

SUPPLEMENT FOR THE JULY 11, 2013 BOARD MEETING



Riverwood Apartments (#13088)

Three Rivers

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JULY 11, 2013

Presentation, Discussion, and Possible Action on Timely Filed Appeals under any of the Department's Program or Underwriting rules

RECOMMENDED ACTION

WHEREAS, a 2013 competitive housing tax credit scoring notice was provided to the Applicant for Riverwood Apartments (#13088);

WHEREAS, the Applicant failed, due to changes resulting from redistricting, to notify the correct state senator and representative of the district containing the development as required by Tex. Gov't Code, §2306.6705(9); 10 TAC §10.203(2)(H);

WHEREAS, staff terminated the application pursuant to §10.203(2)(H) of the Uniform Multifamily Rules and §2306.6705(9), Texas Government Code, which require such notifications to have been made at or before application; and

WHEREAS, the Applicant appealed the termination and requests that the Board reinstate the Application;

NOW, therefore, it is hereby

RESOLVED, the Applicant's appeal of the termination of Riverwood Apartments (#13088) is hereby denied.

BACKGROUND

The Housing Tax Credit Pre-Application for Riverwood Apartments, located in Rural Region 10, was received by the Department prior to the Pre-Application Final Delivery Date of January 8, 2013. That pre-application included a certification that Representative Alseda of House District 35 had been duly notified in accordance with statute and the rules. On January 8, 2013, the results of the 2012 elections became effective, meaning that not only did some elected officials change but also that some of the House and Senate districts changed. In the case of Riverwood Apartments, the site, up to January 7, 2013, was indeed located in House District 35. Therefore, the appropriate notification had been made prior to the pre-application. However, as of January 8, 2013, as a result of re-districting, this particular site was located in House District 31. Therefore, the statute requires in connection with full application that Representative Guillen, as the representative for House District 31, have been notified by March 1, 2013. Staff received a full Application for Riverwood Apartments by the March 1, 2013 deadline, and it contained a certification that no additional notifications were made because the pre-application met all of the threshold requirements. Staff issued an Administrative Deficiency to allow the Applicant to

provide clarification and evidence that the proper notification had been made, but the Applicant indicated in their response that in fact Representative Guillen had *not* been notified by March 1, 2013. Therefore, staff terminated the Application.

The Applicant, in their appeal, points to the fact that Representative Guillen was notified on March 12, 2013, and asserts that this notification, although made after the Application submission deadline, is sufficient to satisfy the statutory requirement. The appeal states that there is no statutory deadline associated with the notifications. However, §2306.6705(9) of the Texas Government Code states that, “An application must contain at a minimum...evidence that the applicant has notified...the state senator and state representative of the district containing the development site.” This provision requires that evidence of notification must be contained in the Application, clearly indicating that those notifications must be sent prior to the Application submission. If the notification had not yet been made, there would be no possible evidence available. This is a statutory requirement.

Further, the rules do not call for a certification that notifications *will* be made but instead calls for evidence that the applicant *has notified* (past tense) the appropriate elected officials. The opening sentence of §10.203 of the Uniform Multifamily Rules reads:

A certification, as provided in the Application, that the Applicant **has met** the requirements and deadlines identified in...this section must be submitted with the Application. (emphasis added)

Section 10.203(2) of the Uniform Multifamily Rules further states:

No later than the date the Application is submitted, notification must be sent to all of the persons...whose jurisdiction is over or whose boundaries include the Development Site...Officials to be notified are those officials in office at the time the Application is submitted.

It is clear that the statute and the rules require that, in this case, Representative Guillen must have been notified by March 1, 2013. This rule does allow for notifications that were made to satisfy pre-application submission requirements to be used to satisfy the full Application submission requirements but only in those cases where there was no change in elected officials. The rule states that, “...should a change in elected official occur between the submission of pre-application and the submission of an Application, Applicants are required to notify the newly elected (or appointed) official.” The Applicant asserts that, because Representative Guillen was not “newly elected” that this re-notification was not required. This is not the case. While the rules do not specifically address issues of re-districting, the result of the re-districting is the same as that of an election or a resignation or any other such event; the person representing the district whose boundaries contain the development site changed, and, therefore, notification is required.

The Applicant further states that the timing of the notification did not impede Representative Guillen's ability to provide comment on the Application. However, staff does not have the discretion to take this into account. The Applicant also asks for leniency due to the fact that the redistricting process was confusing and that their offices are out of state, making it difficult for them to be aware of all of the changes. While staff appreciates that the redistricting in certain instances required applicants to provide additional notifications in connection with their full applications, the maps for this redistricting plan were available to the public in the spring of 2012 and compliance was possible. There was a significant amount of time for applicants to research the new district maps and make an accurate determination as to which districts would include their sites.

In the administrative deficiency process the Applicant was unable to provide anything to confirm that the required notification had been given prior to submittal of the application.

Finally, the Applicant points out that because this is a USDA set-aside Application that the Department will meet the goals of the set-aside by awarding the Application. While the Department does have goals regarding awarding applications that are financed through USDA, the Department also maintains that all of the goals of the program are best served by awarding only eligible Applications.

Staff recommends denial of the appeal.

Rosewood Apartments (#13177)

Three Rivers

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JULY 11, 2013

Presentation, Discussion, and Possible Action on Timely Filed Appeals under any of the Department's Program or Underwriting rules

RECOMMENDED ACTION

WHEREAS, a 2013 competitive housing tax credit scoring notice was provided to the Applicant for Rosewood Apartments (#13177);

WHEREAS, the Applicant failed, due to changes resulting from redistricting, to notify the correct state senator and representative of the district containing the development as required by Tex. Gov't Code, §2306.6705(9); 10 TAC §10.203(2)(H);

WHEREAS, staff terminated the application pursuant to §10.203(2)(H) of the Uniform Multifamily Rules and §2306.6705(9), Texas Government Code, which require such notifications to have been made at or before application; and

WHEREAS, the Applicant appealed the termination and requests that the Board reinstate the Application;

NOW, therefore, it is hereby

RESOLVED, the Applicant's appeal of the termination of Rosewood Apartments (#13177) is hereby denied.

