City of Fort Worth (the City) approved the Policy Statement on the Creation of Local NEZs and NEZ Administrative Procedures in April and October 2000. The NEZ designation provides an area various development incentives including municipal property tax abatement, development fee and impact fee waivers.

Background of the Stop Six NEZ. The Stop Six Neighborhood Empowerment Zone (NEZ), located in southeast Fort Worth west of Loop 820, received designation as a NEZ from the Fort Worth City Council on April 17, 2001. The NEZ area is generally bounded by Union Pacific Railroad on the north, Interstate Loop 820 and Statcup Road on the east, Fitzhugh Avenue, Virgil Drive and Eastland Street on the south, and Edgewood Terrace on the west. It encompasses several existing neighborhoods, including Stop Six and South Edgewood Terrace.



The Stop Six Neighborhood Empowerment Zone

Stop Six got its name from being the sixth stop on the old interurban train line that ran between Fort Worth and Dallas. Originally known as Cowanville, the neighborhood was recognized as one of the historic African-American neighborhoods in Texas by the Texas Historic Commission. Statcup Road, Ramey Avenue and Amanda Avenue are where commercial activities are historically located. Most of the businesses are neighborhood commercial uses including barber shops, barbecue stores, convenience stores, etc. As a NEZ, Stop Six has...

following attractions for new development:

- Stop Six is situated between Interstate Loop 820, Interstate 30, Union Pacific Railroad and Rosedale Street. Stop Six has great access to highways and railroads. Its convenient location provides easy access to downtown Fort Worth, Arlington and other areas in the Metroplex.
- The availability of vacant properties for redevelopment provides rare opportunities for locating larger scale businesses, industries and housing developments in Fort Worth's central city.
- There are some current investments and proposed future investments that will begin to create a ripple effect.

The NEZ is also designated as a target area in many other planning efforts and is included in local and state projects for future improvements:

- There are an abundance of city-owned properties and more than 900 privately owned vacant lots.
- Two mixed-use growth centers identified in the City's Comprehensive Plan are located in the NEZ (Barry Street and Interstate Loop 820).
- The NEZ is in one of the target areas of the Southeast Fort Worth Strategic Economic Development Action Plan spearheaded by Southeast Fort Worth Inc.

The entire NEZ is located in the State of Texas Southeast Enterprise Zone, which provides additional economic development incentives. It includes portions of one of the five City Council designated priority commercial corridors - the Rosedale Commercial Corridor. Rosedale Street is also included in a \$12 million multimodal improvement project initiated by the Texas Department of Transportation (TxDOT) in cooperation with North Central Texas Council of Governments (COG), Fort Worth Transportation Authority (The T), and the City of Fort Worth.

- The eastern border of the NEZ is included in TxDOT's Regional Transportation Authority Alternative Use Analysis for Interstate Loop 820 from Meadowbrook Drive to Interstate Highway 287.

Current and Proposed Investments in Stop Six	
1. Eastwood Model Blocks	\$1.2 million
2. HFC Single Family Development	\$1.8 million
3. Job Opportunity Center	\$0.8 million
4. Single Family Development on Barry St.	\$0.9 million
Total Current Investments	\$4.7 million
5. Senior Housing Development on Berry St.	\$9.2 million
6. Bank One Site Single Family Development	\$6.2 million
7. Rosedale Improvements	\$12.0 million
<b>Total Future Investments</b>	<b>\$27.4 million</b>



### **Vision for the Stop Six NEZ**

By the year 2010, the Historic Stop Six NEZ Empowerment Coalition (HSSEC) envisions the rebirth of our community by building partnerships that promote mixed-use development, including quality diverse housing and business development with a focus on African-American-owned businesses.

### **Mission of HSSEC**

The mission of HSSEC is to encourage the development of the designated area as a mixed-use neighborhood to include upscale housing, medium-income housing, well built low-income and multifamily housing. HSSEC will work to assist in the revitalization of Stop Six through public-private partnerships with continued quality educational efforts, economic development, community development, infrastructure development and improvement of public services and outreach partnerships that promote and encourage the enhancement of the best quality of life possible.

### **Community Assets**

Stop Six leaders and residents are proud of their heritage and community assets, which help the neighborhood overcome the disadvantages and will continue to be the driving force for the redevelopment of the Stop Six NEZ. Major assets include:

1. Businesses (Bank One, barber/beauty shops, cleaners, convenience stores, restaurants, funeral homes, car washes/mechanic shops, Minnyards and Walgreen.)
2. Good schools (Dunbar 6th Grade, Middie and High Schools, Logan and Walton Elementary Schools, Texas Wesleyan University)
3. Neighborhood associations (HSSEC, Stop Six/ Poly Oversight Association, South Edgewood Neighborhood Association)
4. Community and health facilities (Martin Luther King Center, library, post office, fire station, JPS Health Clinic, doctor's office, 20 day care centers)
5. Diverse religious organizations
6. Parks and recreational areas (Rosedale Plaza Park, Martin Luther King Park, Lake Arlington)
7. Community service organizations/social services (Boys and Girls Club, YMCA, Southeast Area Churches, Job Opportunity Center)
8. Economic development organizations (Southeast Fort Worth Inc., Black Chamber of Commerce)
9. Historic heritage
10. Transportation access (Martin Luther King Freeway, Loop 820, Interstate 30, Union Pacific Railroad)

### **Major Strategies for the Stop Six NEZ**

HSSEC will undertake or facilitate the following strategies to revitalize Stop Six:

1. **Housing and Community Development**
  - Raise funds from public and private resources to improve the existing housing stock.
  - Develop decent, affordable and diverse housing through land banking, infill development (construction of new homes), and purchase, rehabilitation, resale of existing homes.
  - Facilitate quality housing development initiated by other developers.
2. **Economic Development**
  - Work with the City to reuse abandoned vacant properties through land banking.
  - Seek funds and work with the City and other nonprofit organizations to establish business loan funds, and provide technical assistance and job training programs.
  - Raise funds to conduct a market study for the NEZ.
3. **Infrastructure Improvements**
  - Work with the City and seek funds to improve the conditions of the neighborhood, including streets, sidewalks, water, sewer, streetscape, and parks.
4. **Public Services**
  - Raise funds and work with the School District and other nonprofit organizations to establish youth programs, drug prevention and treatment programs, etc.
  - Organize neighborhood cleanup efforts to improve the image of the neighborhood.
  - Organize and work with the City in fighting crime and drug problems.

The implementation time frame for the above activities is 10 years. In order to develop a focus for redevelopment, HSSEC identified five target areas in the NEZ for commercial and mixed-use development:

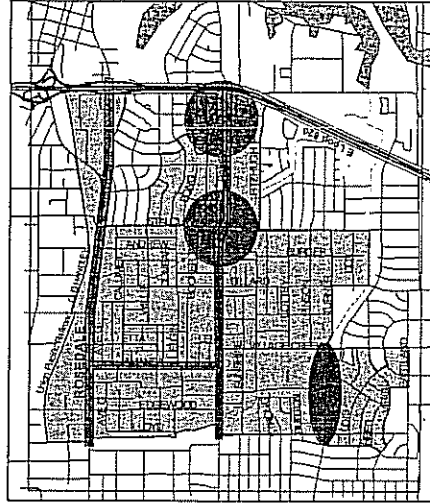
1. Berry Street between Village Creek Boulevard and Edgewood Terrace
2. Rosedale Street
3. Ramey Avenue
4. Amanda Avenue
5. Intersection of Loop 820 and Ramey Avenue

These are the target areas where HSSEC will concentrate its short-term activities. Specific short-term strategies for the first three years, the funding needed to accomplish them and potential funding sources are also identified in the Stop Six NEZ

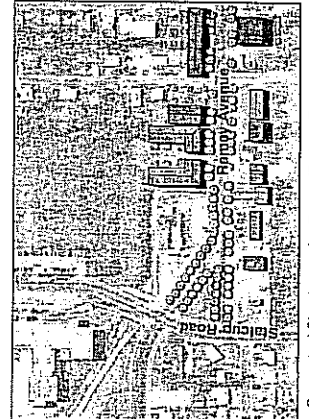
Plan, prepared by HSSEC with the City's assistance. These strategies include:

1. Land banking for economic and housing development
2. Business loans
3. Market study
4. Home Improvements
5. Street reconstruction (including sidewalks) and resurfacing
6. Streetscape improvements
7. Development of a park, an aquatic center/pool, and improvements of Martin Luther King Center

HSSEC will partner with various organizations including Southeast Fort Worth Inc., Stop Six/Poly Oversight Association, developers, lenders, the City, and other partners in the implementation of the Stop Six NEZ strategies.



Stop Six NEZ Target Areas



Conceptual Siteplan for Demolition/Reform, Target Area

### **What Development Incentives Are Offered in the Stop Six NEZ?**

**Municipal Property Tax Abatement**  
The following properties may qualify for municipal property tax abatements:

- ▶ Owner-occupied property
- ▶ Investor-owned single family property
- ▶ Multifamily development project
- ▶ Commercial, industrial or community facilities development project
- ▶ Mixed-use development project

### **Fee Waivers**

The following fees are waived for qualified projects:

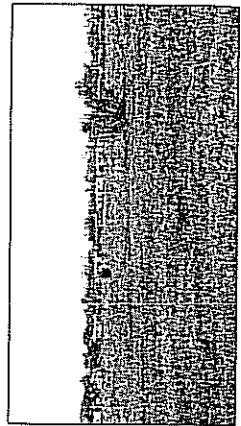
- ▶ All building permit-related fees (including plans review and inspections)
- ▶ Plat application fee (including concept plan, preliminary plat, final plat, short-form replat)
- ▶ Board of Adjustment application fee
- ▶ Demolition fee
- ▶ Structural moving fee
- ▶ Community Facility Agreement (CFA) application fee
- ▶ Zoning application fee
- ▶ Street and utility easement vacation application fee
- ▶ Impact fee

### **Release of City Liens**

The following City liens may be released for qualified projects:

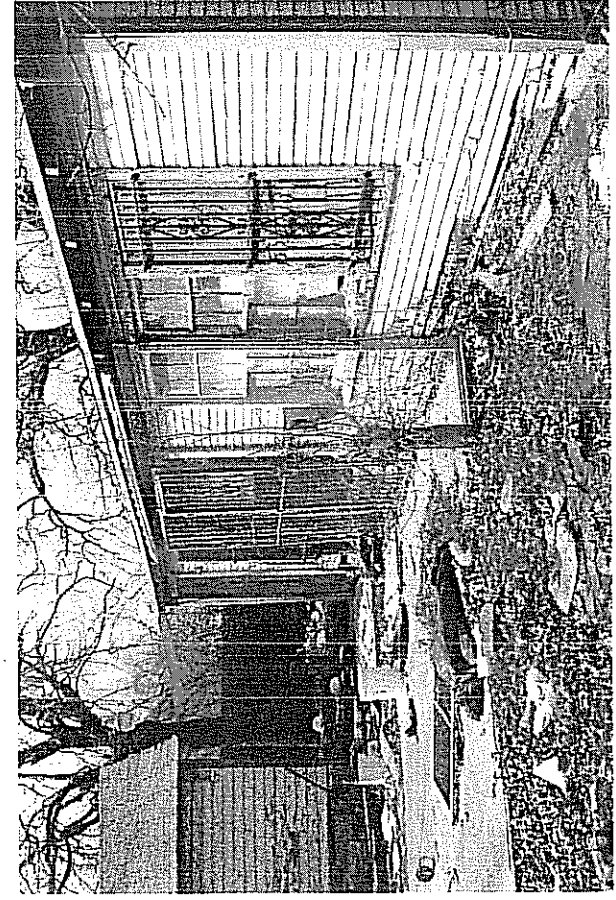
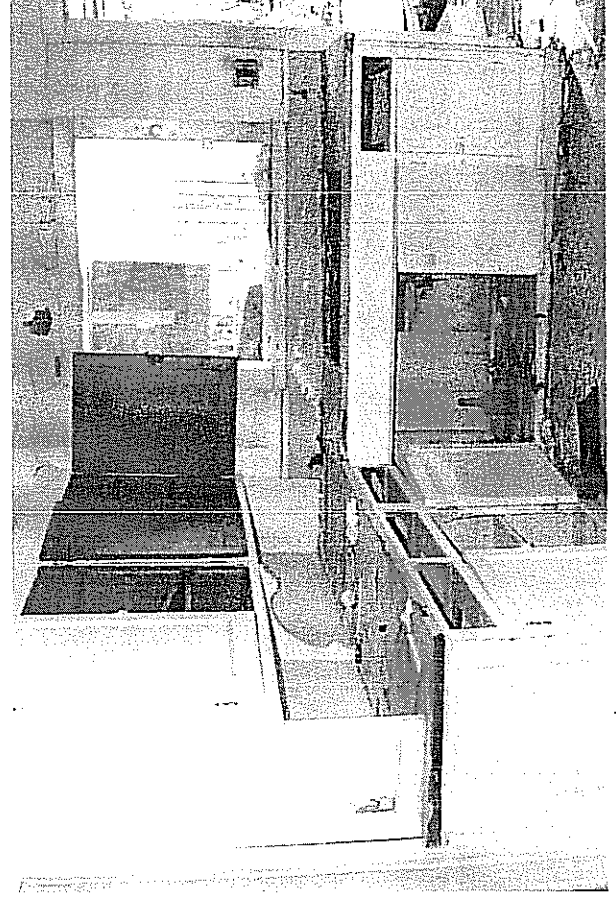
- ▶ Weed liens
- ▶ Demolition liens
- ▶ Board-up/open structure liens
- ▶ Paving liens

If you have a property or development project in the Stop Six NEZ and want to find out whether it qualifies for NEZ incentives, please call 817-871-7381. City staff will assist you in finding the right incentives for you.



Abundance of vacant land in the Stop Six NEZ provides great development opportunities. Photo: Michael S. ...

Existing House on Eastland Site



**060234**

**Alamito Place**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of the termination of a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Alamito Place LP- 060234**

On March 1, 2006, this application was submitted for the above-referenced development. In that application, an engagement letter was provided to temporarily satisfy the requirement for Phase I Environmental Site Assessment (ESA). Pursuant to §50.9(h)(14)(G)(ii) of the 2006 Qualified Allocation Plan and Rules (QAP), "the entire exhibit must be submitted on or before 5:00 p.m. CST, April 1, 2006. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration". The was not submitted ESA on or before that date. The Department terminated this application on May 22, 2006.

The applicant is appealing their ineligibility based on the assertion that because the Application was awarded a HOPE VI grant in 2005, the housing authority is required to obtain its environmental assessment through the City of El Paso. The applicant provides further details of the process required prior to the release of an ESA. It is also noted that a letter from the City of El Paso confirming your assertions is included in the appeal.

While it is understood that and it is a lengthy process to obtain the ESA, §50.9(h)(14)(G)(ii) of the 2006 QAP is explicit in that, "the entire exhibit must be submitted on or before 5:00 p.m. CST, April 1, 2006. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration". Unfortunately, we did not receive the Phase I ESA on or before that date and the application is ineligible as a result.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Alamito, LP, a to be formed Texas limited partnership
Site Location:	Bordered by Delta Drive St., Saint Vrain St., E. Third St. and Hill St.
City/County:	El Paso/ El Paso
Regional Allocation Category:	Urban/Exurban
Set-Aside:	Non-Profit

Population Served: Intergenerational  
Region: 13  
Type of Development: New Construction  
Units: 58  
Credits Requested: \$634,820

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

(14) Supplemental Threshold Reports. ... All submissions must meet the requirements stated in subparagraphs (E) – (G) of this paragraph

(A) A Phase I Environmental Site Assessment (ESA) report:

(i) prepared by a qualified Third Party;

(ii) dated not more than 12 months prior to the first day of the Application Acceptance Period. In the event that a Phase I Environmental Site Assessment on the Development is more than 12 months old prior to the first day of the Application Acceptance Period, the Applicant must supply the Department with an updated letter or updated report dated not more than three months prior to the first day of the Application Acceptance Period from the Person or organization which prepared the initial assessment confirming that the site has been re-inspected and reaffirming the conclusions of the initial report or identifying the changes since the initial report; and

(iii) prepared in accordance with the Department's Environmental Site Assessment Rules and Guidelines, §1.35 of this title.

(iv) Developments whose funds have been obligated by TX-USDA-RHS will not be required to supply this information; however, the Applicants of such Developments are hereby notified that it is their responsibility to ensure that the Development is maintained in compliance with all state and federal environmental hazard requirements...

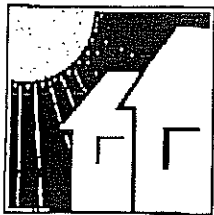
(G) The requirements for each of the reports identified in subparagraphs (A) – (C) of this paragraph can be satisfied in either of the methods identified in clauses (i) or (ii) of this subparagraph and meet the requirements of clause (iii) of this subparagraph.

(i) Upon Application submission, the documentation for each of these exhibits may be submitted in its entirety; or

(ii) Upon Application submission, the Applicant may provide evidence in the form of an executed engagement letter with the party performing each of the individual reports that the required exhibit has been commissioned to be performed and that the delivery date will be no later than April 1, 2006. In addition to the submission of the engagement letter with the Application, a map must be provided that reflects the Qualified Market Analyst's intended market area. Subsequently, the entire exhibit must be submitted on or before 5:00 p.m. CST, April 1, 2006. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration....

(iii) A single hard copy of the report and a searchable soft copy in the format of a single file containing all information and exhibits in the hard copy report, presented in the order they appear in the hard copy report on a CD-R clearly labeled with the report type, Development name, and Development location are required.

# **Board Appeal/ Executive Director Appeal**



**HOUSING AUTHORITY**  
**OF THE CITY OF EL PASO, TEXAS**

By Fax to (512) 472-8526

Mr. Michael Gerber, Executive Director  
 TDHCA -Housing Tax Credit Program  
 221 East 11<sup>th</sup> Street  
 Austin, TX 78701

RE: Alamito Place, LP, TDHCA # 060234  
 Appeal of Notification of Termination of Application

Dear Mr. Gerber:

This letter appeals the TDHCA's Notification of Termination of Application for Alamito Place, LP on May 22, 2006.

The development which will be known as Alamito Place is an existing development which is a part of a HOPE VI grant awarded to the Housing Authority of the City of El Paso ("HACEP") in July 2005. As such, HACEP is required to obtain its environmental assessment through the City of El Paso. This assessment process includes the requirement that the demolition of the existing project must be approved by the State Historic Preservation Office ("SHPO") before final approval and release of the environmental assessment. HACEP initiated this process shortly after receipt of the HOPE VI award in anticipation of the lengthy process required by the historic review. In early April, when HACEP learned that this review was not completed, it discussed this problem with the TDHCA staff to provide an update of the situation.

Attached please find a letter from the City of El Paso that describes the current situation between SHPO and HACEP. The letter also describes the Memorandum of Agreement ("MOA") whereby the City of El Paso, as Responsible Entity, agrees to perform an environmental review for the Alamito HOPE VI housing redevelopment.

Also, please note that as a recipient of a HOPE VI grant, HACEP is required by the U.S. Department of Housing and Urban Development ("HUD") to seek approvals that are not ordinarily required on transactions that do not include HOPE VI funding. Representatives from HUD have indicated that they will make themselves available to discuss with you and the TDHCA Board the significant role they are playing in negotiating with SHPO to finalize the MOA.

Finally, in order to obtain a favorable response to this appeal request, HACEP will procure the services of a private engineering firm to complete a separate Phase I environmental assessment of the Alamito Place site by no later than June 9, 2006.

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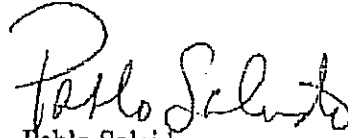


Page 2

We ask for your favorable reconsideration of your decision of the termination of the application for Alamito Place, LP.

Thank you very much for your consideration of this appeal. If you require additional information, please do not hesitate to call me at (915) 849-3700 or our tax credit counsel, Antoinette "Toni" Jackson at (713) 653-7392.

Very truly yours,



Pablo Salcido  
President and CEO

cc: Robbye Meyer, Interim Director, Multifamily Finance Production Division  
Jennifer Joyce, Interim Manager, Multifamily  
Antoinette Jackson, Coates Rose  
David Storms, HUD - Ft. Worth

6

JOHN COOK  
MAYOR

JOYCE WILSON  
CITY MANAGER

NATHALIE PRISE  
DIRECTOR



CITY COUNCIL  
ANN MORGAN LILLY, DISTRICT 1  
SUSANNAH M. BYRD, DISTRICT 2  
J. ALEXANDRO LOZANO, DISTRICT 3  
MELINA CASTRO, DISTRICT 4  
PRESI ORTEGA, JR., DISTRICT 5  
EDDIE HOLGUIN, JR., DISTRICT 6  
STEVE ORTEGA, DISTRICT 7  
BETO O'ROURKE, DISTRICT 8

COMMUNITY & HUMAN DEVELOPMENT  
DEPARTMENT

May 23, 2006

Robbye Meyer  
Acting Director of Multifamily Finance Production  
Texas Department of Housing & Community Affairs  
P O Box 13941  
Austin TX 78711-3941

Dear Ms. Meyer:

I am writing in response to your letter of May 22, 2006, informing the Housing Authority of the City of El Paso (HACEP) that their application for tax credits has been dropped because they could not produce an environmental assessment for the project.

The City of El Paso has been designated as the Responsible Entity for federally funded projects within our jurisdiction. We have a Memorandum of Agreement with the HACEP that we will perform environmental reviews for their projects for a negotiated fee.

We received a request from HACEP in August, 2005, to perform a review for the Alamito HOPE VI housing project. The Texas Historic Commission (THC) deemed the housing development to be eligible for historic listing in October, 2005. Since that time, the City and HACEP have been in the process of mitigating the adverse affects to the potentially historic building of the Alamito Housing Project. Because the THC has thirty (30) days to respond each time correspondence is received, this process is slow to reach a conclusion. The City, HACEP and the THC will eventually sign a Memorandum of Understanding for this project. At this time, we are awaiting a decision from the THC on the wording of the final Memorandum.

We request that you accept the appeal filed by the HACEP. The environmental assessment will be forwarded to your office at its completion.

Sincerely,

*Nathalie Prise*  
Nathalie Prise, Director  
Community & Human Development  
City of El Paso

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# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY

Governor

**BOARD MEMBERS**

Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
*Executive Director*

Mr. Gary Sanchez  
Alamito, LP, a to be formed Texas limited partnership  
5300 E. Paisano  
El Paso, TX 79905  
Telephone: (915) 849-3749  
Telecopier: (915) 849-3722

**Re: Appeal Received for Alamito Place LP - 060234**

Dear Mr. Sanchez:

**Appeal Review**

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 24, 2006 regarding the termination of the above-referenced development. The application was terminated because a Phase 1 Environmental Site Assessment was not submitted by the April 1, 2006 deadline as required by §50.9(h)(14)(G)(ii) of the 2006 Qualified Allocation Plan and Rules (QAP).

In your appeal you assert that because the Application was awarded a HOPE VI grant in 2005, the housing authority is required to obtain its environmental assessment through the City of El Paso. You further provide details of the process required prior to the release of an ESA. It is also noted that a letter from the City of El Paso confirming your assertions is included in the appeal.

While I understand that and it is a lengthy process to obtain the ESA, §50.9(h)(14)(G)(ii) of the 2006 QAP is explicit in that, "the entire exhibit must be submitted on or before 5:00 p.m. CST, April 1, 2006. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration". Unfortunately, we did not receive the Phase I ESA on or before that date and the application is ineligible as a result.

**Appeal Determination**

Your appeal is denied.

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Mr. Sanchez  
June 1, 2006  
Page 2 of 2

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting. All appeal documentation submitted by 5:00 p.m. Tuesday, May 31, 2006 will be placed on the June 9, 2006 Board book.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Gerber", with a long horizontal flourish extending to the right.

Michael Gerber  
Executive Director

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# Termination Documentation



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY

Governor

**BOARD MEMBERS**

Elizabeth Anderson, *Chair*

Shadrick Bogany **May 22, 2006**

C. Kent Conine

Dionicio Vidal (Sonny) Flores

Vidal Gonzalez **Gary Sanchez**

Norberto Salinas

Alamito, LP, a to be formed Texas limited partnership  
5300 E. Paisano

MICHAEL GERBER

*Executive Director*

El Paso, TX 79905

Telephone: (915) 849-3749

Telecopier: (915) 849-3722

**Re: Alamito Place, TDHCA# 060234**

Dear Mr. Sanchez:

On March 1, 2006, an application was submitted for the above-referenced development. In that application, an engagement letter was provided to temporarily satisfy the requirement for an Environmental Site Assessment (ESA). Pursuant to §50.9(h)(14)(G)(ii) of the 2006 Qualified Allocation Plan (QAP), "the entire exhibit must be submitted on or before 5:00 p.m. CST, April 1, 2006. If the entire exhibit is not received by that time, the Application will be terminated and will be removed from consideration". Unfortunately, we did not receive the ESA on or before that date.