BACKGROUND

The Housing Tax Credit Pre-Application for Rosewood Apartments, located in Rural Region 10, was received by the Department prior to the Pre-Application Final Delivery Date of January 8, 2013. That pre-application included a certification that Representative Alseda of House District 35 had been duly notified in accordance with statute and the rules. On January 8, 2013, the results of the 2012 elections became effective, meaning that not only did some elected officials change but also that some of the House and Senate districts changed. In the case of Rosewood Apartments, the site, up to January 7, 2013, was indeed located in House District 35. Therefore, the appropriate notification had been made prior to the pre-application. However, as of January 8, 2013, as a result of re-districting, this particular site was located in House District 31. Therefore, the statute requires in connection with full application that Representative Guillen, as the representative for House District 31, have been notified by March 1, 2013. Staff received a full Application for Rosewood Apartments by the March 1, 2013 deadline, and it contained a certification that no additional notifications were made because the pre-application met all of the threshold requirements. Staff issued an Administrative Deficiency to allow the Applicant to

provide clarification and evidence that the proper notification had been made, but the Applicant indicated in their response that in fact Representative Guillen had *not* been notified by March 1, 2013. Therefore, staff terminated the Application.

The Applicant, in their appeal, points to the fact that Representative Guillen was notified on March 12, 2013, and asserts that this notification, although made after the Application submission deadline, is sufficient to satisfy the statutory requirement. The appeal states that there is no statutory deadline associated with the notifications. However, §2306.6705(9) of the Texas Government Code states that, “An application must contain at a minimum...evidence that the applicant has notified...the state senator and state representative of the district containing the development site.” This provision requires that evidence of notification must be contained in the Application, clearly indicating that those notifications must be sent prior to the Application submission. If the notification had not yet been made, there would be no possible evidence available. This is a statutory requirement.

Further, the rules do not call for a certification that notifications *will* be made but instead calls for evidence that the applicant *has notified* (past tense) the appropriate elected officials. The opening sentence of §10.203 of the Uniform Multifamily Rules reads:

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It is clear that the statute and the rules require that, in this case, Representative Guillen must have been notified by March 1, 2013. This rule does allow for notifications that were made to satisfy pre-application submission requirements to be used to satisfy the full Application submission requirements but only in those cases where there was no change in elected officials. The rule states that, “...should a change in elected official occur between the submission of pre-application and the submission of an Application, Applicants are required to notify the newly elected (or appointed) official.” The Applicant asserts that, because Representative Guillen was not “newly elected” that this re-notification was not required. This is not the case. While the rules do not specifically address issues of re-districting, the result of the re-districting is the same as that of an election or a resignation or any other such event; the person representing the district whose boundaries contain the development site changed, and, therefore, notification is required.

The Applicant further states that the timing of the notification did not impede Representative Guillen's ability to provide comment on the Application. However, staff does not have the discretion to take this into account. The Applicant also asks for leniency due to the fact that the redistricting process was confusing and that their offices are out of state, making it difficult for them to be aware of all of the changes. While staff appreciates that the redistricting in certain instances required applicants to provide additional notifications in connection with their full applications, the maps for this redistricting plan were available to the public in the spring of 2012 and compliance was possible. There was a significant amount of time for applicants to research the new district maps and make an accurate determination as to which districts would include their sites.

In the administrative deficiency process the Applicant was unable to provide anything to confirm that the required notification had been given prior to submittal of the application.

Finally, the Applicant points out that because this is a USDA set-aside Application that the Department will meet the goals of the set-aside by awarding the Application. While the Department does have goals regarding awarding applications that are financed through USDA, the Department also maintains that all of the goals of the program are best served by awarding only eligible Applications.

Staff recommends denial of the appeal.



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Cynthia L. Bast
Direct Telephone: 512-305-4707
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cbast@lockelord.com

July 3, 2013

Mr. Tim Irvine
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Riverwood Apartments (TDHCA No. 13088) and Rosewood Apartments (TDHCA No. 13177), both in Three Rivers, Texas

Dear Tim:

We represent the Applicants¹ for the two Developments referenced above. Our clients have received notices from the Department, terminating the Applications, and wish to appeal this decision to the Executive Director and, if necessary, to the Board. The appeal for each Development presents exactly the same facts, so we have consolidated the two appeals into one letter for convenience.

A Pre-Application was submitted for each Development on or about January 8, 2013. In the Pre-Application, each Applicant certified that, in accordance with Section 11.8(b)(2)(B)(viii), the State Representative and State Senator whose districts contained the Development Site were duly notified. In fact, the notifications were sent via certified mail on January 7, 2013. A copy of the notices are attached. On the date that the notices were delivered, Representative Jose Aliseda of House District 35 was representing Three Rivers, Texas, based upon districts, the boundaries of which had been drawn following the 2000 decennial census. Senator Judith Zaffirini of Senate District 21 was representing Three Rivers, Texas.

Following the 2010 decennial census, the Texas Legislature re-drew the boundaries for the legislative districts. Based upon this redistricting, Three Rivers, Texas was mapped into District 31, represented by Representative Ryan Guillen in the House and continued with Senator Zaffirini in the Senate. As we all know, litigation ensued. While this litigation continued, Representative Aliseda of House District 35 remained the elected official representing the Development Site. Finally, in 2012, the court ordered the use of certain

¹ Capitalized terms used but not defined in this letter shall have the meanings given them in the 2013 Uniform Multifamily Rules (the "Rules") and the 2013 Qualified Allocation Plan (the "QAP"), as applicable.

interim maps that would take effect for the 2012 election cycle, meaning legislators elected under those maps would represent the districts in the maps as of the first day of the 2013 Texas legislative session. Prior to that date, the legislators continued to represent the districts as they were drawn under the maps after the 2000 decennial census. According to the court-ordered maps, Representative Guillen of District 31 represented Three Rivers, Texas beginning on January 8, 2013, coincidentally, the same day as the Pre-Application Final Delivery Date. Of course, Texas redistricting remains a quagmire to this day, with ongoing litigation and the impact of a recent United States Supreme Court opinion.

Each Applicant subsequently notified Representative Guillen of its proposed Development on March 12, 2013 and received a letter of support from him on March 19, 2013. However, the notification to Representative Guillen was not delivered prior to March 1, 2013, the Full Applicant Delivery Date. TDHCA claims that the Applicants' failure to notify Representative Guillen of the proposed Developments prior to March 1, 2013 is a fatal failure of a threshold requirement that mandates termination of the Applications. We respectfully request that you overturn the staff's determination for the following reasons.

1. The Applicants gave proper notice to the proper State Representative and Senator prior to the Pre-Application Final Delivery Date.

There is no question that the Applicants submitted proper notice to the proper elected officials prior to the Pre-Application Final Delivery Date. Neither the delivery of the notice nor the content of the notice has been called into question. Representative Aliseda and Senator Zaffirini were representing the Development Site in December 2012.

2. The Applicants gave proper notice to State Representative Guillen.

The Applicants notified Representative Guillen with materials that contained all the required information.

3. Statute does not require that notifications be delivered by a certain date.

Section 2306.6705(9)(e) of the Texas Government Code simply requires that an Applicant provide evidence that it has notified the State Representative and Senator representing the Development Site. It does not impose a particular deadline.

4. The Applicants complied with the Rules, which requires that an Applicant notify a newly elected official.

Section 10.203 states: ". . . should a change in elected official occur between the submission of a pre-application and the submission of an Application, Applicants are required

to notify the newly elected (or appointed) official.” By referring to a “new elected” official, this Rule was clearly intended to cover changes in Representatives and Senators taking office after the November elections. For example, a newly elected official could be due to a vacancy from resignation of a sitting member, where a special election is held to name the replacement. Legislative maps, on the other hand, do not result in a newly elected official; they result in a new district. It is important to note that, on January 8, 2013, Representative Guillen was not a newly elected official. He had previously been serving District 31. The change that occurred was that Three Rivers, Texas became a part of District 31 instead of District 35. It is not entirely clear that this Rule contemplated the complex redistricting situation that occurred in Texas. Further, the language of this Rule does not require the Applicant to submit the notification to the official by a certain date. It simply says that, if there is a change in elected official, the newly elected official must be notified. As noted above, Representative Guillen was notified, and the notification contained the proper information.

5. The fact that the Applicants notified Representative Guillen after the Full Application Delivery Date did not impair the Representative’s opportunity to review the Applications and make a determination as to whether to support the Developments.

The essence of the notification requirement is to give elected officials sufficient opportunity to review a proposed Development, receive input from constituents, and make a determination as to whether to support, oppose, or remain neutral as to the proposal. Representative Guillen reviewed the information submitted by the Applicants and chose to support both Developments with letters, copies of which are attached. The support letters were submitted by the Final Input from State Representative or State Senator Delivery Date.

6. Senator Zaffirini also submitted letters of support for the Developments.

There is no question that the elected officials representing the Development Site are strongly in support of the proposed Developments and believe these Applications meet an important need for their represented area.

7. Texas redistricting presents the kind of complexity that deserves special consideration.

There is no question that the litigation, court rulings, and statutory wrangling associated with redistricting create confusion as to the status of elected officials. Redistricting occurs once every ten years in conjunction with the decennial census, and the impact of redistricting took effect at the same time the Pre-Applications were due, exacerbating the issue. The Applicants have a principal place of business outside the State of Texas and have stated that they had no reason to know that the House District for Three Rivers, Texas had changed. Had there been an election for a new State Representative, the transition may have been more apparent. In fact,

Mr. Tim Irvine

July 3, 2013

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the website for the Texas Legislative Council, which maintains the "Who Represents Me" website, says the following with regard to redistricting:

When new districts are put into effect following redistricting, representatives for the new districts are elected in the next election cycle. **During the transition to new representation, *Who Represents Me* will provide limited information about the new districts.** (emphasis added)

The most frequently used resource to identify State Representative and Senators for these notifications did not provide an indication that redistricting may affect these Development Sites. As soon as the Applicants learned of the change, they took immediate action to reach out to Representative Guillen provide him with all required information.

8. The Developments are participating in the USDA Set-Aside.

This special set-aside has a limited number of Applications, and achievement of the goals for this set-aside would be fulfilled by allowing these Applications to continue.

The Applicants clearly operated in good faith. Terminating the Applications in such a situation, where the boundaries for the House District changed unbeknownst to the Applicant is an extreme result. The notifications that were delivered met the requirements of the statute and the QAP. Even though Representative Guillen received his notification after March 1, 2013, he had sufficient time to review the Developments and support them. We respectfully request that you take all of this into consideration to grant a just result for this appeal, allowing the Applications to move forward.

Thank you.

Sincerely,



Cynthia L. Bast

Attachment

- Notification to Representative Aliseda
- Notification to Senator Zaffirini
- Notification to Representative Guillen
- Support Letter from Senator Zaffirini
- Support Letter from Representative Guillen

Mr. Tim Irvine
July 3, 2013
Page 5

cc: Pete Potterpin
Gary Maddock

Evidence of Notice to Representative Aliseda

January 3, 2013

Jose Aliseda
Texas State House District 35
PO Box 2910
Austin, TX 78768

Dear Rep. Aliseda,

Gary Maddock and others, through **Riverwood Apartments, LP** is making an application for Housing Tax Credits and HOME Investment Program funds with the Texas Department of Housing and Community Affairs for the **Live Oak Manor Apartments, Ltd, 1870 E King David Drive, Three Rivers, TX 78071, Live Oak County** (to be renamed "Riverwood Apartments"). This Rehabilitation is an apartment community on one site, and comprised of approximately 36 units of which 100% will be for low-income tenants.

There will be a public hearing to receive public comment on the proposed development. Information regarding the date, time, and location of that hearing will be disseminated at least 30 days prior to the hearing date on the Department's website (<http://www.tdhca.state.tx.us/multifamily/htc/index.htm>).