On Tuesday, April 4, 2006 the Department contacted the representative for this application to confirm the report has not been submitted. Gary Sanchez confirmed via e-mail that it had not been submitted yet because the applicant was "dealing with a SHPO issue and therefore the E[S]A will not be released until this is resolved". The ESA has not been received to date.

Therefore, please be informed that pursuant to this section of the QAP, the Department has terminated this Application and no further action will be taken on it.

Please be aware that an Appeals Policy exists for the Housing Tax Credit Program. If you wish to appeal this application termination decision, you must file your appeal with the Department no later than **May 29, 2006**. However, in the event that the Executive Director denies your appeal and you would like to be placed on the June 9, 2006 agenda, **it is strongly encouraged that you submit your appeal no later than May 24, 2006 in order to increase the probability that this application may be**

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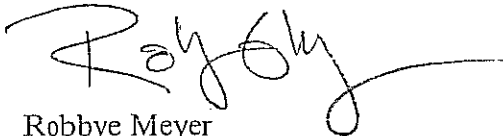
Mr. Gary Sanchez  
May 22, 2006  
Page 2 of 2

**placed on the June 9, 2006 Board meeting as a Board appeal.** You must indicate in your appeal that you would like to be placed on the Board agenda in the event of Executive Director's denial. The restrictions and requirements relating to the filing of an appeal can be found in §50.17(b) of the 2006 QAP.

In an effort to increase the likelihood that Board appeals related to scoring and set-asides are heard at the June 9, 2006 Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director the form requests that the applicant automatically be added to the Board agenda. Note that the completion of the form will add the applicant to the agenda, but that an actual appeal to the Board must be received by the Department by 5:00 p.m. Wednesday, May 31, 2006. All appeals should be submitted to the attention of Jennifer Joyce.

If you have any questions, please do not hesitate to contact Jennifer Joyce at [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us) or 512.475.3995.

Sincerely,



Robbye Meyer  
Acting Director of Multifamily Finance Production





**2006 HOUSING TAX CREDIT APPEAL ELECTION FORM**

This form, submitted with my appeal to the Executive Director, is to notify the Department that I am filing a formal appeal to the Executive Director for processing.

**If my appeal is denied by the Executive Director, I: (check one)**

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31, 2006 to be placed on the June 9, 2006 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Development Name:	
Development Address:	
Title:	
Date:	

Signed: \_\_\_\_\_

TRANSMISSION VERIFICATION REPORT

TIME : 05/22/2006 15:08  
NAME :  
FAX :  
TEL :  
SER.# : 000J5J563237

DATE, TIME	05/22 15:07
FAX NO./NAME	919158493722
DURATION	00:00:34
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

**060242**

**Pear Orchard**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**  
**BOARD ACTION REQUEST**  
**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of the termination of a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Pear Orchard Apartments- 060242**

On May 25, 2006, the above-referenced application was terminated under the 2006 Qualified Allocation Plan and Rules (QAP) and 2006 Hurricane Rita Housing Tax Credit Application Policy (Rita Policy) for the following three (3) reasons:

1. It was determined that this application did not meet the minimum threshold score for a Hurricane Rita Application (105). The final score for this Application after all deficiencies were submitted to the Department and reviewed was a final score of 96.
2. It was determined that the application was ineligible under §50.5(a)(9) of the QAP which states that an application is ineligible if , "A submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review can not reasonably be performed by the Department, as determined by the Department." In all attempts to review this application, the Department issued four separate deficiency notices for over 50 separate items identified as deficient. The responses to the notices totaled over 350 pages of documentation. Staff also provided a significant amount of technical assistance in the form of e-mail and telephone conversations. After all submissions were received and reviewed, it was determined that the application was still incomplete and disjointed to the extent that a complete review could not reasonably be performed.
3. It was determined that notifications were not made as required by §50.9(h)(8)(A) of the QAP and Rita Policy. This determination was based on several factors. They are outlined below:
  - A. The application submitted to the Department on February 21, 2006 included an incomplete Volume 3, Tab 3, *Certification of Notifications (Sections A-C)* form. This form is required as evidence that notifications under the QAP and Rita Policy were met.

- B. In a conversation with TDHCA staff and Senator Williams' office, it was clear that the senator was not notified of this application pursuant to this section. Additionally, conversations between Jen Joyce and the applicant indicated that the applicant was unaware of the notification requirements.
- C. Because of the reasons outlined in A and B (above), a deficiency notice was issued on April 14, 2006, which required the applicant to submit evidence of all notifications made pursuant to this section (i.e. letter to each addressee and overnight mail receipt or other mail receipt). The response was received after the 14 day 5:00 pm on the deadline. The response included the following documentation which affirmed the Department's determination that notifications were made as required:
- I. A form letter was submitted which had no addressee, date, or signature and the applicant was unable to provide a copy of any letter which was either personalized or dated.
  - II. The form letter, which was certified as sent on February 21, 2006, listed "20% of units serving 50% AMGI." However, the application submitted February 21, 2006 was for 100% of units at 60% AMGI (all documentation submitted in the original application consistently represented this mix.) The rent schedule was not changed to 20% of the units serving 50% until the April 21, 2006 deficiency response. This evidence indicates that this template was actually drafted in response to the April 14, 2006 deficiency notice.
  - III. The response did not specifically list all elected officials. The city manager's office, county judge's office, and offices of precinct 1 and 4 (it is not known if these were council persons or commissioners) confirmed receipt. Therefore, most elected officials did not confirm receipt.
  - IV. Regarding requests for information on neighborhood organizations, the applicant submitted a letter stating it had been sent to the councilperson for the subject development's location. The letter was dated January 13, 2006. No proof of mailing or receipt was submitted. The councilperson did not confirm receipt.
1. The applicant asserts that because a certification that notifications were made pursuant to §50.9(h)(8) of the QAP is all that is required by the QAP, the documentation submitted in response to the deficiency notice should have been sufficient.

Staff Response: All requests for documentation were made by TDHCA staff pursuant to §50.9(d)(4) of the QAP which states, "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.”

2. The applicant requested for 22 points for §50.9(i)(3), Income Levels of the Development and provided a new rent schedule for consideration.

Staff Response: This documentation can not be submitted at this time because it is well after the deadline for a deficiency response. Additionally, should this rent schedule be accepted, subsequent documentation in the application would need to be revised as a result. It should also be noted that the rent schedule is the 5<sup>th</sup> rent schedule submitted thus far.

3. You assert that deficiencies were timely sent by e-mail but were rejected because they were too large to send. You request the reinstatement of 5 points because the information was Fed-Exed after the deadline.

Staff Response: The Rita Policy allows 14 days to respond to a deficiency response. All deficiencies were due no later than 5:00 pm on May 1, 2006. It has been confirmed that documentation was not received until 8:36 pm on May 1, 2006. The applicant clearly submitted the deficiency response after the deadline.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	Maple Glen Partners, LLC
Site Location:	4365 South Fourth Street
City/County:	Beaumont/ Jefferson
Regional Allocation Category:	Urban/Exurban
Set-Aside:	None
Population Served:	Family
Region:	5
Type of Development:	Rehabilitation Construction
Units:	150
Credits Requested:	\$641,822

**Staff Recommendation:** The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

060242- Pear Orchard

Minimum Score:

**IV: Eligibility (Rita Policy):** Applications must be submitted by the deadlines indicated in Section V of this policy and must be for a development site that is located within one or more of the eligible counties. Applications must satisfy all eligibility and threshold criteria outlined in the 2006 QAP and must also obtain a minimum score of 105 to be considered for an award under this policy.

Ineligible Application for Unclear and Disjointed Application:

**§50.5(b) Disqualification and Debarment (QAP):** The Department will disqualify an Application, and/or debar a Person (see §2306.6721, Texas Government Code), if it is determined by the Department that any issues identified in the paragraphs of this subsection exist. The Department may debar a Person for one year from the date of debarment, or until the violation causing the debarment has been remedied, whichever term is longer, if the Department determines the facts warrant it. Causes for disqualification and debarment include: (2306.6721)...

(9) A submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review can not reasonably be performed by the Department, as determined by the Department.

Notification Requirements:

**(V)(8)(Rita Policy):** The requirements for notifying local and state officials required under §50.9(h)(8)(A), will be considered to be made timely as long as they are made by the date the Volume I of the Application is submitted.

**§50.9(h)(8)(A):** (8) Evidence in the form of a certification of all of the notifications described in the subparagraphs of this paragraph. Such notices must be prepared in accordance with the "Public Notifications" statement provided in the Application.

(A) Evidence of notification meeting the requirements identified in clause (i) of this subparagraph to all of the individuals and entities identified in clause (ii) of this subparagraph. Evidence of such notifications must be in the form of a certification in the format provided by the Department that the Applicant made the notifications to all required individuals and entities in the format provided by the Department on or before the deadlines... (2306.6705(9)) ....

(i) Each such notice must include, at a minimum, all of the following:

(I) The Applicant's name, address, individual contact name and phone number;

(II) The Development name, address, city and county;

(III) A statement informing the entity or individual being notified that the Applicant is submitting a request for Housing Tax Credits with the Texas Department of Housing and Community Affairs;

(IV) Statement of whether the Development proposes New Construction or Rehabilitation;

(V) The type of Development being proposed (single family homes, duplex, apartments, townhomes, highrise etc.) and population being served (family, Intergenerational Housing or elderly);

(VI) The approximate total number of Units and approximate total number of low-income Units;

(VII) The approximate percentage of Units serving each level of AMGI (e.g. 20% at 50% of AMGI, etc.) and the percentage of Units that are market rate;

(VIII) The number of Units and proposed rents (less utility allowances) for the low-income Units and the number of Units and the proposed rents for any market rate Units. Rents to be provided are those that are effective at the time of the Application, which are subject to change as annual changes in the area median income occur; and

(IX) The expected completion date if credits are awarded.

~~(ii) Notification must be sent to all of the following individuals and entities...~~

(I) Neighborhood Organizations on record with the state or county. Applicants must provide evidence that neighborhood organizations were notified pursuant to this subsection. Evidence in the form of a certification must be provided that a letter requesting information on neighborhood organizations on record with the state or county in which the Development is to be located and whose boundaries contain the proposed Development site and meeting the requirements of "Neighborhood Organization Request" as outlined in the Application was sent ~~no later than January 15, 2006~~ ...

(II) Superintendent of the school district containing the Development;

(III) Presiding officer of the board of trustees of the school district containing the Development;

(IV) Mayor of the governing body of any municipality containing the Development;

(V) All elected members of the governing body of any municipality containing the Development;

(VI) Presiding officer of the governing body of the county containing the Development;

(VII) All elected members of the governing body of the county containing the Development;

(VIII) State senator of the district containing the Development; and

(IX) State representative of the district containing the Development.

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060242- Pear Orchard

(Continued) (B) Signage on Property or Alternative. A Public Notification Sign shall be installed on the Development site prior to the date the Application is submitted. For Tax-Exempt Bond Developments the sign must be installed no later than 30 days after the Department's receipt of Volumes I and II. ... As an alternative to installing a Public Notification Sign and at the same required time, the Applicant may instead, at the Applicant's option, mail written notification to those addresses described in either clause (i) or (ii) of this subparagraph. This written notification must include the information otherwise required for the sign as provided in the Application. If the Applicant chooses to provide this mailed notice in lieu of signage, the final Application must include a map of the proposed Development site and mark the distance required by clause (i) or (ii) of this subparagraph, up to 1,000 feet, showing street names and addresses; a list of all addresses the notice was mailed to; an exact copy of the notice that was mailed; and a certification that the notice was mailed through the U.S. Postal Service and stating the date of mailing. If the option in clause (i) of this subparagraph is used, then evidence must be provided affirming the local zoning notification requirements.

(i) All addresses required for notification by local zoning notification requirements. For example, if the local zoning notification requirement is notification to all those addresses within 200 feet, then that would be the distance used for this purpose; or

(ii) For Developments located in communities that do not have zoning, communities that do not require a zoning notification, or those located outside of a municipality, all addresses located within 1,000 feet of any part of the proposed Development site.

(C) If any of the Units in the Development are occupied at the time of Application, then the Applicant must certify that they have notified each tenant at the Development and let the tenants know of the Department's public hearing schedule for comment on submitted Applications.



# **Board Appeal/ Executive Director Appeal**

C A N T E Y & H A N G E R, L.L.P.  
ATTORNEYS AT LAW

BRIAN T. MCCABE  
E-MAIL: [BTMCCABE@CANTEYHANGER.COM](mailto:BTMCCABE@CANTEYHANGER.COM)

400 WEST 15TH STREET • SUITE 200  
AUSTIN, TEXAS 78701  
TELEPHONE (512) 391-3442  
CELL (512) 346-8983  
FACSIMILE (512) 469-0474  
Ft. Worth: (817) 877-2857

May 31, 2006

Robbye Meyer  
Acting Director of Multifamily Finance Production Division  
Texas Department of Housing & Community Affairs  
221 East 11<sup>th</sup>  
Austin, TX 78711-3941

RE: Termination of Pear Orchard Apts., Beaumont, Texas Application, TDHCA# 060242

Dear Ms. Meyer:

This letter should be read in conjunction with the letter dated the date hereof from Maple Glen Partners, LLC ("Maple Glen") regarding the above Termination of Application. This letter together with the Maple Glen letter is a portion of Maple Glen's appeal.

The Application is governed by the 2006 Qualified Action Plan and the 2006 Hurricane Rita Policy approved by the TDHCA Board by February 21, 2006 (the "QAP"). We want to address Reason (II) contained in the May 25, 2006 Termination Letter ("Termination Letter").

Section 50.9(h) (8) of the QAP deals with notices to various individuals and entities. To fulfill the requirements of the QAP, the Applicant has submitted its "Certification as to Notifications (Sections A – C)" (the "Certification") in Volume 3, Tab 3 of the Application. The Certification is a sworn statement of the Applicant that the requirements of §50.9(h) (8) have been met. The Certification requires that the Notices set forth therein have been either mailed through the U.S. Postal Service and/or posted at the Project.

The Termination Letter states that the notifications required by §50.9(h) (8) have been not been met. We respectfully disagree. There is no requirement in the QAP or otherwise that the Applicant submit proof that the letters were received by the person or entity. There is no requirement in the QAP or otherwise that the Applicant send the Notices by registered or certified mail, return receipt requested, or produce any form of U. S. Postal Service receipts. There is no requirement in the QAP or otherwise that the Applicant take any action other than to mail the Notice within the time frame set forth. This was done and the Certificate has been presented. Maple Glen has relied upon the very clear administrative rules set forth in the QAP and would be prejudiced by the imposition of a tougher standard at this time.

Nonetheless, Maple Glen attempted to contact recipients to ask them to confirm receipt. Bear in mind that Maple Glen had a challenging time contacting several of the recipients. However, Maple Glen was pleased to submit numerous verifications from parties who affirm that they did receive the Notice in a timely fashion. These verifications included the Mayor of Beaumont and the County Judge of Orange County. Copies of these verifications were attached to the responses to the Deficiency Letters.

You state that you are requesting this additional material because the TDHCA received outside evidence that a Notice or Notices were not sent. Without more specificity, it is difficult to know how to assess your concern. We suspect you are making this statement based upon e-mails with Senator Tommy Williams' staff. Respectfully, his staff is incorrect when it states that it did not receive notice from us. In fact, before the applicable deadlines for Notice, the law firm of Orgain, Bell & Tucker, Beaumont, Texas, was in contact with the offices of both Representative Deshotel and Senator Tommy Williams. Mr. J. Pat Ivey of Orgain Bell & Tucker reported back in an e-mail dated February 17, 2006 that Representative Deshotel's office was preparing the required letter and that Senator Williams office reported that the Senator would consider the required letter, but asked for the TDHCA Project number. His office was promptly furnished with the TDHCA Project Number and the Applicant assumed the letter was prepared and sent. When you reported that you had not received it, another was prepared by the Senator's office and sent to you.

As you stated in your e-mail of April 12, 2006, "... all letters of support for Hurricane Rita Applications must have been received by March 1, 2006 pursuant to the Hurricane Rita Credit Policy approved by the TDHCA Board. In the e-mail between TDHCA and the Senator's office dated March 17, 2006, it appears that TDHCA did not receive any of the Senator's letters regarding any of the Projects until March 16, 2006. Maple Glen was surprised to learn that their letter was not in that batch of letters, as they know the Senator's office was contacted prior to the applicable deadline. Maple Glen understands that the difficulties created by the Hurricanes, the Special Sessions, etc. could cause the notifications not to be relayed to the Senator and that the letters could understandably be delivered late, but Notice was given in a timely manner, as required by the QAP. Maple Glen supports the Senator and he has supported Maple Glen's project. However, these items serve as an indication that the times have been challenging all over East Texas post-Hurricane, and the Senator's office has not been spared.

Maple Glen has relied upon the very clear administrative rules set forth in the QAP and would be prejudiced by the imposition of a tougher standard at this time.

Respectfully submitted,

By: 

Brian T. McCabe, Partner

MAPLE GLEN PARTNERS LLC  
213.479.3015 FAX 614.573.7220  
3312 Columbus Court  
Columbus, Ohio 43209

May 31, 2006

Robbye Meyer  
Acting Director of Multifamily Finance Production Division  
Texas Department of Housing & Community Affairs  
221 East 11<sup>th</sup>  
Austin, TX 78711-3941

RE: Termination of Pear Orchard Apts., Beaumont, Texas Application, TDHCA# 060242

Dear Ms. Meyer;

This letter, together with the attachments hereto, constitutes Maple Glen Partners, LLC's appeal to the Termination of Pear Orchard Apts., Beaumont, Texas Application, TDHCA# 060242 dated May 25, 2006 ("Termination Letter"). This appeal is filed by Maple Glenn LLC (Owner") with regards to the Pear Orchard Apartments, Beaumont, Texas ("Project") and its application of February 21, 2006, as amended and supplemented (the "Application").

**Termination Notice**

(I)

**Income Levels of the Tenants of the Development**

100% of our units are set aside for tenants whose income does not exceed 50% of the AMFI, per the accompanying Rent Schedule. - Look up rents - 568 2 bdrm?

The initially submitted Rent Schedule was corrected in response to the March 1, 2006 deficiency Notice. However, in response to an April 14, 2006 deficiency notice which requested that the Rent Schedule be updated to reflect 2006 HTC rent limits, we errantly showed 20% of the units at 50% AMFI and 80% of the units at 60% AMFI. We received an additional deficiency notice on April 25, which requested clarification on inconsistencies on the total square footage of the units and utility allowances to be included on the Rent Schedule. However, the inconsistencies regarding the percentage of units at 50% AMFI were not addressed, as they could have been corrected at that time. Nevertheless, the rent we proposed collecting for all units, whether they were identified as 50% or 60%, is and has always been the same: \$400 monthly, which is well-below the 50% program limit of \$568 -> not true - submitted > rents @ 60%

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Nevertheless, we apologize for this error, which has been corrected with the submission of the accompanying corrected Rent Schedule. Thus, we request reinstatement of the 22 points.

### Late deficiencies

This is an email we sent to Ben Sheppard on April 21:

*Our goal was to email you the deficiency response in four emails, 1-10, 11-20, 21-30, and 31-39. However, the emails were too large and were rejected. We then started sending two at a time, and still had a problem with some rejects, so then we went one at a time, and even then had some rejects. I am sorry that your inbox is probably overflowing! What we are doing now is making hardcopies of everything, which we will FedEx for Monday delivery. Thanks*

The hard-copies were delivered to TDHCA on Monday. Thus, we request reinstatement of the 5 points.

(II)

- I. This error was deficiency #25 on the April 14 Deficiency Notice, which stated "Volume 3, Part 3, Certification of Notifications: In Section A, Part 2 of this form, you must check all three boxes." In response, a corrected form correctly checking all three boxes was submitted.
- II. The proper notification was mailed to Senator Williams and other required entities on February 16, 2006, and we have certified this. We do not understand why Senator Williams' office has indicated that they did not receive this Notice. Our application did receive a letter of support from Senator Williams.
  - a. Our staff composed a form letter which included all the elements required in the Public Notification section of the 2006 QAP. Copies were then mailed First Class to the required recipients. The QAP does not require that these are personalized with the addressee, or dated and signed.
  - b. The Notification letter stated that "20% of the units will be set aside for families whose income does not exceed 50% of AMGI, and all units will be restricted to occupancy by families whose income does not exceed 60% of AMGI". Our initial application did claim the 22-points for setting aside at least 80% of the units for families whose income does not exceed 50% AMGI, so the intention is (and was) to house families at 50% AMGI as indicated in the Notification letter. The reference to a late redrafting of this letter is incorrect, as 34

*> 20% this  
50%  
Not 80%  
50%*

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recipients of the letter have acknowledged receipt of the February 16 mailing.

- c. In response to an April 25 Deficiency Notice, we were asked to provide "delivery and/or registered mail receipts" for all recipients of the Notification letter both to elected officials and nearby property owners. As the QAP does not require that the Notification letters are sent certified mail or via a delivery service such as FedEx, we had simply mailed by First Class. Thus, the deficiency notice requested that we "submit evidence from the entities themselves". Thus, we contacted nearby property owners and other required entities to have them sign attest to their receipt of the Notification Letter. Thirty nearby property owners, two Jefferson County Commissioners, the Mayor of Beaumont, and a Jefferson County Judge attested to receipt of the February 16 mailing by signing a confirmation letter which read as follows:

*"On February 16, 2006, the attached notification of Maple Glen Partner LLC's application for tax credits to the Texas Department of Housing and Community Affairs was mailed to you. Unfortunately, these were not mailed certified and we now need to demonstrate that they were received. If awarded, these tax credits would fund needed improvements to Pear Orchard Plaza, 4365 S. 4th Street in Beaumont. Please confirm your receipt of this notification by signing below. We appreciate your assistance."*

I confirm that we received notification of the tax credit application by Maple Glen Partners LLC to Texas Department of Housing and Community Affairs for tax credits to renovate Pear Orchard."

The Termination Notice states that the "residents signed affidavits that they were notified, the statement they were attesting to did not indicate a date the notification was received." We would not be certain of the dates of receipt, but the date of mailing is correctly identified as February 16, 2006 in the first line of the confirmation letter.

- d. We were unable to obtain confirmations from all recipients, as many were busy on with the pending elections in early May. However, we believe that the confirmations we received represent a strong representative sampling of the recipients and should be sufficient evidence of the mailing.
- e. The Request for Neighborhood Organizations was never responded to by our local Councilperson. This councilperson also did not respond to our requests for confirmation of receipt. No proof of mailing or receipt is required.

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Please see the attached letter from Cantey & hanger, LLP, as to the compliance with Section 50.9(h) (8) of the QAP.

This was the first experience completing a Texas tax credit application. We did not elect to hire the services of an outside Application Consultant to prepare this application for us, and our staff completed this. This was also assembled in a bit of a hurry due in order to rebuild our property which was damaged by Hurricane Rita. Nevertheless, our Application included all Volumes, included most of the documentation required for Threshold Criteria and the Uniform Application, but may have been a bit unclear, disjointed, or incomplete. Nevertheless, in responding to the Deficiency Notices and by working with Department staff, we believe that a thorough review has been reasonably performed by the Department. Thus, we do not agree with this Termination and respectfully rest that the Application be granted and the tax-credits be allocated.

Respectfully,

Jorge Newberry  
President  
Maple Glenn LLC

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**Brian McCabe**

---

**From:** J. Pat Ivey [jpi@obt.com]  
**Sent:** Friday, February 17, 2006 3:41 PM  
**To:** Eric Floyd; Brian McCabe  
**Cc:** Lance Fox; Robbie Duval

Appeal Docs

Eric and Brian:

I spoke with Representative Deshotel – he is on board. He confirmed via email that he has instructed his staff to send a letter to TDHCA on our behalf. Mr. Deshotel uses the name of the project as the reference for his letter (rather than requiring the application number).

Senator Williams requires an application number to send his letter. I did not speak directly to the Senator, and I am uncertain what he will do. When you have the application number please let me know, and we will mail or email a request for the letter to his office.

J. Pat Ivey  
Orgain, Bell & Tucker, LLP  
470 Orleans  
Beaumont, TX 77701  
409-838-6412  
jpi@obt.com

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# YAHOO! MAIL

Print - Close Window

Appeal Docs

Date: Fri, 21 Apr 2006 16:45:36 -0700 (PDT)  
From: "Jorge Newbery" <budgetre@yahoo.com>  
Subject: Pear Orchard Plaza deficiency response  
To: ben.sheppard@tdhca.state.tx.us

Our goal was to email you the deficiency response in four emails, 1-10, 11-20, 21-30, and 31-39. However, the emails were too large and were rejected. We then started sending two at a time, and still had a problem with some rejects, so then we went one at a time, and even then had some rejects. I am sorry that your inbox is probably overflowing! What we are doing now is making hardcopies of everything, which we will FedEx for Monday delivery. Thanks

Jorge Newbery  
www.jorgenewbery.com  
213.494.2471  
FAX 614.573.7220  
3312 Columbus Court  
Columbus, OH 43209

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**Volume 1, Tab 2. Populations Served**

**Part B. Rent Schedule (Cont.)**

<b>HOUSING</b>	TC30%	0
	TC40%	0
	TC50%	150
	TC60%	0
<b>TAX</b>	HTC LI Total	150
	TCEO	0
<b>CREDITS</b>	MR	0
	MR Total	0
	TC Total	150
<b>MORTGAGE</b>	MRB30%	0
	MRB40%	0
	MRB50%	0
	MRB60%	0
<b>REVENUE</b>	MRB LI Total	0
<b>BOND</b>	MRBMR	0
	MRBMR Total	0
	MRB Total	0

<b>HOUSING</b>	HTF30%	0
	HTF40%	0
	HTF50%	0
	HTF60%	0
<b>TRUST</b>	HTF80%	0
	HTF LI Total	0
	MR	0
<b>FUND</b>	MR Total	0
	HTF Total	0
<b>HOME</b>	HOME HH	0
	HOME LH	0
	HOME LI Total	0
	MR/EO	0
	MR	0
	MR Total	0
<b>OTHER</b>	HOME Total	0
	Total OT Units	0

DO NOT MOVE/DELETE THESE #'s (USED FOR DROPDOWNS)

HTF30%  
 HTF40% MRB30%  
 HTF50% MRB40%  
 HTF60% MRB50%  
 HTF80% MRB60%  
 MR MR

TC30% HH  
 TC40% LH  
 TC50% MR/EO  
 TC60% MR  
 EO  
 MR

AFFIDAVIT

Appeal Docs

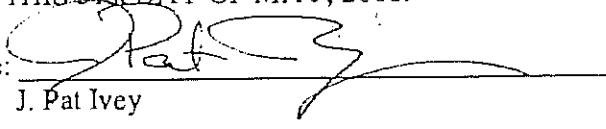
STATE OF TEXAS §  
  §  
COUNTY OF JEFFERSON §

I the undersigned, J. Pat Ivey do hereby certify, swear and/or affirm as follows:

1. This Affidavit is being delivered regarding the Application of Pear Orchard Apartments (the "Project") under the Allocation of Tax Credits for Developments in Texas Counties Impacted by Hurricane Rita ("TDHCA Program"). It my understanding that this Application is referred to (and has been given the Project Number) as Pear Orchard Apts., TDHCA# 060242 (the "Application")
2. On or about February 17, 2006, I called the offices of Senator Tommy Williams whose District includes the Project. The purpose of this call was to inform the Senator of the Project and to encourage him to support the Project.
3. I did not speak directly with Senator Williams, but his staff informed me that Senator Williams requires an application number to send his letter of recommendation.
4. I immediately informed the Owner of these facts via the attached email.
5. On March 10, 2006, I wrote a letter to Senator Williams encouraging him to support the Project and providing the application number. The letter was sent via certified mail return receipt requested. The receipts were marked received on March 14, 2006 (Austin Office) and March 21, 2006 (Woodlands Office). A true and correct copy of the letter and receipts is attached hereto and incorporated by reference for all purposes.
6. On March 29, 2006, we received a facsimile of the Senator's letter of recommendation for the Project. A true and correct copy of which is attached hereto and incorporated by reference for all purposes. The letter is addressed to Ms. Brooke Boston of the Multifamily Finance Production Division, and to the best of my knowledge the letter was sent to her on March 29, 2006.

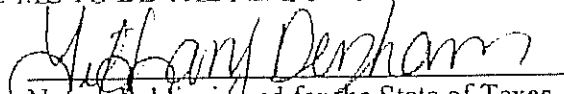
17

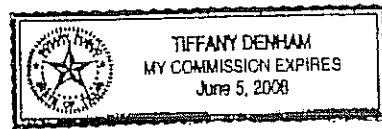
WITNESS MY HAND, THIS 31<sup>st</sup> DAY OF MAY, 2006.

Signature:   
Name: J. Pat Ivey

STATE OF TEXAS       §  
                                  §  
COUNTY OF JEFFERSON §

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME UNDER OATH DULY ADMINISTERED BY ME ON DATE SET FORTH ABOVE BY J. PAT IVEY, KNOWN TO ME TO BE THE PERSON STATED IN THE ABOVE AFFIDAVIT.

  
Notary Public, in and for the State of Texas



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Beaumont Housing -  
Mopk Glenn

**TOMMY WILLIAMS**  
TEXAS STATE SENATOR  
DISTRICT 4

COMMITTEES:  
FINANCE  
EDUCATION  
SUBCOMMITTEE ON HIGHER EDUCATION  
TRANSPORTATION AND HOMELAND SECURITY  
STATE AFFAIRS, VICE CHAIR

# FAX TRANSMISSION

TO: S. Pat Ivey

FAX #: 409-838-6959

FROM: Sen. Williams

DATE: 3-29-06

RE: Spt Ltr

# PAGES 1 2  
(Including Cover)

### COMMENTS

Pear Orchard - Jeff Co.  
APPL. # 060242

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BEAUMONT OFFICE:  
P.O. Box 2815  
BEAUMONT, TEXAS 77726-2815  
(409) 896-2300  
FAX: (409) 896-2404

CAPITOL OFFICE:  
ROOM RE.7  
P.O. Box 12088  
AUSTIN, TEXAS 78711  
(512) 482-0104  
(800) 688-1227  
FAX: (512) 402-0373  
OR, 711 FOR REPLY CALLS

THE WOODLANDS OFFICE:  
P.O. Box 8069  
The Woodlands, Texas 77387-8069  
(281) 354-9426  
FAX: (281) 354-9473



**TOMMY WILLIAMS**  
TEXAS STATE SENATOR  
DISTRICT 4

COMMITTEES:  
FINANCE  
EDUCATION  
SUBCOMMITTEE ON HIGHER EDUCATION  
TRANSPORTATION AND HIGHWAY SECURITY  
STATE AFFAIRS, VICE CHAIR

March 29, 2006

*Appeal  
Docs*

Ms. Brooke Boston  
Multifamily Finance Production Division  
TDHCA  
PO Box 13941  
Austin, TX 78711-3491

Re: Application # 060242 - Pear Orchard

Dear Ms. Boston,

Thank you for the opportunity to comment in support of the Pear Orchard complex to be located in Beaumont, Texas. These units will continue to help address a need for affordable, moderate income housing for many individuals and families living in this area.

Thank you for the opportunity to make this recommendation.

Sincerely,

Tommy Williams

c: J. Pat Ivey

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BEAUMONT OFFICE:  
P.O. Box 5819  
BEAUMONT, TEXAS 77726-0819  
(409) 898-2550  
FAX: (409) 898-2434

CAPITOL OFFICE:  
Room 06.7  
P.O. Box 170024  
AUSTIN, TEXAS 78711  
(712) 407-0104  
(712) 465-1337  
FAX: (712) 465-0370  
DIAL 711 FOR RELAY CALLS

THE WOODLANDS OFFICE:  
P.O. Box 5089  
THE WOODLANDS, TEXAS 77380-5089  
(281) 364-0428  
FAX: (281) 364-9477

ORGAIN, BELL & TUCKER, L.L.P.  
ATTORNEYS AT LAW

J. PAT IVEY  
EXTENSION 350  
E-MAIL: jpi@obf.com

P. O. BOX 1751  
BEAUMONT, TEXAS 77704-1751  
470 ORLEANS BUILDING, FOURTH FLOOR 77701  
TELEPHONE (409) 838-6412  
FAX (409) 838-6959  
www.obf.com

OTHER OFFICES  
HOUSTON - THE WOODLANDS  
AUSTIN  
SILSBEE

March 10, 2006

Senator Tommy Williams  
Senate District 4  
P.O. Box 12068  
Austin, Texas 78711

*Via CMRRR 7004 2890 002 6596 5698*

Senator Tommy Williams  
Senate District 4  
P.O. Box 8069  
The Woodlands, Texas 77387

*Via CMRRR 7004 2890 0002 6596 5704*

Dear Senator Williams:

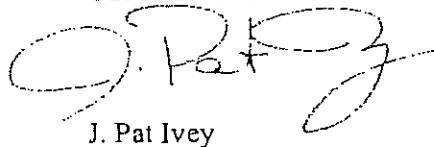
Our firm is working with the Beaumont Housing Finance Corporation and Maple Glen Partners, LLC to help finance the continuing operation of a multi-family apartment project, commonly known as Pear Orchard (the "Project"), serving tenants with low and moderate incomes in Beaumont, Texas. To this effect, Beaumont Housing Finance Corporation has passed a resolution authorizing the issuance of bonds to finance the Project, and Maple Glen Partners, LLC has submitted an application with the Texas Department of Housing and Community Affairs for approval of the Project and for certain tax credits available for this type of housing project. The application number is 060242.

As you are aware, Beaumont suffered severe damage as a result of Hurricane Rita. There remains a substantial demand for clean, decent and affordable housing. If you are in favor meeting this demand, we ask that you send a letter to the Texas Department of Housing and Community Affairs encouraging them to support and approve the application of Maple Glen Partners, LLC. We have attached a model letter for your convenience.

If you have any questions or wish to discuss this matter, please feel free to contact me at 409-838-6412. Thank you for your time in service to Texas.

Sincerely,

ORGAIN BELL & TUCKER, L.L.P.

  
J. Pat Ivey

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JPI/tdr  
Enclosure



Date: \_\_\_\_\_

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

RE: \$5,000,000.00 Beaumont Housing Finance Corporation Multifamily Housing  
Revenue Bonds (Maple Glen Partners, LLC Project), Series 2006

TO WHOM IT MAY CONCERN:

This letter is to confirm that I am in favor of the issuance of the above referenced Bonds, which are proposed to be issued by the Beaumont Housing Finance Corporation (the "Issuer") to provide financing for Maple Glen Partners, LLC to finance the acquisition, renovation and rehabilitation of a 150 unit multi-family apartment project located at 4365 South 4<sup>th</sup> Street, Beaumont, Texas, commonly known as Pear Orchard (the "Project"). The Project is currently being operated, and will continue to be operated by Maple Glen Partners, LLC as a multi-family apartment complex for tenants with low and moderate income.

The Beaumont Housing Finance Corporation has passed a resolution authorizing the issuance of the Bonds. In connection therewith, Maple Glen Partners, LLC has submitted an application with Texas Department of Housing and Community Affairs for approval of this Project and certain tax credits available for this type of housing project.

Because of the severe damage sustained by the City of Beaumont as a result of Hurricane Rita, there is a substantial demand for clean, decent and affordable housing and I am in favor of the proposed Project to help meet this demand. Thus, I encourage the Texas Department of Housing and Community Affairs to support this Project and approve the application of Maple Glen Partners, LLC.

Sincerely,

\_\_\_\_\_

**SENDER: COMPLETE THIS SECTION**

Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

*[Faint, illegible text]*

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

3. Received by (Printed Name) \_\_\_\_\_ C. Date of Delivery \_\_\_\_\_

D. Is delivery address different from Item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

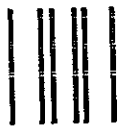
4. Restricted Delivery? (Extra Fee)  Yes

Article Number **7004 2890 0002 6596 5704**

(Transfer from service label)

5 Form 3811, February 2004 Domestic Return Receipt 102595-02-M-15-00

UNITED STATES POSTAL SERVICE



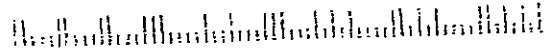
First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender. Please print your name, address, and ZIP+4 in this box •

**J. PAT IVEY  
 ORGAIN BELL & TUCKER  
 P.O. BOX 1751  
 BEAUMONT, TEXAS 77704-1751**

*(Handwritten: J. Pat Ivey)*

2010



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**SENDER: COMPLETE THIS SECTION**

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article / Addressed to:  
*[Faint handwritten text]*

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by: *[Faint handwritten name]* C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.C.D.

4. Restricted Delivery? *[Extra Fee]*  Yes

Article Number: 7004 2890 0002 4596 5698  
 (Transfer from service label)

Form 3811, February 2004 Domestic Return Receipt PSN 02505-02-M-10-10

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

J. PAT IVEY  
 ORGAIN BELL & TUCKER  
 P.O. BOX 1751  
 BEAUMONT, TEXAS 77704-1751

*Maude Stern*

8010 *[Faint barcode]*

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Received  
5/31/06

**2006 HOUSING TAX CREDIT APPEAL ELECTION FORM**

This form, submitted with my appeal to the Executive Director, is to notify the Department that I am filing a formal appeal to the Executive Director for processing.

**If my appeal is denied by the Executive Director, I: (check one)**

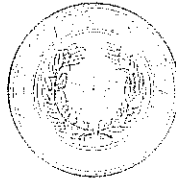
Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31, 2006 to be placed on the June 9, 2006 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Development Name:	Pear Orchard Plaza
Development Address:	4365 S. 4th, Beaumont
Title:	Managing Member
Date:	5-31-06

Signed: \_\_\_\_\_

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
Executive Director

Mr. Jorge Newbery  
Maple Glen Partners, LLC  
3312 Columbus Court  
Columbus, TX 43209  
Telephone: (213) 494-2471  
Telecopier: (614) 573-7220

**Re: Appeal Received for Pear Orchard Apartments- 060242**

Dear Mr. Newbery:

### Appeal Review

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 31, 2006 regarding the termination of this application.

On May 25, 2006, the above-referenced application was terminated under the 2006 Qualified Allocation Plan and Rules (QAP) and 2006 Hurricane Rita Housing Tax Credit Application Policy (Rita Policy) for the following three (3) reasons:

1. It was determined that this application did not meet the minimum threshold score for a Hurricane Rita Application (105 points). The final score for this Application after all deficiencies were submitted to the Department was 96 points.
2. It was determined that the application was ineligible under §50.5(a)(9) of the QAP which states that an application is ineligible if , "A submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review can not reasonably be performed by the Department, as determined by the Department." In all attempts to review this application, the Department issued four separate deficiency notices for over 50 separate items identified as deficient. The responses you provided to the notices

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WWW.TDHC.A.STATE.TX.US

221 EAST 11<sup>th</sup> ▪ P.O. BOX 13941 ▪ AUSTIN, TEXAS 78711-3941 ▪ (800) 525-0657 ▪ (512) 475-3800

totaled over 350 pages of documentation. Staff also provided a significant amount of technical assistance in the form of e-mail and telephone conversations. After all submissions were received and reviewed, it was determined that the application was still incomplete and disjointed to the extent that a complete review could not reasonably be performed.

3. It was determined that notifications were not made as required by §50.9(h)(8)(A) of the QAP and pursuant to the Rita Policy. This determination was based on several factors that were outlined in your termination notice:

The appeal submitted asserts the following main points:

1. You assert that because a certification that notifications were made pursuant to §50.9(h)(8) of the QAP is all that is required by the QAP, the documentation submitted in response to the deficiency notice should have been sufficient.

Response: All requests for documentation were made by TDHCA staff pursuant to §50.9(d)(4) of the QAP which states, "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."

2. You requested 22 points for §50.9(i)(3), Income Levels of the Development and provided a new rent schedule for consideration.

Response: This documentation can not be submitted at this time because it is well after the deadline for a deficiency response. Additionally, should this rent schedule be accepted, subsequent documentation in the application would need to be revised as a result. It should also be noted that the rent schedule is the 5<sup>th</sup> rent schedule submitted thus far.

3. You assert that deficiencies were timely sent by e-mail but were rejected because they were too large to send. You request the reinstatement of 5 points because the information was Fed-Exed after the deadline.

Response: The Rita Policy allows 14 days to respond to a deficiency response. All deficiencies were due no later than 5:00 pm on May 1, 2006. It has been confirmed that documentation was not received until 8:36 pm on May 1, 2006. You clearly submitted the deficiency response after the deadline.



Mr. Newbery  
June 1, 2006  
Page 3 of 3

**Appeal Determination**

Your appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Gerber", with a long horizontal flourish extending to the right.

Michael Gerber  
Executive Director

# **Termination Documentation**

COPY

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY  
Governor

BOARD MEMBERS  
Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

MICHAEL GERBER  
Executive Director

May 25, 2006

Jorge Newbery  
Maple Glen Partners, LLC  
3312 Columbus Court  
Columbus, OH 43209  
Telephone: (213) 494-2471  
Telecopier: (614) 573-7220

Termination

Re: Pear Orchard Apts., TDHCA# 060242

Dear Mr. Newbery:

On February 21, 2006, an application was submitted for the above-referenced development as an application under the Allocation of Housing Tax Credits for Developments in Texas Counties Impacted by Hurricane Rita. It has been determined that this application has not met the minimum threshold requirements under the sections of the 2006 Qualified Allocation Plan (QAP) and 2006 Hurricane Rita Housing Tax Credit Application Policy (Rita Policy), outlined below and released January 30, 2006 for the following three (3) reasons:

- (I) It has been determined that this application has not met the minimum threshold score for a Hurricane Rita Application (105). The final score for this Application was a score of 96. Reasons for the point deductions are outlined in your scoring notice submitted with this termination.
- (II) It has been determined that notifications as required by §50.9(h)(8)(A) of the QAP were not made. This determination was based on several factors. They are outlined below:
  - I. In your application you provided a certification under Volume 3, Tab 3, *Certification of Notifications (Sections A-C)* to satisfy this requirement. In order to meet threshold, all three boxes under (2) must have been accurately checked. In the application submitted on February 21, 2006, only one of the boxes was checked.
  - II. In a conversation with TDHCA staff and Senator Williams' office it was clear that the senator was not notified of this application pursuant to this section.
  - III. In a deficiency notice dated April 14, 2006, the applicant was required to submit all evidence of notification (i.e. letter to each addressee and overnight mail receipt or other

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mail receipt). The response was received after 5:00 pm on the deadline. A review of the response determined the following:

- a. A form letter was submitted which had no addressee, date, or signature. You affirmed that the same form letter was sent to all persons notified but were unable to provide a copy of any letter which was either personalized or dated.
- b. The form letter, which was certified as sent on February 21, 2006, listed "20% of units serving 50% AMGI. However, the application submitted was actually for 100% of units at 60% AMGI (all documentation submitted in the original application consistently represented this mix.) The rent schedule was not changed to 20% of the units serving 50% until the April 21, 2006 deficiency response. This evidence indicates that this template was actually drafted after the April 14, 2006 deficiency notice.
- c. The applicant affirmed that the same letter was sent to elected officials and to property owners in the area of the subject property in lieu of posting a sign. While residents signed affidavits that they were notified, the statement they were attesting to did not indicate a date the notification was received.
- d. The response did not specifically list all elected officials. The city manager's office, county judge's office, and offices of precinct 1 and 4 (it is not known if these were council persons or commissioners) confirmed receipt. Therefore, most elected officials did not confirm receipt.
- e. Regarding requests for information on neighborhood organizations, the applicant submitted a letter stating it had been sent to the councilperson for the subject development's location. The letter was dated January 13, 2006. No proof of mailing or receipt was submitted. The councilperson did not confirm receipt.

IV. It has been determined that this application is ineligible under §50.5(a)(9) which states that an application is ineligible if, "A submitted Application has an entire Volume of the application missing; has excessive omissions of documentation from the Threshold Criteria or Uniform Application documentation; or is so unclear, disjointed or incomplete that a thorough review can not reasonably be performed by the Department, as determined by the Department."

Therefore, please be informed that pursuant to this section of the QAP, the Department has terminated this Application and no further action will be taken on it.

Please be aware that an Appeals Policy exists for the Housing Tax Credit Program. If you wish to appeal this application termination decision, you must file your appeal with the Department no later than **June 1, 2006**. However, in the event that the Executive Director denies your appeal and you would like to be placed on the June 9, 2006 agenda, **submit your appeal no later than 5:00 pm, May 31, 2006 in order to increase the probability that this application may be placed on the June 9, 2006 Board meeting as a Board appeal**. You must indicate in your appeal that you would like to be placed on the Board agenda in the event of Executive Director's denial. The restrictions and requirements relating to the filing of an appeal can be found in §50.17(b) of the 2006 QAP.

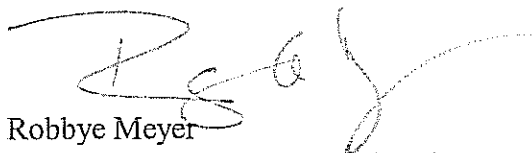
In an effort to increase the likelihood that Board appeals related to scoring and set-asides are heard at the June 9, 2006 Board meeting, the Department has provided an Appeal Election Form

Mr. Newbery  
May 25, 2006  
Page 2 of 2

for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director the form requests that the applicant automatically be added to the Board agenda. Note that the completion of the form will add the applicant to the agenda, but that an actual appeal to the Board must be received by the Department by 5:00 p.m. Wednesday, May 31, 2006. All appeals should be submitted to the attention of Jennifer Joyce.

If you have any questions, please do not hesitate to contact Jennifer Joyce at [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us) or 512.475.3995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robbye Meyer', written over a horizontal line.

Robbye Meyer  
Acting Director of Multifamily Finance Production



**2006 HOUSING TAX CREDIT APPEAL ELECTION FORM**

This form, submitted with my appeal to the Executive Director, is to notify the Department that I am filing a formal appeal to the Executive Director for processing.

**If my appeal is denied by the Executive Director, I: (check one)**

Do wish to appeal to the Board of Directors and request that my application be added to the June 9, 2006 TDHCA Board of Directors meeting agenda. My appeal documentation, which identifies my specific grounds for appeal, is attached. I understand that my Board appeal documentation must still be submitted by 5:00 p.m. Tuesday, May 31, 2006 to be placed on the June 9, 2006 Board book. If no documentation is submitted, the appeal documentation to the Executive Director will be utilized.

Do not wish to appeal to the Board of Directors.

Development Name:	
Development Address:	
Title:	
Date:	

Signed: \_\_\_\_\_

# Scoring Notices

Revised Score



MULTI-FAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- Hurricane Rita Application

Maple Glen Partners, LLC  
Jorge Newbery  
3312 Columbus Court  
Columbus, OH 43209  
Phone #: (213) 494-2471  
Fax #: (614) 573-7220

Date Issued: 05/25/06

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

**RE: 2006 HTC Rita Application for Pear Orchard Apts  
TDCHA Number: 060242**

Attention: Jorge Newbery

The Texas Department of Housing and Community Affairs (the Department) has completed its Eligibility and Selection Criteria Review of the above-referenced application as further described in Section 50.9(d)(2) of the 2006 Qualified Allocation Plan and Rules (QAP). Below, a summary is provided of the score requested, as calculated by the Applicant, followed by the score requested, as calculated by the Department. The two numbers differ if the Applicant's calculation was incorrect. The next score shown is the score awarded to the application by the Department, followed by the difference between the score requested (as calculated by the Department) and the score awarded. An explanation of the reason(s) for any differences, including points denied, is provided at the top of the second page of this notice. The next scoring items show the number of points awarded for each of the three categories for which points could not be requested by the applicant: Quantifiable Community Participation (QCP) from neighborhood organizations, letters of support or opposition from state senators and letters of support or opposition from state representatives. This is followed, in bold, by the final cumulative number of points awarded by the Department to the above-referenced Application.

Score Requested by Applicant (Does not include QCP and Elected Official Points):	104
Score Requested as Calculated by Department (Does not include QCP and Elected Official Points):	104
Score Awarded by Department (Does not include QCP and Elected Official Points):	77
Difference between Requested and Awarded (Does not include QCP and Elected Official Points):	27
Points Awarded for Quantifiable Community Participation:	12
Points Awarded for Input from State Senator:	0
Points Awarded for Input from State Representative:	7
<b>Final Score Awarded to Application by Department:</b>	<b>96</b>

37





MULTI-FAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- Hurricane Rita Application

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Page 2 of Final Scoring Notice: 060242, Pear Orchard Apts

**Explanation for Difference between Points Requested and Points Awarded by the Department (explanation does not include QCP and Elected Official Points):**

Note: In response to a March 1, 2006 deficiency notice, the applicant submitted a revised self-score form. The following is based on that request.