Sincerely,



Gary L. Maddock
Consultant
1110 NASA Parkway, Suite 460
Houston, Texas 77058
Phone: 281.549,6490
Fax: 832.838.4458
Email: gary@maddock.biz

January 3, 2013

Jose Aliseda
Texas State House District 35
PO Box 2910
Austin, TX 78768

Dear Rep. Aliseda,

Gary Maddock and others, through **Rosewood Apartments, LP** is making an application for Housing Tax Credits and HOME Investment Program funds with the Texas Department of Housing and Community Affairs for the **Lone Oak Manor, Ltd., 9000 E. Hwy 72, Three Rivers, TX 78071, Live Oak County** (to be renamed "Rosewood Apartments"). This Rehabilitation is an apartment community on one site, and comprised of approximately 24 units of which 100% will be for low-income tenants.

There will be a public hearing to receive public comment on the proposed development. Information regarding the date, time, and location of that hearing will be disseminated at least 30 days prior to the hearing date on the Department's website (<http://www.tdhca.state.tx.us/multifamily/htc/index.htm>).

Sincerely,



Gary L. Maddock
Consultant
1110 NASA Parkway, Suite 460
Houston, Texas 77058
Phone: 281.549,6490
Fax: 832.838.4458
Email: gary@maddock.biz

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Sent To **Jose Aliseda**
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or PO Box No. **Texas State House District 35**
City, State, ZIP+4 **PO Box 2910**
Austin, TX 78768

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Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$5.75

0588
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Sent To: **Jose Aliseda**
 Street, Apt. No., or P.O. Box No.: **Texas State House District 35**
 City, State, ZIP+4: **PO Box 2910**
Austin, TX 78768

Support Letters from Senator Zaffirini

Evidence of Notice to Senator Zaffirini

January 3, 2013

Judith Zaffirini
Texas State Senate District 21
PO Box 12068, Capitol Station
Austin, TX 78711

Dear Senator Zaffirini,

Gary Maddock and others, through **Riverwood Apartments, LP** is making an application for Housing Tax Credits and HOME Investment Program funds with the Texas Department of Housing and Community Affairs for the **Live Oak Manor Apartments, Ltd, 1870 E King David Drive, Three Rivers, TX 78071, Live Oak County** (to be renamed "Riverwood Apartments"). This Rehabilitation is an apartment community on one site, and comprised of approximately 36 units of which 100% will be for low-income tenants.

There will be a public hearing to receive public comment on the proposed development. Information regarding the date, time, and location of that hearing will be disseminated at least 30 days prior to the hearing date on the Department's website (<http://www.tdhca.state.tx.us/multifamily/htc/index.htm>).

Sincerely,



Gary L. Maddock
Consultant
1110 NASA Parkway, Suite 460
Houston, Texas 77058
Phone: 281.549,6490
Fax: 832.838.4458
Email: gary@maddock.biz

January 3, 2013

Judith Zaffirini
Texas State Senate District 21
PO Box 12068, Capitol Station
Austin, TX 78711

Dear Senator Zaffirini,

Gary Maddock and others, through **Rosewood Apartments, LP** is making an application for Housing Tax Credits and HOME Investment Program funds with the Texas Department of Housing and Community Affairs for the **Lone Oak Manor, Ltd., 9000 E. Hwy 72, Three Rivers, TX 78071, Live Oak County** (to be renamed "Rosewood Apartments"). This Rehabilitation is an apartment community on one site, and comprised of approximately 24 units of which 100% will be for low-income tenants.

There will be a public hearing to receive public comment on the proposed development. Information regarding the date, time, and location of that hearing will be disseminated at least 30 days prior to the hearing date on the Department's website (<http://www.tdhca.state.tx.us/multifamily/htc/index.htm>).

Sincerely,



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Sent To: **Judith Zaffirini**
 Street, Apt. No., or PO Box No.: **Texas State Senate District 21**
PO Box 12068, Capitol Station
 City, State, ZIP+4: **Austin, TX 78711**

PS Form 3800, August 2006 See Reverse for Instructions

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 Street, Apt. No., or PO Box No.: **Texas State Senate District 21**
PO Box 12068, Capitol Station
 City, State, ZIP+4: **Austin, TX 78711**

PS Form 3800, August 2006 See Reverse for Instructions

PK ROSEWOOD APARTMENTS, L.P.

9000 E. Highway 92, Three Rivers TX 78071

PK RIVERWOOD APARTMENTS, L.P.

1870 E. King David Drive, Three Rivers TX 78071

March 12, 2013

Hon. Ryan Guillen

Texas House of Representatives, District 31

PO Box 2910

RM 4N-4 Capitol

Austin TX 78768

PO Box 689

131 West Main Street

Benavides TX 78341

RE: Request for Legislative Letters of Support

- **Rosewood Apartments (TDHCA #13177)**
- **Riverwood Apartments (TDHCA #13088)**

Dear Representative Guillen,

PK Rosewood Apartments, L.P. ("PK Rosewood") and **PK Riverwood Apartments, L.P.** ("PK Riverwood") are Texas limited partnerships created to acquire and rehabilitate two low-income housing tax credit properties located in Three Rivers, Texas. Both partnerships have pending applications with Texas Department of Housing and Community Affairs ("TDHCA") for 2013 allocation of housing tax credits.

We believe that these projects will be an asset to your constituents. We respectfully request your cooperation and assistance with the tax credit application.

TDHCA encourages legislators to voice their support for projects located in their respective districts. **A letters of support, received by TDHCA no later than April 1, 2013, would be a tremendous benefit to our efforts to provide your district with a quality affordable housing project.**

Enclosed herewith are the following materials:

- (1) Presentation providing background on the applications, projects and biographies of the principal parties in the development team.
- (2) Resolutions of the City Council of the City of Three Rivers
- (3) Additional letter of support from community organization.
- (4) Sample legislative letter of support.
- (5) Self-addressed stamped reply envelope to TDHCA
- (6) Self-addressed stamped reply envelope to PK Elmwood.

Project Summaries

PK Rosewood

The existing complex (known as Lone Oak Manor) is a 24-unit (4 1-bedroom, 16 2-bedroom, 4 3-bedrooms) apartment complex for low-income family tenants, located at 9000 E Highway 72, Three Rivers, Texas 78071. There will be no change to the target population or dwelling unit type as a result of the rehabilitation. Rental assistance from United States Department of Agriculture Rural Development (“USDA-RD”) will continue to be available for qualified tenants. Upon rehabilitation, the apartment complex will be renamed **Rosewood Apartments**.