§50.9(i)(3)- Income Levels of the Tenants of the Development: In order to qualify for the 22 points requested, the application must reserve at least 80% of the total units in the development to 50% AMGI households. In a March 1, 2006 deficiency notice, the Department stated that because the rent schedule indicated that 100% of the units are set aside for tenants with incomes at or above 60% AMFI, the applicant was ineligible for points under this section. In response to the deficiency, the applicant submitted a revised rent schedule indicating that 100% of the units would be set-aside for persons below 50% AMFI. This documentation was accepted and points were awarded (as indicated in the April 11, 2006 scoring notice. However, in response to a separate deficiency notice dated April 14, 2006, the applicant submitted a revised rent schedule which reduced the number of 50% units to 30, or 20% of the total units, which is well below the required 80% of the total units serving 50% households as required for the 22 points. (Points Requested: 22, Points Awarded: 0)

Late deficiencies: A threshold deficiency notice requesting substantial information was submitted to the applicant on April 14, 2006. This was confirmed by your staff on April 14, 2006. Pursuant to §50.9(9)(4) of the 2006 QAP, the full response was due April 21, 2006 at 5:00 pm or a loss of points and potential termination would apply. Jorge Newbery responded to the deficiency notice by sending 19 separate e-mail messages with attachments. The messages were noted as received from 4:42 pm to 6:47 pm on Friday, April 21, 2006, which is well after the 5:00 pm deadline. (-5 points).

A formal Appeals Policy exists for the HTC Program. If you wish to appeal this scoring notice prior to awards being made for Hurricane Rita you must file your appeal with the Department no later than 5:00 p.m., Thursday, April 13, 2006. If an appeal is denied by the Executive Director, an applicant may appeal to the Board. The restrictions and requirements relating to the Appeals Policy can be found in Section 50.17(b) of the 2006 QAP.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Jennifer Joyce by facsimile (512.475.0764 or 512.475.1895) or email to [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us).



MULTI-FAMILY FINANCE PRODUCTION DIVISION  
Housing Tax Credit Program - 2006 Application Cycle  
Final Scoring Notice- Hurricane Rita Application

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Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production Division

TRANSMISSION VERIFICATION REPORT

TIME : 05/25/2006 15:56  
NAME :  
FAX :  
TEL :  
SER.# : 000J5J563237

DATE, TIME	05/25 15:54
FAX NO./NAME	96145737220
DURATION	00:01:11
PAGE(S)	04
RESULT	OK
MODE	STANDARD ECM

TRANSMISSION VERIFICATION REPORT

TIME : 05/25/2006 15:54  
NAME :  
FAX :  
TEL :  
SER.# : 000J5J563237

DATE, TIME	05/25 15:53
FAX NO./NAME	916145737220
DURATION	00:00:59
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM



**MULTI-FAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- Hurricane Rita Application**

Maple Glen Partners, LLC

Date Issued: 04/11/06

Jorge Newbery  
 3312 Columbus Court  
 Columbus, OH 43209

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

Phone #: (213) 494-2471  
 Fax #: (614) 573-7220

*Scoring notice  
 prior to appeals  
 & threshold review.  
 JJ 5/30/06*

**RE: 2006 HTC Rita Application for Pear Orchard Apts**  
**TDCHA Number: 060242**

Attention: Jorge Newbery

The Texas Department of Housing and Community Affairs (the Department) has completed its Eligibility and Selection Criteria Review of the above-referenced application as further described in Section 50.9(d)(2) of the 2006 Qualified Allocation Plan and Rules (QAP). Below, a summary is provided of the score requested, as calculated by the Applicant, followed by the score requested, as calculated by the Department. The two numbers differ if the Applicant's calculation was incorrect. The next score shown is the score awarded to the application by the Department, followed by the difference between the score requested (as calculated by the Department) and the score awarded. An explanation of the reason(s) for any differences, including points denied, is provided at the top of the second page of this notice. The next scoring items show the number of points awarded for each of the three categories for which points could not be requested by the applicant: Quantifiable Community Participation (QCP) from neighborhood organizations, letters of support or opposition from state senators and letters of support or opposition from state representatives. This is followed, in bold, by the final cumulative number of points awarded by the Department to the above-referenced Application.

- Score Requested by Applicant (Does not include QCP and Elected Official Points):
- Score Requested as Calculated by Department (Does not include QCP and Elected Official Points):
- Score Awarded by Department (Does not include QCP and Elected Official Points):
- Difference between Requested and Awarded (Does not include QCP and Elected Official Points):
- Points Awarded for Quantifiable Community Participation:
- Points Awarded for Input from State Senator:
- Points Awarded for Input from State Representative:
- Final Score Awarded to Application by Department:**

104
104
104
0
12
0
7
<b>123</b>

**42**



**MULTI-FAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- Hurricane Rita Application**

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**Page 2 of Final Scoring Notice: 060242, Pear Orchard Apts**

**Explanation for Difference between Points Requested and Points Awarded by the Department (explanation does not include QCP and Elected Official Points):**

Pursuant to §50.9(1) of the 2006 QAP, "All Applications, with the exception of TX-USDA-RHS Applications, must score a minimum of 125 points to be eligible for an allocation of Housing Tax Credits." The final score for this Application was a score of 123. Therefore, this application is ineligible and is hereby terminated. Should you wish to appeal this termination, you must do so in accordance with the appeals process outlined in the next paragraph.

A formal Appeals Policy exists for the HTC Program. If you wish to appeal this scoring notice prior to awards being made for Hurricane Rita you must file your appeal with the Department no later than 5:00 p.m., Thursday, April 13, 2006. If an appeal is denied by the Executive Director, an applicant may appeal to the Board. The restrictions and requirements relating to the Appeals Policy can be found in Section 50.17(b) of the 2006 QAP.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Jennifer Joyce by facsimile (512.475.0764 or 512.475.1895) or email to [jennifer.joyce@tdhca.state.tx.us](mailto:jennifer.joyce@tdhca.state.tx.us).

Sincerely,

*Robbye Meyer*

Robbye Meyer

Interim Director of Multifamily Finance Production Division

TRANSMISSION VERIFICATION REPORT

TIME : 04/11/2006 16:34  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BROG4J729978

DATE, TIME	04/11 16:33
FAX NO./NAME	96145737220
DURATION	00:00:49
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



**MULTI-FAMILY FINANCE PRODUCTION DIVISION**  
**Housing Tax Credit Program - 2006 Application Cycle**  
**Final Scoring Notice- Hurricane Rita Application**

Maple Glen Partners, LLC

Date Issued: 04/11/06

Jorge Newbery  
3312 Columbus Court  
Columbus, OH 43209

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

Phone #: (213) 494-2471  
Fax #: (614) 573-7220

**RE: 2006 HTC Rita Application for Pear Orchard Apts**  
**TDCHA Number: 060242**

Attention: Jorge Newbery

The Texas Department of Housing and Community Affairs (the Department) has completed its Eligibility and Selection Criteria Review of the above-referenced application as further described in Section 50.9(d)(2) of the 2006 Qualified Allocation Plan and Rules (QAP). Below, a summary is provided of the score requested, as calculated by the Applicant, followed by the score requested, as calculated by the Department. The two numbers differ if the Applicant's calculation was incorrect. The next score shown is the score awarded to the application by the Department, followed by the difference between the score requested (as calculated by the Department) and the score awarded. An explanation of the reason(s) for any differences, including points denied, is provided at the top of the second page of this notice. The next scoring items show the number of points awarded for each of the three categories for which points could not be requested by the applicant: Quantifiable Community Participation (QCP)

44

# Deficiency Items





Texas Department of Housing and Community Affairs  
 Housing Tax Credit Program  
 2006 Application Deficiency Notice

Deficiency Notice Date: 3/1/2006

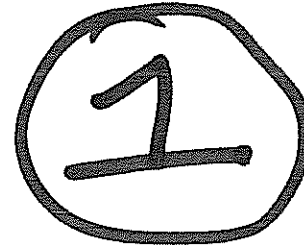
THIS NOTICE WILL ONLY BE TRANSMITTED VIA FACSIMILE

Primary Contact:

Contact Name: Jorge Newbery  
 Contact Phone: (213) 494-2471  
 Contact Fax: (614) 573-7220  
 Contact E-Mail:

Second Contact:

Second Contact:  
 Second Fax:  
 2nd E-Mail:



Regarding: TDHCA Number 060242, Pear Orchard Apartments

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

- Threshold:  Volume 1, Tab 1 Parts A and B: The application does not include the region number for Beaumont and there is no email address for the Applicant Contact Jorge Newberry.
- Volume 1, Tab 3 Development Cost Schedule: The Owner's Requested Credits on the last page of this form (\$0) must be equal to the credits requested in Volume 1, Tab 1 Part C Funding Request (page 2), \$641,822. As submitted this line item is blank.
- Volume 1 Tab 7 HTC Supplement: You must complete Part 1 Set Aside Election and resubmit the form.

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

- Selection:  Volume 4, Tab 2 Development Financial Feasibility: Submit the appropriate commitment letter from the permanent or construction lender, not the bond broker. Bond financing cannot be used in conjunction with 9% housing tax credits. The commitment letter must state the lender's assessment that the Development will be feasible for thirty years and include a 30 year proforma prepared by the same lender verifying such. (Points Requested 28, Points Awarded 0).
- Volume 4, Tab 3 Income Levels of the Development: The rent schedule indicates that 100% of the units are set aside for tenants with incomes at or above 60% AMFI. (Points Requested 22, Points Awarded 0).
- Volume 4 Tab 4 Size and Quality of Units: Rehabilitation Developments are automatically eligible for 6 points under this item. Please revise your self score behind Volume 1 Tab 1 to reflect these additional points. (Points Requested 0, Points Awarded 6).
- Volume 4, Tab 7 Cost Per Square Foot: The rent schedule shows net rentable area of 112,500 square feet, and the Building Unit Type/Configuration show net rentable area of 112,800 square feet. (Points Requested: 10; Points Awarded: 0).
- Volume 4, Tab 8 Tenant Supportive Services: You must check the box directly under Part II of the form certifying that the Development will provide a combination of special supportive services appropriate for the proposed tenants. (Points Requested: 6; Points Awarded: 0)

28 PTS AWARDED

22 PTS AWARDED

AWARDED

6 PTS AWARDED

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Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

4

9.  Volume 4, Tab 11 Development Location Characteristics:  You must submit a letter from a city/county official verifying that the proposed Development is located in a designated state or federal empowerment/enterprise zone and a map that clearly delineates the boundaries of the district. You qualify for the points, however, for being in a DDA (Jefferson County – Rita GO Zone) (Points Requested: 4; Points Awarded: 4)

4 PTS AWARDED ✓

10.  Volume 4, Tab 14 Site Characteristics: You must provide evidence of the transportation services used to satisfy this requirement. (Points Requested: 4; Points Awarded: 0)

Per §50.9(d)(4), if Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling 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 seven 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." 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.

All documentation should be submitted as a whole and be directed to the attention of the staff member issuing this notice at:

Multifamily Finance Division  
Via U.S. Mail: P.O. Box 13941, Austin, Texas 78711-3941.  
Via express delivery/private courier: 221 East 11th, Austin, TX 78701.

Only documents less than 10 pages in length may be faxed to: 512.475.1895.  
You may also e-mail your response to the staff member issuing this notice.

Sincerely,

Sharon Gamble  
Multifamily Housing Specialist

Phone Number: (512) 475-4610

Email: [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)

TRANSMISSION VERIFICATION REPORT

TIME : 03/01/2006 16:09  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME 03/01 16:08  
FAX NO./NAME 96145737220  
DURATION 00:00:49  
PAGE(S) 02  
RESULT OK  
MODE STANDARD  
ECM



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

J. NEWBERRY  
3:28 PM  
3/1

Deficiency Notice Date: 3/1/2006

THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA FACSIMILE

<u>Primary Contact:</u>	<u>Second Contact:</u>
Contact Name: Jorge Newbery	Second Contact:
Contact Phone: (213) 494-2471	Second Fax:
Contact Fax: (614) 573-7220	2nd E-Mail:
Contact E-Mail:	

Regarding: TDHCA Number 060242, Pear Orchard Apartments

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

Threshold: 1.  Volume 1, Tab 1 Parts A and B: The application does not include the region number for Beaumont and there is no email address for the Applicant Contact Jorge Newberry.

2.  Volume 1, Tab 3 Development Cost Schedule: The Owner's Requested Credits on the last page of this form (\$0) must be equal to the credits requested in Volume 1, Tab 1 Part C Funding Request (page 2), \$641,822. As submitted this line item is blank.

3.  Volume 1 Tab 7 HTC Supplement: You must complete Part 1 Set Aside Election and resubmit the form.

II. The following Administrative Deficiencies were found in your Selection Criteria documentation. Selection

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**Sharon Gamble**

**From:** Eric Floyd [efloydbre@yahoo.com]  
**Sent:** Wednesday, March 08, 2006 12:53 PM  
**To:** sharon.gamble@tdhca.state.tx.us  
**Cc:** Jorge Newbery; Brian McCabe  
**Subject:** Deficiency Response to TDHCA Application Number 060242, Pear Orchard Apartments

Re: Notice  
3/11/06

Ms. Gamble,

I will go down the list of items that were deficient with TDHCA 060242, Pear Orchard Apartments in the way they were presented in the letter faxed to Jorge Newbery on March 3, 2006. I will reference various attachments that will be attached hereto in order that you may easily find the deficiency correction. Please acknowledge receipt of this email.

I. Threshold:

- ✓ 1. Volume, Tab 1 Parts A and B: Region Number and Email address for Jorge Newbery. *Please see attachment "TDHCA\_Application\_3\_06\_06\_2\_[1]" Page 1 for the email address (budgetre@yahoo.com) and the Region Number (Number 5).*
- ✓ 2. Volume 1, Tab 3 Development Cost Schedule: Owner's Requested Credits on form (\$0) must be equal to the credits requested in Volume 1, Tab 1 Part C Funding Request (page 2) \$641,822. *Please see attachment "Texas\_3\_06\_06\_Excel\_Inserts\_App\_2(1)" for the figure which, as I explained per our phone conversation today, has changed to \$712,929. This change has been reflected in Volume 1, Tab 1 Part C which can be referenced in the above "TDHCA\_Application..." (page 2). This change was made due to our mistakenly putting in the discounted equity figure from the actual syndicator instead of the total requested allocation from TDHCA.*
- ✓ 3. Volume 1, Tab 7 HTC Supplement: Part I Set Aside Election and resubmit the form. *Please see attachment above "TDHCA\_Application..." (page 30) for our Set Aside Election.*

II. Selection

- ← 4. Volume 4, Tab 2 Development Feasibility: Submit appropriate commitment letter and 30 year pro forma. *Please see attached "Pear\_Orchard\_lender\_letter" for the correction to this deficiency. There is a 30 pro forma included.*
- ✓ 5. Volume 4, Tab 3 Income Levels of Development. The rent schedule indicates 100% at or above 60% of AMFI. *Please see attachment above "Texas\_3\_06\_06\_Excel\_Inserts\_App\_2\_1" Vol. 1 Tab 2 Part B Rent Schedule. The correction has been made to the rent schedule. The wrong number was inputted*

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*for our last submittal.*

- ✓ 6. Volume 4 Tab 4 Size and Quality of Units: Rehabilitation Developments are automatically eligible for 6 points. *The 6 points have been added. Please see attachment "Texas 3-6-06-Vol. 4" Volume 4 Tab 1.*
- ! 7. Volume 4, Tab 7 Cost Per Square Foot. *There was a mathematical error made therefore we will not be requesting these 10 points.*
- ✓ 8. Volume 4, Tab 8 Tennat Supportive Services: You must check box directly under Part II of the form certifying the Development will provide a combination of services appropriate for proposed tenants. *Please see attachment "Texas 3-6-06-Vol. 4" (page 9) to see that the appropriate box has been selected.*
- ✓ 9. Volume 4, Tab 11 Development Location Characteristics. *See the above referenced attachment in # 8 (page 11) to see that the appropriate DDA box has been selected.*
- ✓ 10. Volume 4, Tab 14 Site Characteristics: You must provide evidence of the transportation services to satisfy requirement. *Please see attachment "Transportation Services Letter" for evidence of the transportation services.*

Thank you ever so much for your time and patience Ms. Gamble. If there is anything else you need please do not hesitate to contact me

Sincerely,

Eric Floyd  
Vice President  
Budget Real Estate  
209 Gordon Avenue  
Calhoun, GA 30701  
efloydbre@yahoo.com  
Phone: 706.629.5021  
Mobile: 678.255.6964  
Fax: 678.559.0609

50



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Deficiency Notice Date:

4/14/2006

THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA FACSIMILE

Primary Contact:

Contact Name: Jorge Newbery  
Contact Phone: (213) 494-2471  
Contact Fax: (614) 573-7220  
Contact E-Mail: NA

Second Contact:

Second Contact:  
Second Fax:  
2nd E-Mail:



Regarding: TDHCA Number 060242, Pear Orchard Apts

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

- Threshold:
1.  Volume 1, Tab 2, Part A, Populations Served: Revise this form so that at least 10% of the units (15 units) and not more than 27 units are set aside for persons with disabilities.
  2.  Volume 1, Tab 2, Part B, Rent Schedule: Refer to the TDHCA website [www.tdhca.state.tx.us/pmcomp/irl.htm](http://www.tdhca.state.tx.us/pmcomp/irl.htm) and update your rent schedule to reflect 2006 HTC rent limits.
  3.  The program rent stated is incorrect because it does not include the utility allowance. Program rents are not the same as net rents to the tenants. Revise and resubmit rent schedule.
  4.  Volume 1, Tab 2, Part C, Utility Allowances: If there are utility allowances for this development, submit documentation (from the source) of the amounts of the allowances and the units covered.
  5.  Volume 1, Tab 2, Part F, Building/Unit Type Configuration: Your site plan indicates that there are two building types. Revise this form to reflect the types of buildings and numbers of units per building. The appraisal states that there are 19 duplexes and 28 fourplexes.
  6.  Volume 1, Tab 3, Part A, Development Cost Schedule: Submit a signed form. Ensure it is the updated form submitted during the administrative review of your file.
  7.  Volume 1, Tab 4: Volume 1, Tab 4, Part A, Sources and Uses: Revise the form to indicate financing for the construction phase. Submit a revised Volume 1, Tab 4, Part B Financing Participants form if necessary to include any new sources of funds.
  8.  Submit a financing narrative which details the sources and uses of funds.
  9.  Volume 1, Tab 4: The syndicator letter references 120 units, but there are 150 units in the development. You have also changed the amount of credits requested and switched from tax exempt bond to conventional financing since this letter was written. Submit a new syndicator letter referencing the correct number of units and the new credit request amount. Reflect any changes change in the revised Sources and Uses form.
  10.  Volume 1, Tab 4: The commitment letter from Boston Capital indicates that a condition of this funding is that Boston Capital or a designated affiliate must be the tax credit syndicator for this deal. Submit that Cityscape Capita Group is a designated affiliate of Boston Capital or submit a new commitment letter without the language about affiliates.
  11.  Volume 1, Tab 5: Submit the Applicant and Developer Ownership Chart. The chart must clearly illustrate the complete ownership structure and provide the names and ownership percentages of organizations and persons with an ownership interest in the Applicant. A separate ownership chart must be provided for the Developer. Be aware that the form of ownership (the applicant) would typically be a partnership, not a limited liability company.
  12.  Volume 1, Tab 5, Part E, Section 3, National Previous Participation: Submit a copy of the signed form



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

that was actually sent to the owner.

13.  Volume 1, Tab 7, Part B: The form you submitted is not the 2006 form. Submit the correct form.
14.  Volume 1 Tab 7 Part E: Submit Part I of the form to list and include each member of the development owner, developer, guarantor, etc. Submit an individual part II for each member listed on part I.
15.  Volume 1, Tab 8, Public Notifications: Review this section of the application and submit evidence of all notifications made, including delivery and/or registered mailing receipts and copies of all letters sent.
16.  Volume 1, Tab 8, Public Notifications, Pages 2-6: Complete the forms. If the Development is located in a single member city council or county commissioner district, you only need to include information for the single member.
17.  Volume 3, Tab 1 Part A2. Architect Certification Form – submit the executed form which is required for rehabilitation as well as new construction.
18.  Volume 3, Tab 1, Part B, Specifications and Amenities: Revise the form to indicate the number of floors, residential buildings, and nonresidential buildings. Also, Volume 4, Tab 4 indicates that the units will have ice making refrigerators and self-cleaning ovens. Indicate this in the kitchen section. Indicate what the exterior wall cladding will be and the height of the ceilings.
19.  Volume 3, Tab 1, Part C, Common Amenities: The total points required to meet threshold for this item is 15 points. The points for the selections you made, when doubled, only add up to 14 points. Submit a new form that indicates enough points to meet the threshold requirement.
20.  Submit unit plans or the floorplans of the buildings that show the units, rooms of the units and outside dimensions of the units. Show each and every unit type. An “average” or “typical” type is not sufficient. The different square footages of the units must be indicated in the rent schedule.
21.  Volume 3, Tab 2: Submit tax assessment documentation for the property that shows the tax rates and taxes for each applicable jurisdiction.
22.  Submit documentation of site control. Review the requirements stated in the application and in 2006 QAP section 50.9(h)(7). The evidence submitted must show that the development is under contract to the applicant or members of the applicant or is already controlled by the applicant or members of the applicant. If the already controlled, the requirements for submitting documentation regarding identity of interest must also be submitted.
23.  Volume 3, Tab 2: Review the requirements stated in 50.9(h)(7)(B) and submit a letter dated after September 1, 2005 from an appropriate city official fulfilling the requirement that is applicable to this development. If the city has no zoning requirement, the letter must state that the Development fulfills a need for affordable rental housing as evidenced in the local consolidated plan, comprehensive plan, other local planning document or if no such documents exists, the letter must state that there is a need for affordable housing.
24.  Volume 3, Tab 2: Submit a title policy or title commitment for the property evidencing that it is under the control of the applicant or affiliates and fulfilling the requirement stated in 50.9(h)(7)(D)(iii). of the 2006 QAP.
25.  Volume 3, Tab 3, Certification of Notifications: In Section A, Part 2 of this form, you must check all three boxes. Revise the form, certifying that all required requests for Neighborhood Organizations were made. Submit all evidence of your requests (i.e. letter to each addressee and overnight mail receipt or other mail receipt).
26.  Volume 3, Tab 3, Section B: Submit evidence that notification signage is installed on the property. Submit photographs of the sign with the text legible, and indicating its location on the site and proximity to the street. If you mailed notifications, check the applicable box on this form, submit copies of those letters and the list of all recipients.
27.  Volume 3, Tab 4: Submit evidence that Wentwood Management, LLC and any other foreign business organizations that were not named in the original documentation submitted have authority to do business in Texas or have applied for a certificate of authority.
28.  Volume 3, Tab 5: Submit a 2004, 2005, or 2006 Multifamily Experience Certificate in the name of a Principal or Developer.
29.  Volume 3, Tab 5: Submit both financial statements and Authorization to Release Credit information forms for, as applicable, the General Partner(s), Developer, Guarantor, and each person that has ownership interest in the Development Owner, General Partner, Developer, or Guarantor.
30.  The Property Condition Assessment you provided is dated prior to September 1, 2005. Submit an updated report certified by the preparer to be effective within the applicable time period requirement.
31.  Volume 3, Tab 6: Submit a copy of the contracts or agreements securing the rental assistance, operating



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

subsidy, annuity or IRP payment. The document(s) must identify the source and annual amount of the funds or monthly contract rent, the number of units receiving the funds, and the term and expiration of the contract or agreement.

32.  Volume 3, Tab 6: Submit one of the following:

Historical monthly operating statements of the subject Development for 12 consecutive months ending not more than 3 months from the first day of the Application Acceptance Period; or  
The two most recent consecutive annual operating statements or summaries, or  
The most recent consecutive six months of operating statements and the most recent available annual operating summary, or

If the development is a rehab, a written statement from the seller refusing to supply any other information or expressing the inability to supply any other information, all monthly or annual operating summaries available, and any other supporting documentation available that can be used to generate projections.

33.  Volume 3, Tab 6: Submit a written explanation of the process used to notify and consult with the tenants in preparing the application.

34.  Volume 3 Tab 6: Submit a relocation plan and a budget with an identified source of funding that matches the line item in the cost schedule, "Tenant Relocation Services", that is now "0", or an explanation of how the rehabilitation will be handled so that no relocation costs are incurred.

35.  Volume 3, Tab 6: Provide a letter for the appraisal giving TDHCA permission to rely on the appraisal.

36.  Volume 3, Tab 6: Provide a letter for the environmental site assessment giving TDHCA permission to rely on the assessment.

37.  Volume 3, Tab 6: Submit a current FEMA flood map for the property.

38.  Volume 3, Tab 6: The environmental site assessment indicates that there is asbestos-containing linoleum and mastic throughout the complex. Provide a plan for abatement.

Volume 3, Tab 6: The market analyst's name does not appear on the Department's approved list.

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

Selection:

Per §50.9(d)(4), if Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling 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 seven 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." 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.

All documentation should be submitted as a whole and be directed to the attention of the staff member issuing this notice at:

Multifamily Finance Division

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

Via express delivery/private courier: 221 East 11th, Austin, TX 78701.

Only documents less than 10 pages in length may be faxed to: 512.475.1895.

You may also e-mail your response to the staff member issuing this notice.

Sincerely,

Ben Sheppard

53





Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Multifamily Housing Specialist

Phone Number: (512) 475-2122

Email: [ben.sheppard@tdhca.state.tx.us](mailto:ben.sheppard@tdhca.state.tx.us)

TRANSMISSION VERIFICATION REPORT

TIME : 04/14/2006 16:36  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME 04/14 16:35  
FAX NO./NAME 96145737220  
DURATION 00:01:37  
PAGE(S) 04  
RESULT OK  
MODE STANDARD  
ECM

VM J. NEWBERY  
4:42 p 4/24



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Deficiency Notice Date: 4/14/2006

THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA FACSIMILE

Primary Contact:

Contact Name: Jorge Newbery  
Contact Phone: (213) 494-2471  
Contact Fax: (614) 573-7220  
Contact E-Mail: NA

Second Contact:

Second Contact:  
Second Fax:  
2nd E-Mail:

Regarding: TDHCA Number 060242, Pear Orchard Apts

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

- Threshold: 1.  Volume 1, Tab 2, Part A, Populations Served: Revise this form so that at least 10% of the units (15 units) and not more than 27 units are set aside for persons with disabilities.
- 2.  Volume 1, Tab 2, Part B, Rent Schedule: Refer to the TDHCA website [www.tdhca.state.tx.us/pmcomp/irl.htm](http://www.tdhca.state.tx.us/pmcomp/irl.htm) and update your rent schedule to reflect 2006 HTC rent limits.
- 3.  The program rent stated is incorrect because it does not include the utility allowance. Program rents are not the same as net rents to the tenants. Revise and resubmit rent schedule.
- 4.  Volume 1, Tab 2, Part C, Utility Allowances: If there are utility allowances for this development, submit documentation (from the source) of the amounts of the allowances and the units covered.
- 5.  Volume 1, Tab 2, Part F, Building/Unit Type Configuration: Your site plan indicates that there are two building types. Revise this form to reflect the types of buildings and numbers of units per building. The

55

**Jennifer Joyce**

---

**From:** Ben Sheppard  
**Sent:** Saturday, April 22, 2006 2:14 PM  
**To:** Jennifer Joyce; 'Robbye Meyer'  
**Cc:** Sharon Gamble  
**Subject:** Pear Orchard 060242

*E-mail re:  
incomplete  
response*

Jorge Newbery responded to the deficiency notice that Shae sent on Friday 4/14, by sending 19 separate e-mail messages with attachments to my account. The messages were noted as received from 4:42 pm to 6:47 pm on Friday, 4/21. I saved the messages in folder in Outlook.

Has this application been terminated?

Ben Sheppard  
Multifamily Finance Production  
Phone: (512) 475-2122  
Fax: (512) 475-1895

*56*



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Deficiency Notice Date: 4/14/2006

THIS NOTICE WILL ONLY BE TRANSMITTED VIA FACSIMILE

Primary Contact:

Contact Name: Jorge Newbery  
Contact Phone: (213) 494-2471  
Contact Fax: (614) 573-7220  
Contact E-Mail: NA Beaumont

Second Contact:

Second Contact:  
Second Fax:  
2nd E-Mail:

RECEIVED  
APR 24 2006  
LIHTC

Regarding: TDHCA Number 060242, Pear Orchard Apts

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

- Threshold:  1. Volume 1, Tab 2, Part A, Populations Served: Revise this form so that at least 10% of the units (15 units) and not more than 27 units are set aside for persons with disabilities.
- 2. Volume 1, Tab 2, Part B, Rent Schedule: Refer to the TDHCA website [www.tdhca.state.tx.us/prncomp/irl.htm](http://www.tdhca.state.tx.us/prncomp/irl.htm) and update your rent schedule to reflect 2006 HTC rent limits.
- 3. The program rent stated is incorrect because it does not include the utility allowance. Program rents are not the same as net rents to the tenants. Revise and resubmit rent schedule.
- 4. Volume 1, Tab 2, Part C, Utility Allowances: If there are utility allowances for this development, submit documentation (from the source) of the amounts of the allowances and the units covered.
- 5. Volume 1, Tab 2, Part F, Building/Unit Type Configuration: Your site plan indicates that there are two building types. Revise this form to reflect the types of buildings and numbers of units per building. The appraisal states that there are 19 duplexes and 28 fourplexes.
- 6. Volume 1, Tab 3, Part A, Development Cost Schedule: Submit a signed form. Ensure it is the updated form submitted during the administrative review of your file.
- 7. Volume 1, Tab 4: Volume 1, Tab 4, Part A, Sources and Uses: Revise the form to indicate financing for the construction phase. Submit a revised Volume 1, Tab 4, Part B Financing Participants form if necessary to include any new sources of funds.
- 8. Submit a financing narrative which details the sources and uses of funds.
- 9. Volume 1, Tab 4: The syndicator letter references 120 units, but there are 150 units in the development. You have also changed the amount of credits requested and switched from tax exempt bond to conventional financing since this letter was written. Submit a new syndicator letter referencing the correct number of units and the new credit request amount. Reflect any changes change in the revised Sources and Uses form.
- 10. Volume 1, Tab 4: The commitment letter from Boston Capital indicates that a condition of this funding is that Boston Capital or a designated affiliate must be the tax credit syndicator for this deal. Submit that Cityscape Capita Group is a designated affiliate of Boston Capital or submit a new commitment letter without the language about affiliates.
- 11. Volume 1, Tab 5: Submit the Applicant and Developer Ownership Chart. The chart must clearly illustrate the complete ownership structure and provide the names and ownership percentages of organizations and persons with an ownership interest in the Applicant. A separate ownership chart must be provided for the Developer. Be aware that the form of ownership (the applicant) would typically be a partnership, not a limited liability company.
- 12. Volume 1, Tab 5, Part E, Section 3, National Previous Participation: Submit a copy of the signed form

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d = outstanding on 4/24/06



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

that was actually sent to the owner.

- ✓ 13.  Volume 1, Tab 7, Part B: The form you submitted is not the 2006 form. Submit the correct form.
- ✓ 14.  Volume 1 Tab 7 Part E: Submit Part I of the form to list and include each member of the development owner, developer, guarantor, etc. Submit an individual part II for each member listed on part I.
- d 15.  Volume 1, Tab 8, Public Notifications: Review this section of the application and submit evidence of all notifications made, including delivery and/or registered mailing receipts and copies of all letters sent.
- d 16.  Volume 1, Tab 8, Public Notifications, Pages 2-6: Complete the forms. If the Development is located in a single member city council or county commissioner district, you only need to include information for the single member.
- ✓ 17.  Volume 3, Tab 1 Part A2. Architect Certification Form – submit the executed form which is required for rehabilitation as well as new construction.
- ✓ 18.  Volume 3, Tab 1, Part B, Specifications and Amenities: Revise the form to indicate the number of floors, residential buildings, and nonresidential buildings. Also, Volume 4, Tab 4 indicates that the units will have ice making refrigerators and self-cleaning ovens. Indicate this in the kitchen section. Indicate what the exterior wall cladding will be and the height of the ceilings.
- ✓ 19.  Volume 3, Tab 1, Part C, Common Amenities: The total points required to meet threshold for this item is 15 points. The points for the selections you made, when doubled, only add up to 14 points. Submit a new form that indicates enough points to meet the threshold requirement.
- ✓ 20.  Submit unit plans or the floorplans of the buildings that show the units, rooms of the units and outside dimensions of the units. Show each and every unit type. An "average" or "typical" type is not sufficient. The different square footages of the units must be indicated in the rent schedule.
- ✓ 21.  Volume 3, Tab 2: Submit tax assessment documentation for the property that shows the tax rates and taxes for each applicable jurisdiction.
- ✓ 22.  Submit documentation of site control. Review the requirements stated in the application and in 2006 QAP section 50.9(h)(7). The evidence submitted must show that the development is under contract to the applicant or members of the applicant or is already controlled by the applicant or members of the applicant. If the already controlled, the requirements for submitting documentation regarding identity of interest must also be submitted.
- ✓ 23.  Volume 3, Tab 2: Review the requirements stated in 50.9(h)(7)(B) and submit a letter dated after September 1, 2005 from an appropriate city official fulfilling the requirement that is applicable to this development. If the city has no zoning requirement, the letter must state that the Development fulfills a need for affordable rental housing as evidenced in the local consolidated plan, comprehensive plan, other local planning document or if no such documents exists, the letter must state that there is a need for affordable housing.
- ✓ 24.  Volume 3, Tab 2: Submit a title policy or title commitment for the property evidencing that it is under the control of the applicant or affiliates and fulfilling the requirement stated in 50.9(h)(7)(D)(iii). of the 2006 QAP.
- d 25.  Volume 3, Tab 3, Certification of Notifications: In Section A, Part 2 of this form, you must check all three boxes. Revise the form, certifying that all required requests for Neighborhood Organizations were made. Submit all evidence of your requests (i.e. letter to each addressee and overnight mail receipt or other mail receipt).
- d 26.  Volume 3, Tab 3, Section B: Submit evidence that notification signage is installed on the property. Submit photographs of the sign with the text legible, and indicating its location on the site and proximity to the street. If you mailed notifications, check the applicable box on this form, submit copies of those letters and the list of all recipients.
- d 27.  Volume 3, Tab 4: Submit evidence that Wentwood Management, LLC and any other foreign business organizations that were not named in the original documentation submitted have authority to do business in Texas or have applied for a certificate of authority.
- d 28.  Volume 3, Tab 5: Submit a 2004, 2005, or 2006 Multifamily Experience Certificate in the name of a Principal or Developer.
- ✓ 29.  Volume 3, Tab 5: Submit both financial statements and Authorization to Release Credit information forms for, as applicable, the General Partner(s), Developer, Guarantor, and each person that has ownership interest in the Development Owner, General Partner, Developer, or Guarantor.
- ✓ 30.  The Property Condition Assessment you provided is dated prior to September 1, 2005. Submit an updated report certified by the preparer to be effective within the applicable time period requirement.
- ✓ 31.  Volume 3, Tab 6: Submit a copy of the contracts or agreements securing the rental assistance, operating



Texas Department of Housing and Community Affairs  
 Housing Tax Credit Program  
 2006 Application Deficiency Notice

subsidy, annuity or IRP payment. The document(s) must identify the source and annual amount of the funds or monthly contract rent, the number of units receiving the funds, and the term and expiration of the contract or agreement.

- ✓ 32.  Volume 3, Tab 6: Submit one of the following:
    - Historical monthly operating statements of the subject Development for 12 consecutive months ending not more than 3 months from the first day of the Application Acceptance Period; or
    - The two most recent consecutive annual operating statements or summaries, or
    - The most recent consecutive six months of operating statements and the most recent available annual operating summary, or
    - If the development is a rehab, a written statement from the seller refusing to supply any other information or expressing the inability to supply any other information, all monthly or annual operating summaries available, and any other supporting documentation available that can be used to generate projections.
  - ✓ 33.  Volume 3, Tab 6: Submit a written explanation of the process used to notify and consult with the tenants in preparing the application.
  - ✓ 34.  Volume 3, Tab 6: Submit a relocation plan and a budget with an identified source of funding that matches the line item in the cost schedule, "Tenant Relocation Services", that is now "0", or an explanation of how the rehabilitation will be handled so that no relocation costs are incurred.
  - ✓ 35.  Volume 3, Tab 6: Provide a letter for the appraisal giving TDHCA permission to rely on the appraisal.
  - ✓ 36.  Volume 3, Tab 6: Provide a letter for the environmental site assessment giving TDHCA permission to rely on the assessment.
  - ✓ 37.  Volume 3, Tab 6: Submit a current FEMA flood map for the property.
  - ✓ 38.  Volume 3, Tab 6: The environmental site assessment indicates that there is asbestos-containing linoleum and mastic throughout the complex. Provide a plan for abatement.
- Volume 3, Tab 6: The market analyst's name does not appear on the Department's approved list.

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

Selection:

Per §50.9(d)(4), if Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling 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 seven 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." 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.

All documentation should be submitted as a whole and be directed to the attention of the staff member issuing this notice at:

Multifamily Finance Division  
 Via U.S. Mail: P.O. Box 13941, Austin, Texas 78711-3941,  
 Via express delivery/private courier: 221 East 11th, Austin, TX 78701.

Only documents less than 10 pages in length may be faxed to: 512.475.1895.  
 You may also e-mail your response to the staff member issuing this notice.

Sincerely,

Ben Sheppard

59



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Multifamily Housing Specialist

Phone Number: (512) 475-2122

Email: [ben.sheppard@tdhca.state.tx.us](mailto:ben.sheppard@tdhca.state.tx.us)

60

**Ben Sheppard**

**From:** Sharon Gamble [sharon.gamble@tdhca.state.tx.us]  
**Sent:** Tuesday, May 02, 2006 7:31 AM  
**To:** Ben Sheppard  
**Subject:** FW: Pear Orchard Plaza - IMPORTANT!!!!  
**Importance:** High

4/25/06 e-mail  
 re: outstanding  
 items.

Sharon D. Gamble  
 Multifamily Housing Specialist  
 Texas Department of Housing  
 and Community Affairs  
 (512) 475-4610

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

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]  
**Sent:** Tuesday, April 25, 2006 5:39 PM  
**To:** 'Brian McCabe'; budgetre@yahoo.com  
**Cc:** Robbye Meyer; 'Sharon Gamble'; 'Ben Sheppard'  
**Subject:** Pear Orchard Plaza - IMPORTANT!!!!  
**Importance:** High

We are currently reviewing your response to the deficiency letter dated April 14, 2006. All responses to this deficiency are due May 1, 2006 pursuant to the 2006 Hurricane Rita Policy, but you are encouraged to submit the responses earlier to allow for awards of credits in the Hurricane Rita impacted areas. Please note that all of the following items are outstanding and MUST have documentation prior to this application passing threshold. Please read and submit all of the following. However, please note items I and II below -- the Department has received outside evidence suggesting that the certifications required for items I and II were not made timely and the deficiency evidence required would therefore be impossible to submit. If you are unable to resolve these items, this application is ineligible and will be terminated. If this is the case, inform the Department as soon as possible so that the credits in this region may be awarded to eligible applications. However, if the Department's information is incorrect, please provide the required evidence for these and all items below so that we may consider this application for an award of credits.

1. To resolve Item # 15, you submitted a document which is a template for a letter of notification for §50.9(h)(8)(A) and a revised *Certification of Notification Form*. This documentation is insufficient. In order to resolve deficiency item #15, we asked for evidence of all notifications made, including delivery and/ or mailing receipts and copies of all letters sent. This required documentation has not been submitted. It was noted that the evidence you did submit was merely the language which should be included in the required notifications, but not the actual letters submitted. It did not have an addressee, nor did it include a date of the letter sent.

For Item #15 to be resolved, you must submit a copy of each letter sent to the required entities (such as city council members, county commissioners, state rep., state senator, mayor, county judge, presiding officer of the board of trustees from the school district, the superintendent of the school district, and all neighborhood organizations on record with the city as outlined in the response from the mayor from your request of neighborhood organizations), and each letter must be dated accurately and correctly on or before February 21, 2006 (the deadline outlined in the Hurricane Rita Policy approved by the TDHCA Board.)

Additionally, in order to resolve Item #15, you must submit proof that the letters were received by the entity. If you are unable to do so in the form of a "delivery and/ or registered mail receipt" as required in the TDHCA deficiency, you must submit evidence from the entities themselves (all entities required to be notified such as city council members, county commissioners, state rep., state senator, mayor, county judge, presiding officer of the board of trustees from the school district, the superintendent of the school district, and all neighborhood organizations on record with the city as outlined in the response from the mayor from your request of neighborhood organizations.)

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Note: The evidence above is required because the Department has received verbal confirmation from one or more entities who attest that they did not receive notification as required by the QAP for this application. §50.9(h)(8) is a legislated



requirement. Therefore, you must provide evidence that you did, in fact, notify all required entities pursuant to §50.9(h)(8) of the 2006 QAP and the 2006 Hurricane Rita Policy approved by the TDHCA Board by February 21, 2006.

In response to deficiency item #25, you submitted a revised *Certification of Notification Form*, when you previously certified that you had not made the required request for neighborhood organizations from the required elected official pursuant to §50.9(h)(8)(A)(ii)(I). In our deficiency, we asked for evidence of all notifications made, including delivery and/ or mailing receipts and copies of all letters sent. These items were not submitted in your response.

In order to resolve deficiency item #25, you must submit a copy of each letter you sent requesting information regarding neighborhood organizations, along with evidence that the letters were sent and were received by the addressee. The *Public Notifications Information and Certification Form* is not sufficient. Again, in telephone conversations with the Department the applicants indicated that this requirement was not met. Therefore, unless you submit proof of this request for neighborhood organizations from the required elected official in the form of a copy of the original request submitted by February 21, 2006, you do not pass threshold at this time and the application is ineligible.

III. In response to deficiency item #26, you submitted a document which is a template for a letter of notification for §50.9(h)(8) (B) and a revised *Certification of Notification Form*, as well as a list of people who you sent the notification to. However, because you certified that a sign on the property was not used as the method of notification of interested parties in the neighborhood, each person or organization that would be required to be notified of a request for or proposed change in zoning under the local zoning ordinance must be notified about the proposed development by a separate letter. If no notification requirement exists as a part of the zoning ordinance, then all parties within 1,000 feet of the proposed development must be notified. Provide official evidence that describes the notification requirements that are associated with a zoning change.

To resolve this item, you must provide a map that marks the distance around the subject property to which point occupants of buildings and residences must be notified and that includes street names and addresses. The map must show the addresses of each residence and business that must have been notified. If the list of addresses and persons that you have already submitted does not include one or more persons or organizations, include them in response to this deficiency. You must include a copy of the actual letter sent to each of the persons and organizations (businesses and other organizations) and a copy of the certified mail receipt or overnight mail receipt as evidence that the letters were delivered no later than March 23, 2006 (30 days after the Volume 1 was submitted.) not submitted

If you did not retain a copy of the letters, contact the addressees and request that they forward a copy of the letter to you.

Failure to provide evidence of these notifications may result in the termination of your Application.

IV. For deficiency Items 2, 3, 4 - Volume 1, Tab 2, Part C, Utility Allowances: The form submitted is not consistent with the utility allowance sheet and the rent schedule submitted in response to the deficiency notice. The form does not indicate the "Energy Source," and indicates that the tenant will pay all bills except trash. These indications do not agree with the rent schedule or with the allowances circled in the utility allowance sheet. For example, \$49 is given in the rent schedule as the amount of the tenant paid utilities, but the circled amounts in the utility allowance schedule add to \$87. Submit a utility allowance schedule with the correct amounts circled, a revised and complete Volume 1, Tab 2, Part C form and revise the rent schedule if necessary.

V. For deficiency Items 2, 3, 4 - Volume 1, Tab 2, Part B, Rent Schedule: Two rent schedules were submitted in response to the deficiency notice. Which of the two is correct? One states that the total square footage is 84,450 and the other states that it is 85,570. Submit the correct rent schedule and review item #1 above to make sure that it is consistent in all aspects. Final

VI. For deficiency Item 7 - Volume 1, Tab 4, Part A, Sources & Uses: The "Construction or Rehab Loan Stage Amt." column does not contain a total. That side of the form should be parallel and similar to the "Permanent Loan Stage Amount." The total in the construction column would be the total that is anticipated as of the date that the permanent loan takes out the construction loan or a bridge loan (if a bridge loan between construction and permanent is used). Note that part of the proceeds from the tax credit syndication would typically be received during construction and the rest when the development closes into the permanent loan.

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VII. For deficiency Item 8 - The financing narrative should state how much of the syndication proceeds will be received during

construction and whether any part of the deferred developer fee or developer's equity will be used during construction.

- VIII. For deficiency Item 11 - The deficiency response contains a chart for Merced Housing but no connection is made between Merced and the development owner or developer. Explain/describe Merced's position in the ownership. Revise the Volume 1 Tab 7 Part E Credit Limit documentation if necessary and resubmit. *Merced is a developer*
- IX. For deficiency Item 12 - The word "owner" at the end of this deficiency is incorrect. The correct word was "agency," in reference to any foreign state's housing agency to which the form was sent. State whether or not a form was sent to any such agency and either submit the form exactly as sent (all language, signatures, etc.) or confirm that the form already submitted is correct. *(they said)*
- X. For deficiency Item 13. - As stated in #11 above, Merced's position is not acceptably described. Revise the Volume 1 Tab 7 Part E Credit Limit form if necessary. *This was already submitted and was acceptable.*
- XI. For deficiency Item 27. - Volume 3 Tab 4 The deficiency citation requested that you submit evidence of existence of or application for authority to do business in Texas for all foreign business organizations that were not named in the original documentation submitted. The original documentation submitted should have included all members of the owner and developer. Our review shows that Newbery Development LLC and Maple Glen Partners LLC appear to be foreign organizations for which no such evidence was originally submitted. Submit the evidence requested. *Submitted SOS certs.*
- XII. For deficiency Item 28. - Volume 3 Tab 5: In response to the deficiency cited, an experience certificate was submitted for Merced Housing. Merced Housing is not included in the ownership or developer charts. Numerous exhibits are affected. Submit an experience certificate for a general partner, the developer or a principal of the general partner or developer; or submit a new organization chart of the developer, evidencing that Merced is a principal of the developer. *Merced is a developer*

Please let me know if you have any questions,

Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing and Community Affairs  
(512) 475-3995

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

**From:** Brian McCabe [mailto:bmccabe@canteyhanger.com]  
**Sent:** Thursday, April 13, 2006 5:01 PM  
**To:** Jennifer Joyce; budgetre@yahoo.com  
**Cc:** Robbye Meyer  
**Subject:** RE: Pear Orchard Plaza - IMPORTANT!!!!

I believe that the consensus is that no appeal is necessary at this time for this Project. However, in the event that my understanding is incorrect, this email shall constitute an appeal pursuant to §50.17 of the QAP. It is now 4:49 pm Thursday, April 13, 2006.

Brian T. McCabe

---

**From:** Jennifer Joyce [mailto:jennifer.joyce@tdhca.state.tx.us]  
**Sent:** Thursday, April 13, 2006 3:42 PM  
**To:** budgetre@yahoo.com; Brian McCabe  
**Cc:** Robbye Meyer  
**Subject:** RE: Pear Orchard Plaza - IMPORTANT!!!!

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Mr. Newbery,

I just spoke with Janet Stieben, Chief of Staff for Senator Williams' office. I'd contacted her yesterday to let her know the situation and to see if the Senator's office had any input on the matter. She confirmed that they did not receive a request from your office until March 23, 2006 in a letter dated March 10, 2006. She then called the legal person (not sure if it was

**Jennifer Joyce**

---

**From:** Jorge Newbery [budgetre@yahoo.com]  
**Sent:** Monday, May 01, 2006 8:26 PM  
**To:** Jennifer Joyce; Ben Sheppard  
**Cc:** Jorge Newbery  
**Subject:** Pear Orchard #3-A

Jorge Newbery  
www.jorgenewbery.com  
213.479.3015  
614.622.4855  
FAX 614.573.7220  
3312 Columbus Court  
Columbus, OH 43209

Jorge Newbery  
www.jorgenewbery.com  
213.479.3015  
614.622.4855  
FAX 614.573.7220  
3312 Columbus Court  
Columbus, OH 43209

*Received 7 5:00 PM May 1, 06  
8:26 PM  
due 5:00 PM*

*64*

**Ben Sheppard**

---

**From:** Jorge Newbery [budgetre@yahoo.com]  
**Sent:** Monday, May 01, 2006 9:22 PM  
**To:** Ben Sheppard; Jennifer Joyce  
**Subject:** Pear Orchard Plaza

We realize that our application was not as orderly as it could have been. Nevertheless, Pear Orchard Plaza is a deserving project for the low- and moderate-income families of Beaumont, who will benefit greatly from the proposed award of tax credits. We hope that we have responded adequately to your requests. Please let us know if there is any additional information you require.

Thank you for your consideration.