PK Riverwood

The existing complex (known as Live Oak Manor) is a 36-unit (32 1-bedroom, 4 2-bedroom) apartment complex for low-income elderly tenants, located at 1870 E. King David Drive, Three Rivers, Texas 78071. There will be no change to the target population or dwelling unit type as a result of the rehabilitation. Rental assistance from United States Department of Agriculture Rural Development (“USDA-RD”) will continue to be available for qualified tenants. Upon rehabilitation, the apartment complex will be renamed **Riverwood Apartments**.

Rehabilitation Plan

The rehabilitation plan involves substantial renovations and improvements to the property. We have adopted a plan to utilize minority contractors. A temporary relocation plan has been created to minimize inconvenience to existing tenants. The project meets all relevant land use, environmental, building code and accessibility requirements. The improvements are intended to make the units more energy efficient, increase the number of unit accessible to persons with disabilities, expand common areas and enhance the overall quality of housing for the tenants.

Combined with acquisition costs, the total housing development cost for PK Rosewood is \$2,656,911 and PK Riverwood is \$3,782,747. **PK Rosewood seeks competitive housing tax credits in the amount of \$192,497 and PK Riverwood seeks competitive housing tax credits in the amount of \$277,750.**

Public Support

In the 2013 Housing Tax Credit Site District Demographic Report, TDHCA identified Three River’s need for affordable housing. In addition to TDHCA, the Texas Office of USDA-RD participates in project finance and rental assistance. All local political subdivisions and community organizations were provided with notice of the project. Your office was given notice prior to filing the pre-application. Your constituents will have an opportunity to attend TDHCA public hearings.

The City Council of the City of Three Rivers adopted resolutions endorsing both applications for tax credits. Additionally, community organizations have submitted letters of support. Copies of said documents are included herewith.

Request for Legislative Support

In accordance with Texas Government Code § 2306.6710(b)(1)(F) and § 2306.6725(a)(2) and the 2013 Qualified Allocation Plan § 50.9(b)(6), TDHCA weighs legislative support as a critical factor in evaluating tax credit applications. **Tax credits are awarded on a competitive basis, and your letter of support is crucial in securing these funds for the Three Rivers project and the benefit of your constituents.**

Included herewith is a sample letter of support. For your convenience, an electronic version of this file will also be provided to your staff. **Please send a signed copy of the letter of support under your letterhead to TDHCA at your earliest possible convenience. Letters of support received by TDHCA after April 1, 2013, will not be credited toward the tax credit application, so please mail and postmark no later than March 29, 2013.** Additionally, please provide us with a copy of the letter of support in the enclosed self-addressed stamped envelope.

We will be in contact with your staff in the next few days to see if any additional information regarding the project is needed. If you have any questions, please contact Scott B. Poor, Esq. at (913) 620-2240 (cell) or scott@scottbpoor.com.

Thank you for your leadership and continued support for rural affordable housing.

Respectfully submitted,



Gary L. Maddock
PK Elmwood Apartments, L.P.

Megan Advisors LLC
200 W. Douglas Ave., Ste. 60
Wichita KS 67202
(832) 477-8666 (cell)
(832) 838-4458 (fax)
gary@maddock.biz



REQUEST FOR LEGISLATIVE LETTERS OF SUPPORT FOR TDHCA HOUSING TAX CREDIT APPLICATIONS



**ROSEWOOD APARTMENTS
9000 E. Highway 92
Three Rivers TX 78071**



**RIVERWOOD APARTMENTS
1870 E. King David Drive
Three Rivers TX 78071**

CONTACT INFORMATION:

Scott B. Poor, Esq.
Megan Advisors, LLC
1110 NASA Parkway, Ste. 470
Houston TX 77058
913.620.2240
scott@scottbpoor.com





About Megan Advisors LLC

Megan Advisors LLC is a Texas-based, multi-disciplinary project finance and development consultancy serving the rural multifamily affordable housing sector. The firm has experience and expertise in strategic planning, project planning, project due diligence, project development, project finance and tax credit and similar incentive finance programs.

Megan Advisors LLC is committed to the development and preservation of quality affordable housing projects in rural communities.

Megan Advisors offers experience and expertise in LIHTC, HTC, NMTC, Federal Home Loan Bank AHP, USDA-RD §515, USDA-RD §538, HUD HOME, and HUD §8 affordable housing programs.

The troubled homeowner market, along with demographic shifts, has highlighted the vital role that the multifamily rental sectors plays in providing affordable housing opportunities for rural America. However, between 1999 and 2009, rural America lost 7.5% of its affordable rental units. Nationwide, more than 6 million affordable rental units are in need of replacement or rehabilitation.

Experience & Expertise in Rural Housing



- *The development group has experience and expertise in Low-Income Housing Tax Credit and USDA-RD § 515 projects.*
- *The development group has successfully developed more than 70 affordable housing projects - consisting of more than 2,000 units - in rural Texas and Michigan.*
- *At present, there are more than 350 units under management in Texas. The development group currently has rehabilitation projects in the Texas communities of Reno, Shepherd, Navasota and Madisonville.*



Committed to the future of rural communities.



CARH



ABA

Biographies

RONALD 'PETE' POTTERPIN, PK HOUSING & MANAGEMENT

Ronald 'Pete' Potterpin formed PK Housing & Management in 1981. In 1990, he started acquiring and rehabilitating affordable housing properties. PK Housing & Management manages a varied portfolio of both affordable and conventional multifamily housing projects. Potterpin has done extensive work with USDA Rural Development, the Michigan State Housing Development Authority and the Texas Department of Housing and Community Affairs. In 2000 Mr. Potterpin started PK Construction LLC. This company specializes in the rehabilitation of multi-family developments. Potterpin has developed more than 70 projects, consisting of more than 2,000 units. He has been developing projects in Texas since 2008. He has been awarded tax credits and/or Exchange Funds on seven Texas projects. Potterpin has a long relationship with the Boys and Girls Club of Lansing, acting as Asset Manager for a portfolio of 600 units that they have owned since 1995. Potterpin has been President of the Michigan Rural Development Council since 1998. He has also been President of the Michigan Chapter of the Institute of Real Estate Management. He currently serves on the Board of Directors of the Council on Affordable Rural Housing. Potterpin formerly worked for the Michigan Department of Treasury, Centrum Management and Meadows Investment. He holds an undergraduate degree from Michigan State University and resides in Okemos, Michigan.

DONALD E. (NIC) NICHOLS, MEGAN ADVISORS

Nic Nichols is a real estate development professional with 4 decades of experience in project finance. As CEO of Amerisouth Housing, Nichols served a general partner and developer for numerous LIHTC multifamily projects. From 1996 to 2001, he was Director of Originations for WNC & Associates of Newport Beach, California, and Atlanta, Georgia. He also had a successful career as commercial mortgage lender with Prudential. Nichols has extensive experience in collateral risk assessment, underwriting and loan workouts. Nichols is a former director of Georgia Affordable Housing Coalition. He holds an undergraduate degree in industrial management for Georgia Institute of Technology, and resides in Tallahassee, Florida.

GARY L. MADDOCK, ESQ., MEGAN ADVISORS

Gary Maddock is an attorney and certified public accountant. Maddock is founder of the Megan Group of development consulting and asset management companies, and serves as an affordable housing development and finance consultant on projects nationwide. Maddock has more than 40 years experience in single-family and multi-family residential project development. He served as Executive Vice-President of tax credit syndicator First American Holdings. Additionally, he was a partner in the New York City law firm of Burns Summit Rovins and Feldesman. Maddock has degrees in business and law from the University of North Dakota. Maddock resides in League City, Texas.

SCOTT B. POOR, ESQ., MEGAN ADVISORS

Scott B. Poor has more than 15 years experience in real estate development, business, planning, law and government. From 2007 to 2010, Poor was Corporate Counsel, for Green Plains Renewable Energy. Poor was an attorney with the Kansas City land use law firm White Goss Bowers March Schulte and Weisenfels. He served for three years as an Assistant Attorney General for the State of Kansas. Poor served one term as Executive Director and General Counsel for the Republican Party of Kansas. Poor is a graduate of the University of Tulsa law school. Poor holds a graduate degree in rural planning from Kansas State University and an undergraduate degree from Southern Methodist University. Poor is Vice-Chairman of the Kansas Real Estate Appraisal Board. He resides in Wichita, Kansas, and League City, Texas.

Rosewood Apartments

Megan Advisors LLC and PK Housing and Management Co. to acquire and rehabilitate the Lone Oak Manor apartments complex.

Property serves low income family tenants.

Greater energy efficiency. Landscaping and common area improvements.

**More tenant amenities and services.
Additional units accessible to persons with disabilities.**

Temporary relocation plan to minimize inconvenience to tenants during construction phase.

Over \$2m dollar investment in the community. Preservation of rental assistance. Affordability for another generation.



About Rosewood Apartments

900 E. Highway 72
Three Rivers, Texas 78071

PK Rosewood Apartments, LP, is a Texas limited partnership created to acquire and rehabilitate the Lone Oak Manor apartment complex.

The partnership has a pending application for 2013 Low-Income Housing Tax Credit (LIHTC) from the Texas Department of Housing and Community Affairs (TDHCA).

The apartment complex consists of 24 (4 1-bedroom, 16 2-bedroom, 4 3-bedrooms) rental units for low income family tenants. Nineteen units offer rental assistance.

In the Spring of 2014, the apartment complex will undergo substantial rehabilitation to preserve affordability and improve the overall quality of housing for the tenants.

Upon completion, the apartment complex will be renamed **Rosewood Apartments**.

Rosewood Request

TDHCA allocates LIHTC on a competitive basis. In accordance with the 2013 Qualified Allocation Plan §50.9(b)(6) a letter of support from members of the legislative delegation are an important criteria.

TDHCA recommends language, as stated herewith.

We respectfully request a letter of support to be submitted to **TDHCA prior to April 1, 2013**, in order to ensure that the City of Three Rivers receives the community investment represented by the acquisition and rehabilitation of the former Lone Oak apartments.

We respectfully request that the letter be submitted directly to TDHCA. However, we would also like a copy for our own files delivered to Megan Advisors LLC, 200 W. Douglas Ave., Ste. 600, Wichita KS 67202 or via fax at 832.838.4458 or via PDF to scott@scottbpoor.com.

SAMPLE LEGISLATIVE LETTER OF SUPPORT

<<LEGISLATIVE LETTERHEAD>>

***Tom Irvine
Executive Director
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, TX 78701***

***RE: Legislative Letter of Support
Rosewood Apartments, 9000 E. Highway 72
Three Rivers TX 78071
TDHCA #13177***

Dear Tom Irvine

I am writing this letter to voice my support for TDHCA Tax Credit Application #13177 (Rosewood Apartments) located in the City of Three Rivers TX.

I recognize the need for affordable housing throughout the state of Texas, and applaud the work of both TDHCA and the Development Community in their efforts to provide clean, safe, affordable housing to Texans in need.

Sincerely,

<<SIGNATURE>>

<<NAME OF LEGISLATOR>>

<<LEGISLATIVE DISTRICT>>

<<ADDRESS>>

Riverwood Apartments

Megan Advisors LLC and PK Housing and Management Co. to acquire and rehabilitate the Live Oak Manor apartments complex.

Property serves low income elderly tenants.

Greater energy efficiency. Landscaping and common area improvements.

**More tenant amenities and services.
Additional units accessible to persons with disabilities.**

Temporary relocation plan to minimize inconvenience to tenants during construction phase.

Over \$3.6m dollar investment in the community. Preservation of rental assistance. Affordability for another generation.



About Riverwood Apartments

1870 E. King David Drive
Three Rivers, Texas 78071

PK Riverwood Apartments, LP, is a Texas limited partnership created to acquire and rehabilitate the Live Oak Manor apartment complex.

The partnership has a pending application for 2013 Low-Income Housing Tax Credit (LIHTC) from the Texas Department of Housing and Community Affairs (TDHCA).

The apartment complex consists of 36 (32 1-bedroom, 4 2-bedroom) rental units for low income elderly tenants. Thirty-two units offer rental assistance.