Jorge Newbery  
www.jorgenewbery.com  
213.479.3015  
614.622.4855  
FAX 614.573.7220  
3312 Columbus Court  
Columbus, OH 43209

5/1/06 email  
at 9:22 PM

65

5 day is 5/15

page 1 of 3



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Deficiency Notice Date:

5/8/2006

THIS NOTICE WILL ONLY BE TRANSMITTED VIA FACSIMILE

Jorge 8110

Primary Contact:

Contact Name: Jorge Newbery  
Contact Phone: (213) 494-2471  
Contact Fax: (614) 573-7220  
Contact E-Mail: NA budgetre@yahoo.com

Second Contact:

Second Contact:  
Second Fax:  
2nd E-Mail: 213 477 2110

def. 3

Regarding: TDHCA Number 060242, Pear Orchard Apts

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

Threshold: Pursuant to the 2006 Hurricane Rita policy, "a development involving rehabilitation or reconstruction is only eligible for credits that cover costs not reimbursed for losses by other private or public sources. Insurance remittances will be requested to confirm this eligibility standard and those amounts will be included as a source of funds." This Application involves rehabilitation or reconstruction and you failed to certify in Volume 1, Tab 9 that this Application is for the rehabilitation or reconstruction of Units damaged by Hurricane Rita. You also failed to submit insurance remittances as applicable. You must complete the attached certification that the Application reflects a submission that is only for eligible tax credits, which are those that cover costs not reimbursed for losses by other private or public sources. You must also submit all documentation from private and public sources to confirm this standard including, but not limited to, insurance remittances.

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

Selection:

Per §50.9(d)(4), if Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling 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 seven 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." 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.

66



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

All documentation should be submitted as a whole and be directed to the attention of the staff member issuing this notice at:

Multifamily Finance Division  
Via U.S. Mail: P.O. Box 13941, Austin, Texas 78711-3941.  
Via express delivery/private courier: 221 East 11th, Austin, TX 78701.

Only documents less than 10 pages in length may be faxed to: 512.475.1895.  
You may also e-mail your response to the staff member issuing this notice.

Sincerely,

Ben Sheppard  
Multifamily Housing Specialist

Phone Number: (512) 475-2122

Email: [ben.sheppard@tdhca.state.tx.us](mailto:ben.sheppard@tdhca.state.tx.us)

VOLUME 1, TAB 9

HURRICANE RITA HOUSING TAX CREDIT APPLICATION SUPPLEMENT

PART B: ELIGIBILITY AND CERTIFICATION

Applicant certifies that this Application, which is being submitted for consideration in the Hurricane Rita Housing Tax Credit Application Round, fully complies with the requirements and eligibility criteria of the Hurricane Rita Housing Tax Credit Policy.

(Check only if applicable) This Application involves rehabilitation or reconstruction: Applicant certifies that this Application is for the rehabilitation or reconstruction of Units damaged by Hurricane Rita. Applicant certifies that the Application reflects a submission that is only for eligible tax credits, which are those that cover costs not reimbursed for losses by other private or public sources; Applicant certifies that they have submitted all documentation from private and public sources to confirm this standard including, but not limited to, insurance remittances. Applicant certifies that all public and private resources received or requested are reflected as sources of funds in the Application. Applicant certifies that a majority of the expenses of rehabilitation are related to direct damage from Hurricane Rita.

(Check only if applicable) This Application is being submitted for both the Hurricane Rita HTC Application Round and 9% 2006 HTC Competitive Round: Applicant certifies that the Application as it relates to consideration for the 9% 2006 HTC Competitive Round meets all QAP requirements, with none of the exceptions stated in the Hurricane Rita Housing Tax Credit Policy, for consideration and eligibility in the 9% 2006 HTC Competitive Round.

All Developments submitted under this policy are subject to all rules, definitions, policies and deadlines of TDHCA, as more specifically outlined in the 2006 Qualified Allocation Plan and Rules, the Underwriting Rules and Guidelines, and/or this policy. Unless explicitly identified in the Hurricane Rita Housing Tax Credit Policy, all sections of the QAP apply to Applications submitted under this policy. Exceptions to the QAP noted in this policy apply only to those Applications submitted under the Hurricane Rita Housing Tax Credit Policy and do not apply to Applications electing to be considered for the traditional 2006 9% Housing Tax Credit Round.

The Applicant hereby asserts that all materials and representations are true and correct and the Applicant has undergone sufficient investigation to affirm the validity of the statements made. Further, the applicant hereby asserts that he has read and understands all the information contained in the policy and application. By signing this document, Applicant is affirming that all statements made in this government document are true and correct under penalty of Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification and subject to criminal penalties as defined by the State of Texas. TEX. PENAL CODE ANN. §§37.01 et seq. (Vernon 2003 & Supp. 2006).

By: \_\_\_\_\_ Its: \_\_\_\_\_  
*Signature of Applicant/Owner* *Date*

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

68

I, the undersigned, a notary public in and for said County, in said State, do hereby certify that \_\_\_\_\_, whose name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears. Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2006. (seal)

\_\_\_\_\_  
*Notary Public Signature*

\_\_\_\_\_  
*Commission Expires*

TRANSMISSION VERIFICATION REPORT

TIME : 05/08/2006 11:07  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER. # : BROG4J729978

DATE, TIME  
FAX NO./NAME  
DURATION  
PAGE(S)  
RESULT  
MODE

05/08 11:05  
92134772110  
00:01:12  
03  
OK  
STANDARD  
ECM

page 1 of 3



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Deficiency Notice Date:

5/8/2006

THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA FACSIMILE

Primary Contact:

Contact Name: Jorge Newbery

Contact Phone: (213) 494-2471

Contact Fax: (614) 573-7220

Contact E-Mail NA budgetre@yahoo.com

Second Contact:

Second Contact:

Second Fax:

2nd E-Mail: 213 477 2110

Regarding: TDHCA Number 060242, Pear Orchard Apts

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

Threshold: Pursuant to the 2006 Hurricane Rita policy, "a development involving rehabilitation or reconstruction is only eligible for credits that cover costs not reimbursed for losses by other private or public sources. Insurance remittances will be requested to confirm this eligibility standard and those amounts will be included as a source of funds." This Application involves rehabilitation or reconstruction and you failed to certify in Volume 1, Tab 9 that this Application is for the rehabilitation or reconstruction of Units damaged by Hurricane Rita. You also failed to submit insurance remittances as applicable. You must complete the attached certification that the Application reflects a submission that is only for eligible tax credits, which are those that cover costs not reimbursed for losses by other private or public sources. You must also submit all documentation from private and public sources to confirm this standard including, but not limited to, insurance remittances.

69



TRANSMISSION VERIFICATION REPORT

TIME : 05/08/2006 11:03  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	05/08 11:02
FAX NO./NAME	96145737220
DURATION	00:01:12
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

page 1 of 3



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Deficiency Notice Date:

5/8/2006

THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA FACSIMILE

Primary Contact:

Contact Name: Jorge Newbery  
Contact Phone: (213) 494-2471  
Contact Fax: (614) 573-7220  
Contact E-Mail NA

Second Contact:

Second Contact:  
Second Fax:  
2nd E-Mail:

Regarding: TDHCA Number 060242, Pear Orchard Apts

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

70

Threshold: Pursuant to the 2006 Hurricane Rita policy, "a development involving rehabilitation or reconstruction is only eligible for credits that cover costs not reimbursed for losses by other private or public sources. Insurance remittances will be requested to confirm this eligibility standard and those amounts will be included as a source of funds." This Application involves rehabilitation or reconstruction and you failed to certify in Volume 1, Tab 9 that this Application is for the rehabilitation or reconstruction of Units damaged by Hurricane Rita. You also failed to submit insurance remittances as applicable. You must complete the attached certification that the Application reflects a submission that is only for eligible tax credits, which are those that cover costs not reimbursed for losses by other private or public sources. You must also submit all documentation from private and public sources to confirm this standard including, but not limited to, insurance remittances.

5 day is 5/15



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Deficiency Notice Date:

5/8/2006

THIS NOTICE WILL ONLY BE TRANSMITTED VIA FACSIMILE

Jorge <sup>4</sup> pm

Primary Contact:

Contact Name: Jorge Newbery  
Contact Phone: (213) 494-2471  
Contact Fax: (614) 573-7220  
Contact E-Mail NA budgetre@yahoo.com

Second Contact:

Second Contact:  
Second Fax:  
2nd E-Mail: 213 477 2110

DEF #4

Regarding: TDHCA Number 060242, Pear Orchard Apts

In the course of the Department's review of the above referenced application documentation, an Administrative Deficiency, as defined in §50.3(1) of the 2006 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 as is required under §50.5, §50.6, §50.8(d) and §50.9(g), (h), (i) and (j) 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 II below.

Threshold: This deficiency notice is a revision of the notice issued conveyed to you via fax at 11:00 a.m. this morning. The text of the deficiency issued this morning has not been changed. That text was as follows:

Pursuant to the 2006 Hurricane Rita policy, "a development involving rehabilitation or reconstruction is only eligible for credits that cover costs not reimbursed for losses by other private or public sources. Insurance remittances will be requested to confirm this eligibility standard and those amounts will be included as a source of funds." This Application involves rehabilitation or reconstruction and you failed to certify in Volume 1, Tab 9 that this Application is for the rehabilitation or reconstruction of Units damaged by Hurricane Rita. You also failed to submit insurance remittances as applicable. You must complete the attached certification that the Application reflects a submission that is only for eligible tax credits, which are those that cover costs not reimbursed for losses by other private or public sources. You must also submit all documentation from private and public sources to confirm this standard including, but not limited to, insurance remittances.

Please note that the last deficiency issued (the text of which appears above as previously stated) in no way clears up any outstanding deficiencies and should be considered in addition to all other items previously requested.

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

Selection:

71



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
**2006 Application Deficiency Notice**

Per §50.9(d)(4), if Administrative Deficiencies are not clarified or corrected to the satisfaction of the Department within five business days of the deficiency notice date, then for competitive Applications under the State Housing Credit Ceiling 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 seven 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." 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.

All documentation should be submitted as a whole and be directed to the attention of the staff member issuing this notice at:

Multifamily Finance Division  
Via U.S. Mail: P.O. Box 13941, Austin, Texas 78711-3941.  
Via express delivery/private courier: 221 East 11th, Austin, TX 78701.

Only documents less than 10 pages in length may be faxed to: 512.475.1895.  
You may also e-mail your response to the staff member issuing this notice.

Sincerely,

Ben Sheppard  
Multifamily Housing Specialist

Phone Number: (512) 475-2122

Email: [ben.sheppard@tdhca.state.tx.us](mailto:ben.sheppard@tdhca.state.tx.us)

72

TRANSMISSION VERIFICATION REPORT

TIME : 05/08/2006 15:56  
NAME : TX DEPT OF HOUSING  
FAX : 4750764  
TEL :  
SER.# : BROG4J729978

DATE, TIME	05/08 15:55
FAX NO./NAME	96145737220
DURATION	00:00:44
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM



Texas Department of Housing and Community Affairs  
Housing Tax Credit Program  
2006 Application Deficiency Notice

Deficiency Notice Date:

5/8/2006

THIS NOTICE WILL ONLY BE  
TRANSMITTED VIA FACSIMILE

Primary Contact:

Contact Name: Jorge Newbery  
Contact Phone: (213) 494-2471  
Contact Fax: (614) 573-7220  
Contact E-Mail: NA budgetre@yahoo.com

Second Contact:

Second Contact:  
Second Fax:  
2nd E-Mail: 213 477 2110

Regarding: TDHCA Number 060242, Pear Orchard Apts

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73

Rent  
Schedules  
Received



Part B. Rent Schedule (Cont.)

<b>HOUSING</b>	TC30%	0
	TC40%	0
	TC50%	0
	TC60%	150
	HTC LI Total	150
<b>TAX CREDITS</b>	TCEO	0
	MR	0
	MR Total	0
<b>TC Total</b>		150
<b>MORTGAGE REVENUE</b>	MRB30%	0
	MRB40%	0
	MRB50%	0
	MRB60%	0
	MRB LI Total	0
<b>BOND</b>	MRBMR	0
	MRBMR Total	0
<b>MRB Total</b>		0

<b>HOUSING</b>	HTF30%	0
	HTF40%	0
	HTF50%	0
	HTF60%	0
	HTF80%	0
<b>TRUST</b>	HTF LI Total	0
	MR	0
<b>FUND</b>	MR Total	0
	HTF Total	0
<b>HOME</b>	HOME HH	0
	HOME LH	0
	HOME LI Total	0
	MRJEO	0
	MR	0
	MR Total	0
<b>HOME Total</b>		0
<b>OTHER</b>	Total OT Units	0

2/21/06

3  
4  
5  
6  
7

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**Volume 1, Tab 2. Populations Served**

**Part B. Rent Schedule (Cont.)**

	TC30%	0
	TC40%	0
<b>HOUSING</b>	TC50%	150
	TC60%	0
<b>TAX</b>	HTC LI Total	150
	TCEO	0
<b>CREDITS</b>	MR	0
	MR Total	0
	TC Total	150
	MRB30%	0
	MRB40%	0
<b>MORTGAGE</b>	MRB50%	0
	MRB60%	0
<b>REVENUE</b>	MRB LI Total	0
	MRBMR	0
<b>BOND</b>	MRBMR Total	0
	MRB Total	0

	HTF30%	0
<b>HOUSING</b>	HTF40%	0
	HTF50%	0
	HTF60%	0
<b>TRUST</b>	HTF80%	0
	HTF LI Total	0
	MR	0
<b>FUND</b>	MR Total	0
	HTF Total	0
	HOME HH	0
	HOME LH	0
<b>HOME</b>	HOME LI Total	0
	MR/EO	0
	MR	0
	MR Total	0
	HOME Total	0
<b>OTHER</b>	Total OT Units	0

*Rec'd  
3/18/06*





Volume 1, Tab 2. Populations Served

Part B. Rent Schedule (Cont.)

HOUSING	TC30%	0
	TC40%	0
	TC50%	30
	TC60%	120
	HTC LI Total	150
TAX	TCEO	0
	MR	0
	MR Total	0
CREDITS	TC Total	150
	MRB30%	0
MORTGAGE	MRB40%	0
	MRB50%	0
	MRB60%	0
	MRB LI Total	0
REVENUE	MRBMR	0
BOND	MRBMR Total	0
	MRB Total	0

HOUSING	HTF30%	0
	HTF40%	0
	HTF50%	0
	HTF60%	0
	HTF80%	0
TRUST	HTF LI Total	0
	MR	0
FUND	MR Total	0
	HTF Total	0
HOME	HOME HH	0
	HOME LH	0
	HOME LI Total	0
	MR/EO	0
	MR	0
	MR Total	0
OTHER	HOME Total	0
	Total OT Units	0

5/1/06  
 [Handwritten signature]



Volume 1, Tab 2. Populations Served

Part B. Rent Schedule (Cont.)

HOUSING	TC30%	0
	TC40%	0
	TC50%	150
	TC60%	0
	HTC LI Total	150
TAX	TCEO	0
	MR	0
CREDITS	MR Total	0
	TC Total	150
MORTGAGE	MRB30%	0
	MRB40%	0
	MRB50%	0
	MRB60%	0
REVENUE	MRB LI Total	0
	MRBMR	0
BOND	MRBMR Total	0
	MRB Total	0

HOUSING	HTF30%	0
	HTF40%	0
	HTF50%	0
	HTF60%	0
	HTF80%	0
TRUST	HTF LI Total	0
	MR	0
FUND	MR Total	0
	HTF Total	0
HOME	HOME HH	0
	HOME LH	0
	HOME LI Total	0
	MR/EO	0
	MR	0
	MR Total	0
OTHER	HOME Total	0
	Total OT Units	0

DO NOT MOVE/DELETE THESE #s(USED FOR DROPDOWNS)

HTF30%  
 HTF40% MRB30%  
 HTF50% MRB40%  
 HTF60% MRB50%  
 HTF80% MRB60%  
 MR MR

TC30% HH  
 TC40% LH  
 TC50% MR/EO  
 TC60% MR  
 EO  
 MR

# Notification Response

(I)

**C A N T E Y & H A N G E R, L L P.**  
ATTORNEYS AT LAW

BRIAN T. McCADE  
E-MAIL: [BMCCABE@CANTEYHANGER.COM](mailto:BMCCABE@CANTEYHANGER.COM)

400 WEST 15TH STREET • SUITE 200  
AUSTIN, TEXAS 78701  
TELEPHONE (512) 391-3442  
CELL: (512) 346-8983  
FACSIMILE (512)-469-0474  
Ft. Worth: (817) 877-2857

May 1, 2006

RECEIVED

MAY 1 2006

LWTC

Jen Joyce  
Interim Manager of Multifamily Finance Production Division  
Texas Department of Housing & Community Affairs  
221 East 11<sup>th</sup>  
Austin, TX 78711-3941

RE: Response to April 25, 2006 Deficiency Notice

Dear Ms. Joyce;

This letter should be read in conjunction with the letter dated the date hereof from Maple Glen Partners, LLC ("Maple Glen") regarding the above Deficiency Notice. This letter together with the Maple Glen letter is a portion of Maple Glen's response.

The Application is governed by the 2006 Qualified Action Plan and the 2006 Hurricane Rita Policy approved by the TDHCA Board by February 21, 2006 (the "QAP"). We want to address the questions you raised in the e-mail of April 25, 2006, concerning §50.9(h) (8) of the QAP. For purposes of this letter, while we have not included the QAP or the April 25, 2006 e-mail (we believe that you have copies of these), we do quote from them.

Section 50.9(h) (8) of the QAP deals with notices to various individuals and entities. To fulfill the requirements of the QAP, the Applicant has submitted its "Certification as to Notifications (Sections A - C)" (the "Certification") in Volume 3, Tab 3 of the Application. The Certification is a sworn statement of the Applicant that the requirements of §50.9(h) (8) have been met. The Certification requires that the Notices set forth therein have been either mailed through the U.S. Postal Service and/or posted at the Project.

In your e-mail of April 25, 2006, you request additional information regarding the Notices. In particular, you state that:

"... in order to resolve Item #15, you must submit proof that the letters were received by the entity. If you are unable to do so in the form of a "delivery and/ or registered mail receipt" as required

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in the TDHCA deficiency, you must submit evidence from the entities themselves (all entities required to be notified such as city council members, county commissioners, state rep., state senator, mayor, County Judge, presiding officer of the board of trustees from the school district, the superintendent of the school district, and all neighborhood organizations on record with the city as outlined in the response from the mayor from your request of neighborhood organizations.)

“... the Department has received outside evidence suggesting that the certifications required for items I and II were not made timely and the deficiency evidence required would therefore be impossible to submit”.

“... the evidence above is required because the Department has received verbal confirmation from one or more entities who attest that they did not receive notification as required by the QAP for this application”.

We respectfully disagree that a deficiency exists or needs to be cured as described by you. There is no requirement in the QAP or otherwise that the Applicant submit proof that the letters were received by the person or entity. There is no requirement in the QAP or otherwise that the Applicant send the Notices by registered or certified mail, return receipt requested, or produce any form of U. S. Postal Service receipts. There is no requirement in the QAP or otherwise that the Applicant take any action other than to mail the Notice within the time frame set forth. This was done and the Certificate has been presented. Maple Glen has relied upon the very clear administrative rules set forth in the QAP and would be prejudiced by the imposition of a tougher standard at this time.

Nonetheless, Maple Glen has attempted to contact recipients to ask them to confirm receipt. Bear in mind that Maple Glen had a challenging time contacting several of the recipients. However, Maple Glen is pleased to submit numerous verifications from parties who affirm that they did receive the Notice in a timely fashion. These verifications include the Mayor of Beaumont and the County Judge of Orange County. Copies of these verifications are attached.

You state that you are requesting this additional material because the TDHCA received outside evidence that a Notice or Notices were not sent. Without more specificity, it is difficult to know how to assess your concern. We suspect you are making this statement based upon e-mails with Senator Tommy Williams' staff. Respectfully, his staff is incorrect when it states that it did not receive notice from us. In fact, before the applicable deadlines for Notice, the law firm of Orgain, Bell & Tucker, Beaumont, Texas, was in contact with the offices of both Representative Deshotel and Senator Tommy Williams. Mr. J. Pat Ivey of Orgain Bell & Tucker reported back in an e-mail dated February 17, 2006 that Representative Deshotel's office was preparing the required letter and that Senator Williams office reported that the Senator would consider the required letter, but asked for the TDHCA Project number.

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His office was promptly furnished with the TDHCA Project Number and the Applicant assumed the letter was prepared and sent. When you reported that you had not received it, another was prepared by the Senator's office and sent to you.

As you stated in your e-mail of April 12, 2006, ". . . all letters of support for Hurricane Rita Applications must have been received by March 1, 2006 pursuant to the Hurricane Rita Credit Policy approved by the TDHCA Board. In the e-mail between TDHCA and the Senator's office dated March 17, 2006, it appears that TDHCA did not receive any of the Senator's letters regarding any of the Projects until March 16, 2006. Maple Glen was surprised to learn that their letter was not in that batch of letters, as they know the Senator's office was contacted prior to the applicable deadline. Maple Glen understands that the difficulties created by the Hurricanes, the Special Sessions, etc. could cause the notifications not to be relayed to the Senator and that the letters could understandably be delivered late, but Notice was given in a timely manner, as required by the QAP. Maple Glen supports the Senator and he has supported Maple Glen's project. However, these items serve as an indication that the times have been challenging all over East Texas post-Hurricane, and the Senator's office has not been spared.

We have also included the relevant portions of the Qualified Allocation Plan for Missouri, which requires that public notifications are sent certified mail. We believe that this is also required in the QAP's of some other States. However, this is not a requirement of the Texas QAP, although Maple Glen will be happy to comply with this requirement in the future if it is included.

Respectfully submitted,

Cantey & Hanger, L.L.P.

By: 

Brian T. McCabe, Partner

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CERTIFICATION OF NOTIFICATIONS (SECTIONS A-C)

Section A: Pursuant to §50.9(h)(8)(A) and/ or other applicable Rules, evidence of notifications includes this sworn affidavit and the *Public Notifications and Information Certification Form* (submitted in Volume 1, Tab 9).

All applicants, or persons with signing authority must complete either Part 1 or Part 2 below:

1. Must Accurately Check Below if a Pre-Application was Submitted:

- I (We) certify that (If this box is checked, proceed to Section B, below)
- Evidence of these notifications was submitted with the Pre-Application Threshold for the same Application and satisfied the Department's review of Pre-Application Threshold, and no additional notification was required at Application, or
  - A Pre-Application was submitted for this same Application and satisfied the Department's review of Pre-Application Threshold, but all required entities were re-notified as required by §50.9(h)(8)(A) and/ or other applicable Rules, because I (we) have submitted a change in the Application, whether from Pre-Application to Application or as a result of a deficiency that reflects a total Unit increase of greater than 10%, an increase of greater than 10% for any given level of AMGI, a change in the population being served (elderly, Intergenerational Housing or family), or the change of an elected official. As applicable, all changes in the application have been made on the *Public Notifications Information and Certification Form*.

2. Must accurately check all three boxes below (must complete this section only if a Pre-Application was not submitted, or if the Pre-Application did not satisfy the Department's review of Pre-Application threshold):

I (We) certify that all required requests for Neighborhood Organizations pursuant to §50.9(h)(8)(A)(ii)(I) and/ or other applicable Rules, were made in the format required in the *Neighborhood Organization Request* template by January 15, 2006, or for HOME, Tax Exempt Bond and Rural Rescue Developments no later than 21 days prior to the submission of the Threshold documentation.

- I (We) certify that
- No reply letter was received from the local elected officials by February 25, 2006 (or for HOME, Tax Exempt Bond and Rural Rescue Developments by 7 days prior to the submission of the Application), and/ or
  - A response was received from the local elected officials before February 25, 2006, (or for HOME, Tax Exempt Bond and Rural Rescue Developments by 7 days prior to the submission of the Application) and I have notified those neighborhood organizations as required by and §50.9(h)(8)(A)(ii)(I) and/ or other applicable Rules, and/ or
  - I have knowledge of other neighborhood organizations on record with the state or county whose boundaries contain the proposed Development site and have notified those neighborhood organizations as required by §50.9(h)(8)(A)(ii)(I) and/ or other applicable Rules, and/ or
  - I know of no neighborhood organizations within whose boundaries the Development is proposed to be located and/ or
  - The local elected officials referred me (us) to another source, and I (we) requested neighborhood organizations from that source. If a response was received, those neighborhood organizations were notified as required by §50.9(h)(8)(A) and/ or other applicable Rules.

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- All neighborhood organizations that were notified are correctly listed on the *Public Notifications Information and Certification Form* and all notifications were made in the format provided in the template, *Public Notifications Format (Written)*.

I (We) certify that, in addition to all of the required neighborhood organizations, the following entities were notified in accordance with § 50.9(h)(8)(A)(i) and/ or other applicable Rules. The notifications were in the format provided in the template, *Public Notifications Format (Written)*. All of the following entities were notified and are correctly listed on the *Public Notifications Information and Certification Form*:

- Superintendent of the school district containing the Development;
- Presiding officer of the board of trustees of the school district containing the Development;
- Mayor of any municipality containing the Development;
- All elected members of the governing body of any municipality containing the Development;
- Presiding officer of the governing body of the county containing the Development;
- All elected members of the governing body of the county containing the Development;
- State senator of the district containing the Development; and
- State representative of the district containing the Development.

**Section B: This section must only be completed if mailings were completed in lieu of posting signage on the Development site:**

I (We) certify that pursuant to Section 50.9(h)(B) and/ or other applicable Rules, and have elected to mail written notifications that the notice was mailed through the U.S. Postal Service on 2/16/06 (date of mailing), and these notifications contained all required in the *Public Notifications Format (Written)*.

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**Section C: This section must only be completed if the application is for rehabilitation of an existing property that was occupied at the time of application submission:**

I (We) certify Units in the Development are occupied at the time of Application, and have notified each tenant at the Development and let the tenants know of the Department's public hearing schedule for comment on submitted Applications. If the public hearing schedule is not available at the time of Application submission, and WILL notify all tenants of the Department's public hearing schedule for comment on submitted Applications.

By: [Signature] 2-20-06 Its: Managing Member  
Signature of Applicant/Owner Date

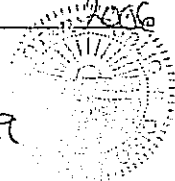
STATE OF: OHIO  
COUNTY OF: Franklin

I, the undersigned, a notary public in and for said County, in said State, do hereby certify that Jacque Newberry, whose name is signed to the foregoing statement, and who is known to be one in the same, has acknowledged before me on this date, that being informed of the contents of this statement, executed the same voluntarily on the date same foregoing statement bears.

Given under my hand and official seal this 20 day of February, 2006 (seal)

[Signature]  
Notary Public Signature

July 28 2009  
Commission Expires



AMANDA M. RICE  
Notary Public, State of Ohio  
(My Commission Expires 07-28-2009)

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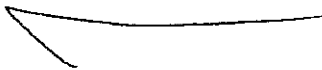
January 13, 2006

Bobbie J. Patterson  
801 Main Street #300  
Beaumont, TX 77701

Dear Ms. Patterson:

Maple Glen Partners, LLC is making an application for Housing Tax Credits. Pursuant to the applicable program rules associated with these programs, this letter is requesting a list of neighborhood organizations on record with your municipality. If there are no Neighborhood Organizations on record with your municipality or county, or if your office does not keep these records and you know the appropriate entity to request this list from, please respond by letter stating such. Please respond by February 20, 2006.

Sincerely,



Jorge Newbery  
Managing Member

Maple Glen Partners, LLC  
3312 Columbus Court  
Columbus OH 43209

213-494-2471

91

NOTICE OF SUBMISSION OF REQUEST FOR HOUSING TAX CREDITS WITH  
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

Applicant:

Maple Glen Partners LLC  
Jorge Newbery 213.494.2471  
3312 Columbus Court  
Columbus, OH 43209

Development:

Pear Orchard Plaza  
4365 S. 4<sup>th</sup> Street  
Beaumont, Jefferson County, TX 77705

This is a Rehabilitation apartment development for families, consisting of 150 units, of which 150 will be restricted to use as affordable housing. 20% of the units will be set aside for families whose income does not exceed 50% of AMGI, and all units will be restricted to occupancy by families whose income does not exceed 60% of AMGI. The proposed rent for each of the 150 2-bed, 1-bath units is \$400 monthly.

If credits are awarded to this project, we expect that project will be substantially completed one year after tax credit award is received, approximately June 2007.

Row #	Owner Name	Mailing Address
1	Leah St Julian	4545 Abraham St Beaumont, TX 77705
2	Gregory A & Ruth Breaux	1185 Hillebrandt Rd Beaumont, TX 77705
3	Dorothy Joseph	4525 Abraham St Beaumont, TX 77705
4	Doris Stafford	4505 Abraham St Beaumont, TX 77705
5	Maybell Metz	4495 Abraham St Beaumont, TX 77705
6	E B Snell	4485 Abraham St Beaumont, TX 77705
7	Damon D Sr Coleman	4475 Abraham St Beaumont, TX 77705
8	Isreal Seniguar	1590 Auburn St Beaumont, TX 77705
9	Lawrence D Evans	Po Box 22897 Beaumont, TX 77720
10	L R Etux Dornes	Po Box 1122 Beaumont, TX 77704
11	Inette Fontenot	4450 S 4th St Beaumont, TX 77705
12	Bobby Roland Lauder	4440 S 4th St Beaumont, TX 77705
13	Randolph Jr Prudhomme	4420 S 4th St Beaumont, TX 77705
14	Betty M Johnson	4410 S 4th St Beaumont, TX 77705
15	Brenda Joyce Joseph	4410 S 4th St Beaumont, TX 77705
16	Azzie Lee Hunter	4545 S 5th St Beaumont, TX 77705
17	John Roy Labrie	2675 Burgundy Pl Beaumont, TX 77705
18	Will E Bluiett	4515 S 5th St Beaumont, TX 77705
19	Alice Romecca Randolph	4540 S 5th St Beaumont, TX 77705
20	Daniel Gay	4950 Brace St Beaumont, TX 77708
21	Betty Moore	4510 S 5th St Beaumont, TX 77705
22	Alberta M Turner	4495 S 5th St Beaumont, TX 77705
23	Sheila Goolsbee	4485 S 5th St Beaumont, TX 77705
24	Clanthia Jones	4465 S 5th St Beaumont, TX 77705
25	Timothy Moore	4455 S 5th St Beaumont, TX 77705
26	Clarence E Raymond	4445 S 5th St Beaumont, TX 77705
27	John R Etux Labrie	2675 Burgundy Pl Beaumont, TX 77705
28	Beatrice Chargois	Po Box 6553 Beaumont, TX 77725
29	Pauline Wiltz	4395 S 5th St Beaumont, TX 77705
30	Beckett L P	4375 S 5th St Beaumont, TX 77705
31	Helen Labrie	4490 S 5th St Beaumont, TX 77705
32	Lottie Brown Preston	4480 S 5th St Beaumont, TX 77705
33	Sarah Lee Mason	4460 S 5th St Beaumont, TX 77705



34	H J Doyle	4450 S 5th St Beaumont, TX 77705
35	Lee Noe Sonnier	4440 S 5th St Beaumont, TX 77705
36	Glady Mitchell Wojcik	Po Box 710 Nederland, TX 77627
37	Cindy Laverne Manning	4410 S 5th St Beaumont, TX 77705
38	Barbara Jean Lincoln	4390 S 5th St Beaumont, TX 77705
39	Aaron O Dobbin	3727 E Burton St Sulphur, LA 70663
40	Joseph Alva Jr Boudreaux	4365 S 5th St Beaumont, TX 77705
41	Dee Richard Real Estate Invst	999 S 4th St Beaumont, TX 77701
42	Joann Williams	4350 S 5th St Beaumont, TX 77705
43	Enolia Adams	4335 S 5th St Beaumont, TX 77705
44	Mildred Clement	3010 Booker St Beaumont, TX 77705
45	Arthur Jr Lofton	3015 Booker St Beaumont, TX 77705
46	Rufus Jr Cormier	910 Louisiana St Houston, TX 77002
47	Willie Mae Nash	5965 Woodway Dr Beaumont, TX 77707
48	Sun Yon Straughter	3050 Booker St Beaumont, TX 77705
49	Shelia Gibbs	2305 Sarah St Beaumont, TX 77705
50	Ethel Lee Mouton	3060 Booker St Beaumont, TX 77705
51	Edna Brown Briscoe	4475 Winston Dr Beaumont, TX 77705
52	Cora Lee Wynn Bunckley	4315 S 5th St Beaumont, TX 77705
53	Jewel Lewis	4295 S 5th St Beaumont, TX 77705
54	Othello Price	4290 S 5th St Beaumont, TX 77705
55	Josephine Mccloney	4540 S 4th St Beaumont, TX 77705
56	Levi Doucet	1740 Dupont Dr Columbia, SC 29223
57	Rousseau & Viola B Jackson	4695 Taft St Beaumont, TX 77706
58	Evelyn A Reado	4545 Booker St Beaumont, TX 77705
59	Norma Johnson	4525 Booker St Beaumont, TX 77705
60	Wade Davis	4839 Marietta Ln Houston, TX 77021
61	Billie J Coney	4495 Booker St Beaumont, TX 77705
62	Herbert G Sr Straughter	4485 Booker St Beaumont, TX 77705
63	H A Jr Williams	4465 Booker St Beaumont, TX 77705
64	Jefferson C Jr Evans	4540 Booker St Beaumont, TX 77705
65	Lawrence Benard	4520 Booker St Beaumont, TX 77705
66	Carolyn Ann Guidry	4490 Booker St Beaumont, TX 77705
67	Bernice Randle	4480 Booker St Beaumont, TX 77705
68	Wilber Mire	2625 Burgundy Pl Beaumont, TX 77705
69	Freddie Hughes	910 Harriot St Beaumont, TX 77705
70	Elmira Hollis	4385 Pradice St Beaumont, TX 77705
71	Irma Rogers	575 W Madison St Chicago, IL 60661

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72	Irma Rogers	575 W Madison St Chicago, IL 60661
73	Margo Doyle Thomas	4455 Pradice St Beaumont, TX 77705
74	Ida B Riggs	4445 Pradice St Beaumont, TX 77705
75	Robbie Sue Prejean	4465 Pradice St Beaumont, TX 77705
76	Stacy Granger	4320 Booker St Beaumont, TX 77705
77	Clyde & Retha Broussard	4455 Booker St Beaumont, TX 77705
78	Stella Melonson	4445 Booker St Beaumont, TX 77705
79	Stella M Guidry	4425 Booker St Beaumont, TX 77705
80	Leon Sonnier	4415 Booker St Beaumont, TX 77705
81	Adrienne Berry Guillory	4385 Booker St Beaumont, TX 77705
82	R R De Quir	4365 Booker St Beaumont, TX 77705
83	Gilbert Fontenot	4355 Booker St Beaumont, TX 77705
84	Cornelius Lewis	4330 Booker St Beaumont, TX 77705
85	Isadora Johnson	5800 Hamilton St Sacramento, CA 95842
86	Alma H Brown	110 Sydney St Huntsville, AL 35811
87	Mary T Young	4420 Booker St Beaumont, TX 77705
88	E A Ford	4410 Booker St Beaumont, TX 77705
89	Gloria Dean Boxie	4380 Booker St Beaumont, TX 77705
90	Velta M Provo	4360 Booker St Beaumont, TX 77705
91	Esther Ruth Arbuckle	4350 Booker St Beaumont, TX 77705
92	Noble & Debra Johnson	Po Box 6719 Beaumont, TX 77725
93	Riley Hicks	4335 Pradice St Beaumont, TX 77705
94	Kevin D & Genevieve D Hill	Po Box 248 Wappingers Falls, NY 12590
95	Selena C Thomas	3935 Goliad St Beaumont, TX 77705
96	Quinsetta Simpson	4420 Raven St Beaumont, TX 77705
97	Buster Jr Etux Turner	4260 S 5th St Beaumont, TX 77705
98	Harold Chargois	4245 S 5th St Beaumont, TX 77705
99	James A Haynes	4240 S 5th St Beaumont, TX 77705
100	Tom Jr Trust Mitchell	3790 Bowen Dr Beaumont, TX 77708
101	Clarence Guidry	4221 Pradice St Beaumont, TX 77705
102	Kenneth Sr Prejean	2805 Sarah St Beaumont, TX 77705
103	Ananais & Wilson Prejean	5385 Boyt Rd Beaumont, TX 77713
104	James Jr Bassard	6948 Foothill Blvd Oakland, CA 94605
105	Raymond L Fontenot	2860 Sarah St Beaumont, TX 77705
106	Juanita Florence	2865 Sarah St Beaumont, TX 77705
107	Drunella Mouton	2870 Sarah St Beaumont, TX 77705
108	Mary Lena Cola Greene	4279 Palisade Dr San Jose, CA 95111
109	Carl Stewart	4165 Mouton St Beaumont, TX 77705

110	Mary Jane Fontenot	2945 Sarah St Beaumont, TX 77705
111	Ardis & Joseph Bradford	4185 S 4th St Beaumont, TX 77705
112	Ella Mae Deshotel	4175 S 4th St Beaumont, TX 77705
113	Hearvy Lee Scott	4220 S 4th St Beaumont, TX 77705
114	Joe P Gregory	1248 Avenue A Beaumont, TX 77701
115	Willie Elvina Thomas	3060 Sarah St Beaumont, TX 77705
116	Georgianna Bias	3065 Sarah St Beaumont, TX 77705
117	Joyce B Mouton	3070 Sarah St Beaumont, TX 77705
118	Harvey Booker	11507 Piping Rock Ln Houston, TX 77077
119	Isiah Williams	3085 Sarah St Beaumont, TX 77705
120	Linda G Etal Hurels	3110 Sarah St Beaumont, TX 77705
121	Clydia R Jackson	3166 Magnolia St Beaumont, TX 77703
122	Mary Jane Miller Fontenot	3117 Sarah St Beaumont, TX 77705
123	E V Bluiett	4220 S 5th St Beaumont, TX 77705
124	Elsie Goodman	4210 S 5th St Beaumont, TX 77705



# HOUSING AUTHORITY

*of the City of Beaumont, Texas*

March 24, 2006

Dear Resident,

As a resident of Pear Orchard Plaza a Mod-Rehab site, we invite you to attend a very important meeting concerning the Department of Housing and Urban Development's (HUD) contract with the current owner. All families living at the site at the time the contract ends will continue to receive housing assistance through a Section 8 Housing Choice Voucher. The Housing Authority of the City of Beaumont will administer this process and issue the voucher. The voucher can be used to obtain housing of your choice, including the possibility of remaining in your current unit under new ownership.

Staff from the Beaumont Housing Authority will be in attendance at the meeting to provide information regarding the expiration of the contract and the Housing Choice Voucher program and to answer any questions you may have. Please plan to attend one of the scheduled meetings indicated below:

Pear Orchard Plaza  
Community Room  
April 4, 2006  
1:30 p.m.

Beaumont Housing Authority  
Conference Room  
April 4, 2006  
5:30 p.m.

**All household members over the age of 18 must be present for the meeting. If you are unable to attend one of the above meetings or have not rescheduled we will assume that you are not in need of assistance.**

If there are any other questions you may call the Beaumont Housing Authority at (409) 951-7200.

Sincerely,

Jettis White  
Director, Section 8 Programs

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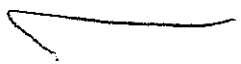
January 13, 2006

Bobbie J. Patterson — *the councilperson for Ward 4*  
801 Main Street #300  
Beaumont, TX 77701

Dear Ms. Patterson:

Maple Glen Partners, LLC is making an application for Housing Tax Credits. Pursuant to the applicable program rules associated with these programs, this letter is requesting a list of neighborhood organizations on record with your municipality. If there are no Neighborhood Organizations on record with your municipality or county, or if your office does not keep these records and you know the appropriate entity to request this list from, please respond by letter stating such. Please respond by February 20, 2006.

Sincerely,



Jorge Newbery  
Managing Member

Maple Glen Partners, LLC  
3312 Columbus Court  
Columbus OH 43209

213-494-2471

Tenants received the Notification of our application and the list of TDHCA public hearings. We also held a meeting at the nearby YMCA to seek input on the renovation and operational plans.

#33

On February 16, 2006, the attached notification of Maple Glen Partners LLC's application for tax credits to the Texas Department of Housing and Community Affairs was mailed to you and other nearby residents of Pear Orchard Plaza. Unfortunately, these were not mailed certified and we now need to demonstrate that these were received.

If awarded, these tax credits would help fund needed improvements to Pear Orchard Plaza, 4365 S. 4<sup>th</sup> Street in Beaumont.

Please confirm your receipt of this notification by signing below.

We appreciate your assistance.

no one home

I confirm that we received notification of the tax credit application by Maple Glen Partners LLC to Texas Department of Housing and Community Affairs for tax credits to renovate Pear Orchard Plaza.

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Print Name

4475 Winston  
Address

4-27-06  
Date

100

On February 16, 2006, the attached notification of Maple Glen Partners LLC's application for tax credits to the Texas Department of Housing and Community Affairs was mailed to you and other nearby residents of Pear Orchard Plaza. Unfortunately, these were not mailed certified and we now need to demonstrate that these were received.

If awarded, these tax credits would help fund needed improvements to Pear Orchard Plaza, 4365 S. 4<sup>th</sup> Street in Beaumont.

Please confirm your receipt of this notification by signing below.

We appreciate your assistance.

*Refuse to Sign*

I confirm that we received notification of the tax credit application by Maple Glen Partners LLC to Texas Department of Housing and Community Affairs for tax credits to renovate Pear Orchard Plaza.

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Print Name

4540 S. 4th  
Address

4-27-06  
Date

101



**060088**

**Red Oak II**

**MULTIFAMILY FINANCE PRODUCTION DIVISION**

**BOARD ACTION REQUEST**

**June 9, 2006**

**Action Item**

Presentation, Discussion and Possible Decision for the applicant's appeal of the termination of a 2006 Housing Tax Credit (HTC) Application.

**Requested Action**

Approve, Deny or Approve with Amendments a determination on the appeal.

**Background and Recommendations**

**I. Red Oak II- 060088**

On May 25, 2006, the above-referenced application was terminated under the 2006 Qualified Allocation Plan and Rules (QAP) pursuant to §50.5(b)(2) of the QAP.

Pursuant to this section, on May 1, 2006, Material Noncompliance was identified for Riverwalk Townhomes, (HTC number 02091, HTF number 852025). The Housing Tax Credit (HTC) score was 77 and a Housing Trust Fund (HTF) score was 198.

Texas Administrative Code, Title 10, Part 1, Chapter 60, Subchapter A, §60.2(7), identifies Material Noncompliance for HTC Developments as having a score that is equal to or exceeds a threshold of 30 points. For Non-HTC Developments with 51 to 200 low income units, Material Noncompliance is identified as having a score that is equal to or exceeds a threshold of 120 points. Riverwalk Townhomes is comprised of 76 low income units under both housing programs.

Ronette Hodges was identified as being a participant in the ownership and management structure for Riverwalk Townhomes. Ronette Hodges acts in the capacity as one of the General Partners and a Historically Underutilized Business (HUB) for Augusta Hills Limited Partnership ("Augusta"), the owner of Riverwalk Townhomes. Ronette Hodges is the President of Valentine Realtors, Inc. ("Valentine"), the General Partner with ownership interest of (0.01%) of Augusta and the certified HUB identified in the Cost Certification and the Housing Tax Credit Land Use Restrictive Agreement (LURA). The HUB, as stated in the recorded LURA, will hold an ownership interest in the Development and must maintain substantial participation in operation of the Development.

In Volume 1, Tab 5, Part E, Ronette Hodges lists previous participation with Riverwalk, #02091, with participation beginning from July 2003 to current. An on-site monitoring review conducted June 23, 2005 identified Riverwalk Townhomes to be in Material Noncompliance with two findings. The findings of noncompliance were:

1. **Project failed to meet minimum set aside.**
2. **Project is no longer in compliance nor participating in the Section 42 program.**

The findings were as a result of the development implementing an incorrect utility allowance and overcharging rents to residents. However, the owner elected to defer the start of the credit period to 2005; as a result, finding #2, "*Project is no longer in compliance nor participating in the Section 42 program,*" was not reported to the Internal Revenue Service ("IRS"). Finding #1, "*Project failed to meet minimum set aside,*" was corrected September 1, 2005. Despite the fact that finding #1 was corrected and finding #2 was not reported to the IRS, Riverwalk Townhomes remains in Material Noncompliance under both housing programs because the excess rents have not been refunded to residents.

The applicant is appealing termination based on three assertions. (1) The applicant asserts that Valentine transferred its general partner interest in Augusta to Tejas Housing Partners II, LLC ("Tejas") effective 10/1/05. The applicant asserts that Tejas did not seek the appropriate approvals from TDHCA for the transfer, nor did Tejas replace Valentine with another HUB. The applicant asserts that Valentine will work with Tejas and TDHCA to correct these matters. (2) The applicant asserts that as general partner Valentine was not involved with the Material Noncompliance issues. The applicant asserts that Valentine was not involved with selecting utility allowances or overseeing the property management company responsible for Riverwalk Townhomes. The applicant asserts that Tejas has been involved in all corrective action with TDHCA and all necessary tenant refunds. (3) The applicant asserts that Riverwalk Townhomes and Red Oak II are not under common control. The applicant asserts that Ronette Hodges is one of five board members of NewLife Housing Foundation, the general partner of Red Oak II's owner, North Red Oak II Limited partnership, and as such does not control the board of directors or its decision making. The applicant asserts that the Material Noncompliance of Riverwalk Townhomes should not be attributed to Red Oak II or its application.

Staff has determined that regardless of all assertions made in the applicant appeal, Ronette Hodges has been identified as a participant in the ownership and management structure of a rent restricted rental housing property that is in Material Noncompliance with the LURA as outlined in the 2006 Qualified Allocation Plan (QAP) pursuant to §50.5(b)(2) of the QAP and is clearly ineligible.

Relevant documentation related to this appeal is provided behind the Board Action Request.

Applicant:	North Red Oak II Limited Partnership
Site Location:	920 Loop 340 S.
City/County:	Waco/ McLennan
Regional Allocation Category:	Urban/Exurban
Set-Aside:	Non-Profit
Population Served:	Family
Region:	8
Type of Development:	New Construction
Units:	52
Credits Requested:	\$505,712

**Staff Recommendation:**

The Executive Director denied the original appeal. Staff is recommending that the Board also deny the appeal.

060088- Red Oak II

**§50.5(b) Disqualification and Debarment (QAP):** The Department will disqualify an Application, and/or debar a Person (see §2306.6721, Texas Government Code), if it is determined by the Department that any issues identified in the paragraphs of this subsection exist. The Department may debar a Person for one year from the date of debarment, or until the violation causing the debarment has been remedied, whichever term is longer, if the Department determines the facts warrant it.. Causes for disqualification and debarment include: (2306.6721)...

(2) The Applicant, Development Owner, Developer or Guarantor or anyone that has ownership interest in the Development Owner, Developer or Guarantor that is active in the ownership or Control of one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with the LURA (or any other document containing an Extended Housing Commitment) or the program rules in effect for such property as further described in §60.1 of this title on May 1, 2006 or for Tax-Exempt Bond Developments or other Applications not applying for Housing Tax Credits, but applying only under other Multifamily Programs (HOME, Housing Trust Fund, etc.) no later than 30 days after Volume III of the application is submitted; (2306.6721(c)(3)) or

# **Board Appeal/ Executive Director Appeal**

# LOCKE LIDDELL & SAPP LLP

ATTORNEYS & COUNSELORS

100 CONGRESS  
SUITE 300  
AUSTIN, TX 78701-4042

AUSTIN • DALLAS • HOUSTON • NEW ORLEANS • WASHINGTON, D.C.

(512) 305-4700  
(512) 305-4800  
www.lockeliddell.com

Direct Number: (512) 305-4707  
email: cbast@lockeliddell.com

May 31, 2006

Mr. Michael Gerber  
Executive Director  
Texas Department of Housing and Community Affairs  
221 West 11<sup>th</sup> Street  
Austin, Texas 78701

Re: Red Oak II (the "Project")  
TDHCA No. 060088

Dear Mr. Gerber:

We have been engaged to represent the applicant for the above-referenced Project. Our client has been informed that its application for low-income housing tax credits has been terminated, due to an issue of Material Noncompliance. By this letter, our client wishes to appeal the determination.

## Background Information

As noted in the Department's termination letter dated May 25, 2006, Ronette Hodges is the President of Valentine Realtors, Inc. ("Valentine"). Valentine is certified as a Historically Underutilized Business (a "HUB"). Because of such status, Valentine was asked to participate in the development of the Riverwalk Townhomes ("Riverwalk") owned by Augusta Hills Limited Partnership ("Augusta"). Valentine agreed to such participation and was admitted as a co-general partner of Augusta. In such capacity, Valentine materially participated with a variety of matters, including interior design, selection of property management personnel, and budgeting. The other general partner, Tejas Housing Partners II, LLC ("Tejas") served as the managing general partner and was responsible for the day-to-day operations of Augusta.