In the Spring of 2014, the apartment complex will undergo substantial rehabilitation to preserve affordability and improve the overall quality of housing for the tenants.

Upon completion, the apartment complex will be renamed **Riverwood Apartments**.

Riverwood Request

TDHCA allocates LIHTC on a competitive basis. In accordance with the 2013 Qualified Allocation Plan §50.9(b)(6) a letter of support from members of the legislative delegation are an important criteria.

TDHCA recommends language, as stated herewith.

We respectfully request a letter of support to be submitted to **TDHCA prior to April 1, 2013**, in order to ensure that the City of Three Rivers receives the community investment represented by the acquisition and rehabilitation of the former Live Oak apartments.

We respectfully request that the letter be submitted directly to TDHCA. However, we would also like a copy for our own files delivered to Megan Advisors LLC, 200 W. Douglas Ave., Ste. 600, Wichita KS 67202 or via fax at 832.838.4458 or via PDF to scott@scottbpoor.com.

SAMPLE LEGISLATIVE LETTER OF SUPPORT

<<LEGISLATIVE LETTERHEAD>>

***Tom Irvine
Executive Director
Texas Department of Housing & Community Affairs
221 East 11th Street
Austin, TX 78701***

***RE: Legislative Letter of Support
Riverwood Apartments, 1870 E. King David Dr.
Three Rivers TX 78071
TDHCA #13088***

Dear Tom Irvine

I am writing this letter to voice my support for TDHCA Tax Credit Application #13088 (Riverwood Apartments) located in the City of Three Rivers TX.

I recognize the need for affordable housing throughout the state of Texas, and applaud the work of both TDHCA and the Development Community in their efforts to provide clean, safe, affordable housing to Texans in need.

Sincerely,

<<SIGNATURE>>

<<NAME OF LEGISLATOR>>

<<LEGISLATIVE DISTRICT>>

<<ADDRESS>>

STATE OF KANSAS)
)
COUNTY OF SEDGWICK)

ss:

CERTIFICATE OF MAILING

COMES NOW, Sherrie Carter, being duly sworn upon oath and states:

1. I serve as administrative assistant and provide clerical and office support to Scott B. Poor, Esq. of SCOTT B. POOR & ASSOCIATES P.A., a law firm with an office address of 200 W. Douglas Ave., Ste. 600, Wichita KS 67202.

2. I have served in such capacity continuously since June 2010.

3. On March 12 2013, I mailed the attached package to Hon. Ryan Guillen of the Texas House of Representatives at the stated address in regards to PK Riverwood Apartments LP and PK Rosewood Apartments LP. The package included cover letter and attachments.

FURTHER AFFIANT SAYETH NAUGHT.

Sherrie Carter
Sherrie Carter

6/20/2013
Date

Subscribed and sworn to before me on this 20th day of June, 2013.

Linda L Meyer
Notary Public



Chair, Government Organization Committee
Vice Chair, Joint Oversight Committee
on Higher Education Governance,
Excellence, and Transparency
Legislative Budget Board



Judith Zaffirini
State Senator, District 21
President Pro Tempore, 1997
March 28, 2013

Committees
Administration
Finance
Health and Human Services
Higher Education

Cameron Dorsey, Director
Multifamily Finance Division
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Dear Mr. Dorsey:

This is to support application 13088 submitted by the Riverwood Apartments in Three Rivers for the Texas Department of Housing and Community Affairs Tax Credit Program. This housing project would increase low-income families' access to affordable housing, which would improve the quality of life not only for the residents, but also for the entire community.

Without these tax credits, this development could be stalled, delaying housing access, including for those who need it desperately.

Feel free to call upon me or my staff via 512/463-0121 for additional information or whenever we may be of assistance.

May God bless you.

Very truly yours,

A handwritten signature in cursive script that reads "Judith Zaffirini".

Judith Zaffirini

JZ/mjd

XC: James Liska, Mayor, City of Three Rivers
Jim Huff, County Judge, Live Oak County
Tim Irvine, Executive Director, TDHCA

Chair, Government Organization Committee
Vice Chair, Joint Oversight Committee
on Higher Education Governance,
Excellence, and Transparency
Legislative Budget Board



Judith Zaffirini
State Senator, District 21
President Pro Tempore, 1997
March 28, 2013

Committees
Administration
Finance
Health and Human Services
Higher Education

Cameron Dorsey, Director
Multifamily Finance Division
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, Texas 78711-3941

Dear Mr. Dorsey:

This is to support application 13177 submitted by the Rosewood Apartments in Three Rivers for the Texas Department of Housing and Community Affairs Tax Credit Program. This housing project would increase low-income families' access to affordable housing, which would improve the quality of life not only for the residents, but also for the entire community.

Without these tax credits, this development could be stalled, delaying housing access, including for those who need it desperately.

Feel free to call upon me or my staff via 512/463-0121 for additional information or whenever we may be of assistance.

May God bless you.

Very truly yours,

A handwritten signature in cursive script that reads "Judith Zaffirini".

Judith Zaffirini

JZ/mjd

XC: James Liska, Mayor, City of Three Rivers
Jim Huff, County Judge, Live Oak County
Tim Irvine, Executive Director, TDHCA

Support Letters from Representative Guillen



RYAN GUILLEN
★
TEXAS STATE REPRESENTATIVE

March 19, 2013

Tom Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Legislative Letter of Support
Riverwood Apartments, 1870 E. King David Dr.
Three Rivers, TX 78701
TDHCA # 13088

Dear Tom Irvine,

I am writing this letter to voice my support for TDHCA Tax Credit Application #13088 (Riverwood Apartments) located in the City of Three Rivers, TX. I recognize the need for affordable housing throughout the state of Texas, and applaud the work of both TDHCA and the Development Community in their efforts to provide clean, safe and affordable housing to Texans in need.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Guillen", written over a large, stylized flourish.