Ronette Hodges is also President of NewLife Housing Foundation, a Texas non-profit corporation ("NewLife"). NewLife was formed in 2003 to help design social services programs for affordable housing communities. NewLife is controlled by a board of directors consisting of five persons, one of whom is Ms. Hodges. All of these individuals, including Ms. Hodges, give their time to NewLife on a *pro bono* basis. NewLife employs a part-time administrator and obtains a significant portion of its funding from charitable donations.

Recently, the Internal Revenue Service advised NewLife that it needs to expand its services to maintain its 501(c)(3) status. Accordingly, the board of NewLife determined it would be in NewLife's best interests to sponsor an application for a new low-income housing tax credit project. Thus, NewLife decided to participate as the general partner for the Red Oak II project and filed the application referenced above.

Red Oak II's application was terminated based on the fact that Augusta has a Material Noncompliance issue. The Department claims that, because Ms. Hodges is the President of Valentine and the President of NewLife, the Material Noncompliance of Augusta should be attributed to her and to NewLife. On appeal of this matter, Ms. Hodges would like to present certain facts she believes to be relevant.

#### **Points to Consider**

- **Valentine withdrew as a general partner of Augusta, effective October 1, 2005.**

As you can see from the documentation attached as Exhibit A, Valentine transferred its general partner interest in Augusta back to Tejas effective October 1, 2005. Valentine understood at that time that Tejas would seek appropriate approvals from Riverwalk's investor and lender, which it obtained. However, it appears that Tejas did not take action to seek TDHCA consent for the transfer or to replace Valentine with another HUB, to the extent necessary. Valentine was unaware that these actions were not completed. Valentine will work with Tejas and TDHCA as needed to take any steps necessary to finalize this matter.

- **Valentine was not involved with the Material Noncompliance issues.**

The Material Noncompliance issues on Riverwalk related to the use of improper utility allowances for calculation of rent. In its capacity as a general partner of Augusta, Valentine was not involved with selecting the utility allowances or overseeing the property management company in setting the rents. Upon becoming aware of the Material Noncompliance issue, Tejas has been working with the Department to take corrective action, and refunds have been issued to the tenants. Valentine has not been involved with this process.

- **Ms. Hodges does not control NewLife.**

As noted above, Ms. Hodges is one of five board members of NewLife. Thus, she cannot control the board of directors or its decision-making. Although she serves as President of NewLife, she does so at the will and direction of its board. Thus, Valentine and NewLife are not under common control. Riverwalk and Red Oak II are not under common control. So, the Material Noncompliance of Riverwalk should not be attributable to Red Oak II or its application.



### Additional Matters


Note that Ms. Hodges also received a termination notice for the Stone Hearst II application (TDHCA No. 060065). She has chosen not to appeal that termination simply because the points scored for that application would not make it competitive, even if it were reinstated. By no means is her failure to appeal the Stone Hearst II application an admission that the Material Noncompliance charge in that instance is appropriate. In fact, Ms. Hodges would like an affirmative response from the Department that, since Valentine transferred its general partner interest in Augusta as of October 1, 2005, neither Valentine nor Ms. Hodges personally will be assigned a Material Noncompliance score for future work with the Department. . We respectfully ask that you address this issue, in addition to the appeal presented herein.

### Conclusion

Please reinstate the Red Oak II application for low-income housing tax credits. Of course, if you need any additional information to do so, feel free to contact me.

If the Executive Director denies this appeal, the applicant requests to have it heard by the Board at the next available Board meeting. Thank you.

Sincerely,



Cynthia L. Bast

Cynthia L. Bast

cc: Robbye Meyer

Jennifer Joyce

**Exhibit A**  
**Transfer Documentation**



September 27, 2005

R.J. Collins  
Tejas Housing and Development, Inc.  
8455 Lyndon Lane  
Austin, Texas 78729

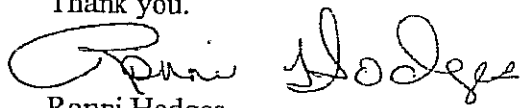
Dear RJ.

First, I want to thank you for the opportunity to be a part of the Riverwalk tax credit property as a HUB. It was a very educational experience although the whole process was quite a bit longer than we had anticipated.

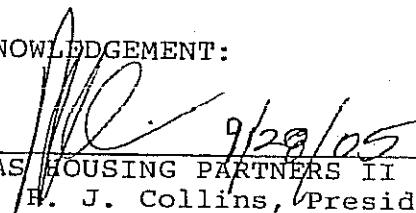
However, at this time we have a new opportunity for an investment; and we would like to request that your company as the General Partner for the limited partnership buy our 10% General Partnership interest. We realize that funds might be limited, and we have decided to accept a short term promissory note for our interest.

Please let us know if this is possible and the date you can fund the purchase.

Thank you.

  
Ronni Hodges  
President

ACKNOWLEDGEMENT:

  
TEJAS HOUSING PARTNERS II LLC, general partner  
By: H. J. Collins, President

10

**PROMISSORY NOTE**  
**Tejas Housing Partners II, LLC**

\$55,060.00

When payable: on demand

For value received the undersigned (jointly and severally if more than one and including each maker, endorser, surety or guarantor) promise to pay to the order of Valentine Realtors, Inc. (Bank) the sum of fifty-five thousand sixty & no/100 dollars with interest from date at the rate of 7% per cent per annum on the unpaid balance, and said principal and interest shall be payable as follows:

- 1) Five equal annual payment of \$11,012.00 together with interest.
- 2) Tejas Housing Partners II, LLC acknowledges that \$55,060.00 is due.

The holder may at its option declare this note due and payable in the event of default in the making of any payment as herein provided for a period of five (5) days or whenever the holder has the right to do so under any security agreement or any other agreement now or hereinafter in effect or whenever the holder deems itself insecure or upon the insolvency, bankruptcy, dissolution, death or incompetence of any of the undersigned. Any failure to exercise the said option shall not constitute a waiver of the right to exercise the same at any other time. After maturity this note shall bear interest at the highest legal rate. The undersigned agree to pay all costs of collecting this note, including a reasonable attorney's fee.

The undersigned give the holder a security interest in any funds from time to time on deposit with the holder and the holder may at any time set off any such amount against the indebtedness evidenced by this note, whether this note is due or not. The undersigned give the holder a security interest in all security covered by any Security Agreement, Mortgage or Instrument of Hypothecation by any of the undersigned to holder for this indebtedness and all other indebtedness with said Bank.

The undersigned also agree to any extensions or renewals of this note without further notice, binding the undersigned for payment thereof, as if no extensions or forbearance of payments had been made or granted.

If this note is secured, the undersigned agree that any collateral or security for the payment of this note may be exchanged, released, surrendered, sold (by foreclosure or otherwise), applied or otherwise dealt with at the election of the holder without impairing the obligation of any of the undersigned. The holder or any officer, agent or attorney thereof, may enter upon the premises and take possession of any such security.

//

The undersigned may prepay this loan in full and obtain a refund of the unearned portion of the finance charge (interest) computed under the pro-rata method, but the finance charge (interest) retained by the holder shall not be less than \$7.50.

Finance charge shall be computed quarterly based on calendar year quarters. Interest shall be computed based on outstanding balance and paid at the end of each quarter.

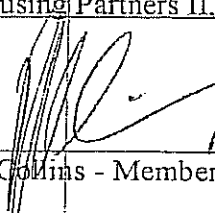
In the event any installment of principal is not paid when it becomes due, the entire amount of this note, less that amount of any rebates required by law, shall become due and payable at the election of the holder.

Presentment, notice of dishonor and notice of non-payment are hereby waived by each maker, endorser and other party to this note, and each of them do hereby waive the right to be sued after default in the county of their residence.

By executing this note, the undersigned acknowledge that each has had the opportunity to read this agreement and acknowledge receipt of a completed copy prior to execution.

October 1, 2005  
Date

Tejas Housing Partners II, LLC  
Company

By:  10-1-05  
R. J. Collins - Member

December 15, 2005

**AUGUSTA HILLS LIMITED PARTNERSHIP  
RIVERWALK**

**TOTAL DEVELOPMENT FEE**

Per Cost Certification		\$893,102.00
Valentine Realtors, Inc.	\$ 89,310.00	
Tejas Housing	\$803,792.00	

<b>TOTAL</b>		\$893,102.00
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<b>VALENTINE REALTORS, INC.</b>		\$ 89,310.00
---------------------------------	--	--------------

Paid to Date		\$ 34,250.00
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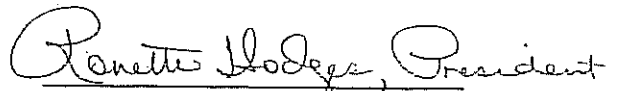
<b>BALANCE DUE</b>		\$ 55,060.00
--------------------	--	--------------

PROMISSORY NOTE \$55,060.00  
Five Equal Payments of \$11,012.00  
Plus Interest  
Interest 7%  
Effective October 1, 2005

**ACKNOWLEDGEMENT:**

October 1, 2005  
Date

  
10-1-05  
TEJAS HOUSING PARTNERS II, LLC  
By: R. J. Collins

  
VALENTINE REALTORS, INC.  
By: Ronette Hodges

**CERTIFICATE OF AMENDMENT**  
**TO CERTIFICATE OF LIMITED PARTNERSHIP**  
**OF**  
**AUGUSTA HILLS LIMITED PARTNERSHIP**

Pursuant to Section 2.07(a) of the Texas Revised Limited Partnership Act, the undersigned constituting the general partners of AUGUSTA HILLS LIMITED PARTNERSHIP (the "Partnership"), hereby submit the following:

1. The name of the limited partnership is AUGUSTA HILLS LIMITED PARTNERSHIP.
2. The Partnership filed its Certificate of Limited Partnership with the Texas Secretary of State (the "Filing Office") on March 22, 2000 (the "Original Certificate).
3. The address of the Registered Agent was changed to 8455 Lyndon Lane, Austin, Texas 78729, and filed with the Texas Secretary of State on August 8, 2001.
4. Paragraph 4 of the Certificate is hereby deleted in its entirety and the following substituted in lieu thereof:

The name and address of the General Partner (herein so called) is:

TEJAS HOUSING PARTNERS II LLC, a Texas corporation  
8455 Lyndon Lane  
Austin, Texas 78729

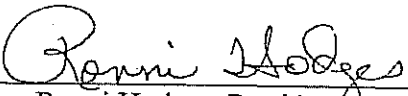
5. Tejas Housing Partners II LLC, a Texas corporation shall be the Managing General Partner of the Partnership.
6. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

14

The undersigned have hereunto set their hand and seal this 15<sup>th</sup> day of December, 2005.

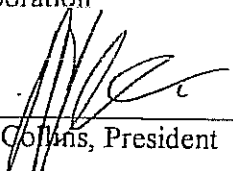
WITHDRAWING GENERAL PARTNER:

VALENTINE REALTORS INC.,  
a Texas corporation

By:   
Ronni Hodges, President

MANAGING GENERAL PARTNER:

TEJAS HOUSING PARTNERS II LLC,  
a Texas corporation

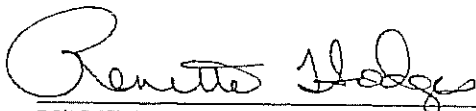
By:   
R. J. Collins, President



TEJAS HOUSING PARTNERS II, LLC  
8455 Lyndon Lane  
Austin, Texas 78729

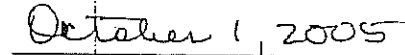
**BILL OF SALE/BUSINESS ASSETS**

On this 1st day of October, 2005, Valentine Realtors, Inc. and Ronette Hodges agrees to sell, for \$10.00 and other consideration, Valentine Realtors, Inc.'s .01% ownership interest in Augusta Hills Limited Partnership to Tejas Housing Partners II, LLC.



VALENTINE REALTORS, INC.

By: Ronette Hodges, President

  
DATE

WITHDRAWAL AGREEMENT

The first day of August, 2003, TEJAS HOUSING PARTNERS II, LLC, a Texas limited liability company (the "Managing General Partner"), and VALENTINE REALTORS, INC., a Texas corporation (collectively, the "Administrative General Partner") entered into a Partnership Administration Agreement, by and among AUGUSTA HILLS LIMITED PARTNERSHIP, a Texas limited partnership (the "Partnership").

WHEREAS, on October 1, 2005, Valentine Realtors, Inc. has sold their partnership interest to Tejas Housing Partners II, LLC and has withdrawn from said Partnership.

WHEREAS, Valentine Realtors, Inc. desires to withdraw as Administration Partner, effective October 1, 2005.

This Withdrawal Agreement shall be construed and enforced in accordance with the laws of the State of Texas.

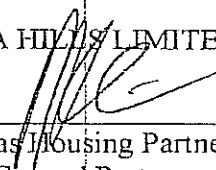
IN WITNESS WHEREOF, the parties have caused this Withdrawal Agreement to be duly executed as of the date of first written above.

WITNESSES:

\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

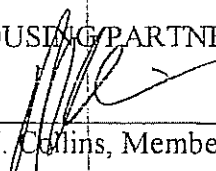
PARTNERSHIP:

AUGUSTA HILLS LIMITED PARTNERSHIP

By:   
Tejas Housing Partners II, LLC  
its General Partner

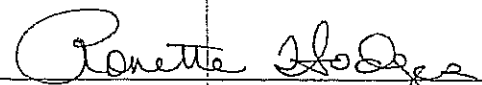
GENERAL PARTNER:

TEJAS HOUSING PARTNERS II, LLC

By:   
R. J. Collins, Member

WITHDRAWING ADMINISTRATIVE GENERAL PARTNER:

VALENTINE REALTORS, INC.

By:   
Ronette Hodges, President

## JOINT DEVELOPMENT AGREEMENT

This agreement is between Valentine Realtors, Inc., (VALENTINE) a Texas corporation, and Tejas Housing Partners II LLC, (TEJAS) a Texas limited liability company.

VALENTINE and TEJAS has received through August Hills Limited Partnership (Augusta Hills) Low Income Housing Tax Credits (LIHTC) on a property comprising approximately 13.621 acres located on 1001 East Washington Street, in Stephenville, Texas.

VALENTINE has sold their ten percent of the General Partner interest in Augusta Hills to TEJAS.

TEJAS hereby agrees to indemnify VALENTINE against any actual monetary liability in connection with guarantees VALENTINE executed as a HUB involved in Augusta Hills, up to October 1, 2005.

VALENTINE hereby agrees to continue in the following: supervising the property manager, determining what social services will be provided, and reviewing the results of property operations.

For actively participating in the development, VALENTINE will receive the following:

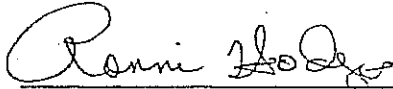
1. payments on the attached promissory note.

VALENTINE shall participate in the management of the Property and shall devote such time as shall be reasonably necessary to conduct successful operation and management of the Property in an efficient manner.

TEJAS and VALENTINE, by and through any of their officers, are each specifically and authorized individually to execute any and all documents required.

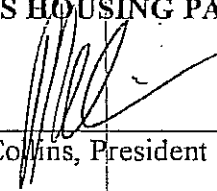
This Agreement is entered into this 1st day of October, 2005.

VALENTINE REALTORS, INC.



Ronni Hodges, President

TEJAS HOUSING PARTNERS II, LLC



R. J. Collins, President

# **Executive Director Response**



## TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RICK PERRY

Governor

**BOARD MEMBERS**

Elizabeth Anderson, *Chair*  
Shadrick Bogany  
C. Kent Conine  
Dionicio Vidal (Sonny) Flores  
Vidal Gonzalez  
Norberto Salinas

June 1, 2006

MICHAEL GERBER  
*Executive Director*

Ms. Ronette Hodges  
North Red Oak II Limited Partnership  
8453 Lyndon Lane  
Austin, TX 78729  
Telephone: (512) 249-7468  
Telecopier: (512) 249-6660

**Re: Appeal Received for Red Oak II- 060088**

Dear Ms. Hodges:

**Appeal Review**

I have carefully reviewed the application you submitted, as well as your appeal that was received on May 31, 2006 regarding the termination of the above-referenced application pursuant to §50.5(b)(2) of the 2006 Qualified Allocation Plan and Rules (QAP).

Pursuant to this section, on May 1, 2006, Material Noncompliance was identified for Riverwalk Townhomes, (HTC number 02091, HTF number 852025). The Housing Tax Credit (HTC) score was 77 and a Housing Trust Fund (HTF) score was 198.

Texas Administrative Code, Title 10, Part 1, Chapter 60, Subchapter A, §60.2(7), identifies Material Noncompliance for HTC Developments as having a score that is equal to or exceeds a threshold of 30 points. For Non-HTC Developments with 51 to 200 low income units, Material Noncompliance is identified as having a score that is equal to or exceeds a threshold of 120 points. Riverwalk Townhomes is comprised of 76 low income units under both housing programs.

You were identified as being a participant in the ownership and management structure for Riverwalk Townhomes because you act in the capacity as one of the General Partners and a Historically Underutilized Business (HUB) for Augusta Hills Limited Partnership ("Augusta"), the owner of Riverwalk Townhomes. You

20

WWW.TDHC.A.STATE.TX.US

221 EAST 11<sup>th</sup> ▪ P.O. BOX 13941 ▪ AUSTIN, TEXAS 78711-3941 ▪ (800) 525-0657 ▪ (512) 475-3800

♻️ Printed on recycled paper

Ms. Hodges  
June 1, 2006  
Page 2 of 3

are the President of Valentine Realtors, Inc. ("Valentine"), the General Partner with ownership interest of (0.01%) of Augusta and the certified HUB identified in the Cost Certification and the Housing Tax Credit Land Use Restrictive Agreement (LURA). The HUB, as stated in the recorded LURA, will hold an ownership interest in the Development and must maintain substantial participation in operation of the Development.

It has been determined that regardless of all assertions made in your appeals, you have been identified as a participant in the ownership and management structure of a rent restricted rental housing property that is in Material Noncompliance with the LURA as outlined in the QAP pursuant to §50.5(b)(2) of the QAP and is clearly ineligible. Therefore termination is required.

**Appeal Determination**

The appeal is denied.

Pursuant to §50.17(b)(4) of the 2006 QAP, an appeal has been filed with the Board and will be considered by the Board at the June 9, 2006 Board meeting.

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

Sincerely,



Michael Gerber  
Executive Director

# PMC Reports

# Issues of Noncompliance

23

Riverwalk Townhomes Stephenville		Score	77
ID 02091	Total Units	Last Audit Date	6/23/2005
	76		

BIN # With NC	NC Date	Corrected Date	Issue Corrected?	Date 8823 Executed
---------------	---------	----------------	------------------	--------------------

All Bins-02091      1/1/2005      9/1/2005      Yes      12/20/2005

*Project failed to meet minimum set-aside requirement (20/50, #0/60 test)*



# Issues of Noncompliance

Riverwalk Townhomes Stephenville	Score 77
ID 02091	Total Units 76
	Last Audit Date 6/23/2005

28

BIN # With NC	NC Date	Corrected Date	Issue Corrected?	Date 8823 Executed
TX-02-09102	1/1/2005		No	12/20/2005
TX-02-09103	1/1/2005		No	12/20/2005
TX-02-09105	1/1/2005		No	12/20/2005
TX-02-09107	1/1/2005		No	12/20/2005
TX-02-09109	1/1/2005		No	12/20/2005
TX-02-09111	1/1/2005		No	12/20/2005
TX-02-09113	1/1/2005		No	12/20/2005
TX-02-09115	1/1/2005		No	12/20/2005
TX-02-09120	1/1/2005		No	12/20/2005
TX-02-09119	1/1/2005		No	12/20/2005
TX-02-09118	1/1/2005		No	12/20/2005
TX-02-09117	1/1/2005		No	12/20/2005
TX-02-09116	1/1/2005		No	12/20/2005
TX-02-09114	1/1/2005		No	12/20/2005
TX-02-09112	1/1/2005		No	12/20/2005
TX-02-09110	1/1/2005		No	12/20/2005
TX-02-09108	1/1/2005		No	12/20/2005
TX-02-09106	1/1/2005		No	12/20/2005
TX-02-09104	1/1/2005		No	12/20/2005

Gross rent(s) exceed tax credit limits.

**Issues of Noncompliance**

58

Riverwalk Townhomes Stephenville ID 02091	Score 77
Total Units 76	Last Audit Date 6/23/2005

<i>BIN # With NC</i>	<i>NC Date</i>	<i>Corrected Date</i>	<i>Issue Corrected?</i>	<i>Date 8823 Executed</i>
All Bins-02091	1/1/2005		No	12/20/2005

Failure to comply with additional rent and occupancy restrictions.

# Issues of Noncompliance - TEST SYSTEM

Score 198

Riverwalk Townhomes  
 Stephenville  
 ID 852025

Total Units 76

Last Audit Date 6/23/2005

26

BIN # With NC NC Date Corrected Date Issue Corrected? Date 8823 Executed

Gross rent(s) exceed rent limits.

10A	1/1/2005	No	12/20/2005
10B	1/1/2005	No	12/20/2005
10C	1/1/2005	No	12/20/2005
10D	1/1/2005	No	12/20/2005
11A	1/1/2005	No	12/20/2005
11B	1/1/2005	No	12/20/2005
11C	1/1/2005	No	12/20/2005
11D	1/1/2005	No	12/20/2005
12A	1/1/2005	No	12/20/2005
12B	1/1/2005	No	12/20/2005
12C	1/1/2005	No	12/20/2005
12D	1/1/2005	No	12/20/2005
13B	1/1/2005	No	12/20/2005
13C	1/1/2005	No	12/20/2005
13D	1/1/2005	No	12/20/2005
14A	1/1/2005	No	12/20/2005
14B	1/1/2005	No	12/20/2005
14C	1/1/2005	No	12/20/2005
14D	1/1/2005	No	12/20/2005
15A	1/1/2005	No	12/20/2005
15B	1/1/2005	No	12/20/2005

# Issues of Noncompliance - TEST SYSTEM

Riverwalk Townhomes  
 Stephenville  
 ID 852025

Total Units 76  
 Last Audit Date 6/23/2005

Score 198

27

BIN # With NC	NC Date	Corrected Date	Issue Corrected?	Date 8833 Executed
15D	1/1/2005		No	12/20/2005
16C	1/1/2005		No	12/20/2005
16D	1/1/2005		No	12/20/2005
17A	1/1/2005		No	12/20/2005
17B	1/1/2005		No	12/20/2005
17C	1/1/2005		No	12/20/2005
17D	1/1/2005		No	12/20/2005
18B	1/1/2005		No	12/20/2005
18C	1/1/2005		No	12/20/2005
18D	1/1/2005		No	12/20/2005
19B	1/1/2005		No	12/20/2005
19C	1/1/2005		No	12/20/2005
19D	1/1/2005		No	12/20/2005
20B	1/1/2005		No	12/20/2005
20D	1/1/2005		No	12/20/2005
2A	1/1/2005		No	12/20/2005
2B	1/1/2005		No	12/20/2005
2D	1/1/2005		No	12/20/2005
3A	1/1/2005		No	12/20/2005
3B	1/1/2005		No	12/20/2005
3C	1/1/2005		No	12/20/2005
3D	1/1/2005		No	12/20/2005

# Issues of Noncompliance - TEST SYSTEM

28

Riverwalk Townhomes  
 Stephenville  
 ID 852025  
 Total Units 76  
 Last Audit Date 6/23/2005  
 Score 198

BIN # With NC	NC Date	Corrected Date	Issue Corrected?	Date 8823 Executed
4A	1/1/2005		No	12/20/2005
4B	1/1/2005		No	12/20/2005
4D	1/1/2005		No	12/20/2005
5A	1/1/2005		No	12/20/2005
5B	1/1/2005		No	12/20/2005
5C	1/1/2005		No	12/20/2005
5D	1/1/2005		No	12/20/2005
6A	1/1/2005		No	12/20/2005
6B	1/1/2005		No	12/20/2005
6C	1/1/2005		No	12/20/2005
6D	1/1/2005		No	12/20/2005
7A	1/1/2005		No	12/20/2005
7B	1/1/2005		No	12/20/2005
7C	1/1/2005		No	12/20/2005
7D	1/1/2005		No	12/20/2005
8A	1/1/2005		No	12/20/2005
8B	1/1/2005		No	12/20/2005
8C	1/1/2005		No	12/20/2005
8D	1/1/2005		No	12/20/2005
9A	1/1/2005		No	12/20/2005
9B	1/1/2005		No	12/20/2005
9C	1/1/2005		No	12/20/2005

**Issues of Noncompliance - TEST SYSTEM**

628

Riverwalk Townhomes Stephenville ID 852025	Total Units 76	Score 198	Last Audit Date 6/23/2005
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<i>BIN # With NC</i>	<i>NC Date</i>	<i>Corrected Date</i>	<i>Issue Corrected?</i>	<i>Date 8823 Executed</i>
9D	1/1/2005		No	12/20/2005