State Representative Ryan Guillen
District 31
P.O. Box 2910
Austin, TX 78768-2910



RYAN GUILLEN

★
TEXAS STATE REPRESENTATIVE

March 19, 2013

Tom Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

RE: Legislative Letter of Support
Rosewood Apartments, 9000 E. Highway 72
Three Rivers, TX 78701
TDHCA # 13177

Dear Tom Irvine,

I am writing this letter to voice my support for TDHCA Tax Credit Application #13177 (Rosewood Apartments) located in the City of Three Rivers, TX.

I recognize the need for affordable housing throughout the state of Texas, and applaud the work of both TDHCA and the Development Community in their efforts to provide clean, safe and affordable housing to Texans in need.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Guillen".

State Representative Ryan Guillen
District 31
P.O. Box 2910
Austin, TX 78768-2910



SCOTT B. POOR & ASSOCIATES, P.A.

July 3 2013

Tim Irvine
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin TX 78701

**RE: Addendum to Letter Appeal Dated July 3 2013
Riverwood Apartments (TDHCA #13088)
Rosewood Apartments (TDHCA #13177)**

Dear Tim Irvine:

Please accept this correspondence as addendum to the letter appeal prepared by Cynthia Bast of Lock Lord LLP on behalf of the Applicant in the above-mentioned 2013 LIHTC applications ("Applications"). The subject properties ("Properties") are located in close proximity in Three Rivers, Texas.

I'm an attorney, consulting planner and public affairs consultant based in Wichita KS. I participated in the development team for these Applications as counsel, LIHTC consultant, land use planner and government affairs advisor. My practice is in the areas of bond issues, public finance, property taxes, special districts and development incentives. The information herein is intended to provide background in regards to Application deficiencies resulting from reassignment of legislative districts for the Property sites due to 2013 Texas legislative action.

In addition to my specific participation in these Applications, my statements below are based on my prior experiences as redistricting counsel to the State of Kansas¹. Please accept my statements as follows:

1. It was common knowledge that Texas legislature was under court order to rewrite redistricting plans during the 2013 legislative session. The redistricting plan utilized for election cycle was a court-drafted interim plan. It was reasonably anticipated that the Texas legislature would adopt a new redistricting map during the 140-day regular session. As legislative redistricting necessitates judicial review, it was reasonable to believe that legislative redistricting would have been handled in a timely manner in order to accommodate any corrective action in response to judicial determination prior to expiration of regular session.
2. In December 2012, the Applicant provided proper Pre-Application notice to the legislative delegation. The Projects are located in a site subject to Texas House district reassignment effective upon commencement of the 2013 Texas legislative session. Pursuant to TAR Section 10.203 "(if) notification was submitted with the pre-application ... and satisfied the Departments review of the pre-application threshold, then no additional notice is required." Pre-Application notice to legislative delegation met Pre-Application threshold

¹ *Graham v. Thornburg*, No. 02-4087-JAR (D. Kan. July 2 2002); *In re Substitute for Senate Bill 256*, No 88,821 (Kan. May 9 2002); *In re Substitute for House Bill 2625*, No 88,735 (Kan. Apr. 26, 2002).

because no notice of rejection or deficiency was issued. Applicant acted in reliance upon Pre-Application threshold determination and proceeded with full Applications.

3. At the time of Pre-Application submission, the court-drawn interim map reassigning the Texas House district for the Project sites would not have been effective. However, at the time of Pre-Application threshold review, the court-drawn interim map would have been effective. Additionally, at the time of Pre-Application threshold review, it would have been known that the court-drawn interim map was expressly temporary and the Texas legislature was required to adopt a new redistricting plan. It could not have been reasonably assumed on the date of Pre-Application that the court-drawn interim maps would ultimately be codified.
4. The Application form delivery date was March 1 2013. However, legislative letters of support were not due until April 1 2013. Pursuant to QAP page 18, Applicants are encouraged to delay legislative contact until after March 1 2013 in order to provide legislators the benefit of reviewing local government resolutions and community organization letters of support.
5. On March 1 2013, the proper Texas House legislative district was unknown due to lack of legislative action. On March 1 2013, it could not have been reasonably assumed that the court-drawn interim maps would ultimately be codified. To the contrary, on March 1 2013, it could have been assumed that there was reasonable likelihood that the legislature would depart from the court-drawn interim maps.
6. The current legislative restricting map is a codification of the court-drawn interim map, subject to certain minor modifications. Said statute was introduced as SB1524 and HB3840 on or about March 8 2013. The redistricting legislation was amended and passed during June special session. The Governor signed the redistricting legislation on or about June 26 2013.
7. SB1524 and HB3840 constitute compromise bills based on the presumption that a codification of the court-drawn interim maps was likely to survive subsequent judicial scrutiny. Only after introduction of the compromise plan on March 8 2013 was there any legislative guidance as to the likely redistricting outcome.
8. Subsequent to SB1524 and HB3840, Applicant provided notice to legislative delegation on or about March 12 2013 and received legislative letters of support on or about March 19 2013.
9. Applicant would have been presumptuous and premature to notice the legislative delegation prior to a legislative proposal to codify the court-drawn interim map. Until such time, it would have been reasonably assumed that the legislature would depart from court-drawn interim map. Furthermore, applicant would have had substantial risk in noticing the wrong legislator and receiving negative comment, triggering penalty pursuant to QAP pointing criteria. LIHTC awards are competitive by nature, and inviting comment from the wrong legislature can result in negative comment from an elected official supporting a competing application that benefits his or her own district.
10. The intent of the notice to legislative delegation is to provide legislators with an opportunity to comment on Projects that have an impact on their constituents. Said notice was timely given, and the legislator in question

exercised his right to voice support for the Application.

The statements above do not constitute a legal opinion. However, the statements above are intended to support that the Applicant acted in good faith and exercised reasonable prudence in the interpretation of the legislative notice requirements. The 2013 Texas legislative redistricting process has been an extraordinary circumstance, resulting in substantial confusion. Any deficiencies or penalties stemming from such confusion should reasonably warrant special consideration and should not be imposed.

Thank you for your cooperation and assistance in this matter.

Respectfully,

Scott B. Poor Esq.
KS #19759 / MO#57319

Scott B. Poor & Associates PA
200 W. Douglas Ave., Ste. 600
Wichita KS 67202
316.267.2315 (office)
913.620.2240 (mobile)
scott@scottbpoor.com