

# BOARD BOOK OF JULY 13, 2017



**Leslie Bingham Escareño, Vice-Chair**

**Paul Braden, Member**

**Asusena Reséndiz, Member**

**Sharon Thomason, Member**

**Leo Vasquez, III, Member**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
GOVERNING BOARD MEETING**

**A G E N D A  
9 AM  
July 13, 2017**

**John H. Reagan Building  
JHR 140, 105 W 15<sup>th</sup> Street  
Austin, Texas 78701**

**CALL TO ORDER**

**ROLL CALL**

**Leslie Bingham Escareño, Vice-Chair**

**CERTIFICATION OF QUORUM**

*Pledge of Allegiance - I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.*

*Texas Allegiance - Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.*

**CONSENT AGENDA**

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Tex. Gov't Code, Texas Open Meetings Act. Action may be taken on any item on this agenda, regardless of how designated.

**ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:**

**HOME AND HOMELESS PROGRAMS**

- a) Presentation, discussion, and possible action on awards for the 2017 HOME Investment Partnerships Program (“HOME”) Single Family Programs Single Family Development (“SFD”) Open Cycle Notice of Funding Availability (“NOFA”)
- b) Presentation, discussion, and possible action on awards for the 2017 HOME Investment Partnerships Program (“HOME”) Single Family Programs Homebuyer Assistance (“HBA”) and Tenant-Based Rental Assistance (“TBRA”) Open Cycle Notice of Funding Availability (“NOFA”)
- c) Presentation, discussion, and possible action on State Fiscal Year 2018 Homeless Housing and Services Program awards

**Jennifer Molinari**  
Director

**ACTION ITEMS**

**ITEM 2: REPORTS**

Report of Third Party Requests for Administrative Deficiency under 10 TAC §11.10 of the 2017 Qualified Allocation Plan received prior to the deadline:

17007	Magnolia Station	Winnie
17281	The Residence at Arbor Grove	Arlington
17288	Forest Trails	Lindale
17305	Payton Senior	Killeen
17322	Provision at Wilcrest	Houston
17356	The Acacia	San Antonio
17368	Cielo	McAllen
17372	Sunset Trails	Bullard
17376	The Bristol	San Antonio

**Marni Holloway**  
Director



17388 West Pecan Village McAllen  
17390 Las Palomas McAllen

**ITEM 3: RULES**

Presentation, discussion, and possible action on Orders repealing all sections of 10 TAC Chapter 23, Single Family HOME Program, and Orders adopting new 10 TAC Chapter 23, Single Family HOME Program (“HOME Rule”), concerning HOME single family activities, and directing their publication in the *Texas Register*

**Jennifer Molinari**  
Director, Home and  
Homeless Programs

**ITEM 4: MULTIFAMILY FINANCE**

- a) Presentation, Discussion, and Possible Action regarding exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Applications:

**Marni Holloway**  
Director

17259 Mistletoe Station Fort Worth  
17322 Provision at Wilcrest Houston  
17368 Cielo McAllen

- b) Presentation, discussion, and possible action regarding awards of Direct Loan funds from the 2017-1 Multifamily Direct Loan Notice of Funding Availability

17501 Live Oak Trails Austin  
17502 Freedom’s Path at Kerrville Kerrville

- c) Presentation, discussion, and possible action on timely filed appeals under 10 TAC §10.901(13) of the Department’s Multifamily Program Rules relating to Fee Schedule, Appeals and other Provisions

17007 Magnolia Station Winnie  
17028 Vineyard on Lancaster Fort Worth  
17064 Chaparral Apartments Midland  
17097 Holly Oak Seniors Houston  
17170 Star of Texas Seniors Montgomery  
17194 Oaks Apartments Quitman  
17199 Santa Fe Place Temple  
17203 Park Estates Apartments Quitman  
17247 Western Springs Apartments Dripping Springs  
17251 Pine Terrace Apartments Mount Pleasant  
17267 Industrial Lofts McAllen  
17283 Avanti Manor Harker Heights  
17297 Kountze Pioneer Crossing Kountze  
17305 Payton Senior Killeen  
17322 Provision at Wilcrest Houston  
17323 Skyway Gardens Alpine  
17327 Legacy Trails of Lindale Lindale  
17331 Westwind of Killeen Killeen  
17356 The Acacia San Antonio  
17376 The Bristol San Antonio  
17388 West Pecan Village McAllen  
17390 Las Palomas McAllen  
17741 Gateway Residences Raymondville

- d) Presentation, Discussion, and Possible Action regarding amenities used for scoring points under 10 TAC 11.9(c)(4) related to Opportunity Index for Application #17327, Legacy Trails of Lindale, Lindale

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

**EXECUTIVE SESSION**

The Board may go into Executive Session (close its meeting to the public):

1. The Board may go into Executive Session Pursuant to Tex. Gov’t Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or

**Leslie Bingham Escareño**  
Vice-Chair

- employee;
2. Pursuant to Tex. Gov't Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;
  3. Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;
  4. Pursuant to Tex. Gov't Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or
  5. Pursuant to Tex. Gov't Code §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

### **OPEN SESSION**

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session.

### **ADJOURN**

To access this agenda and details on each agenda item in the board book, please visit our website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, and request the information.

If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989, at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Annette Cornier, 512-475-3803, at least three (3) days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Annette Cornier, al siguiente número 512-475-3803 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

### **NOTICE AS TO HANDGUN PROHIBITION DURING THE OPEN MEETING OF A GOVERNMENTAL ENTITY IN THIS ROOM ON THIS DATE:**

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista.

**NONE OF THESE RESTRICTIONS EXTEND BEYOND THIS ROOM ON THIS DATE AND DURING THE MEETING OF THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

1a

**BOARD ACTION REQUEST**  
**HOME AND HOMELESS PROGRAMS DIVISION**  
**JULY 13, 2017**

Presentation, discussion, and possible action on awards for the 2017 HOME Investment Partnerships Program (“HOME”) Single Family Programs Single Family Development (“SFD”) Open Cycle Notice of Funding Availability (“NOFA”)

**RECOMMENDED ACTION**

**WHEREAS**, through Board action on January 26, 2017, the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) made available approximately \$2,000,000 of Community Housing Development Organization (“CHDO”) set-aside deobligated funds, and \$150,000 in funding from HOME Program funds for CHDO operating expenses in an Open Application Cycle NOFA;

**WHEREAS**, two applicants requesting four contract awards totaling \$1,394,650 and two contract awards for CHDO operating expenses totaling \$100,000 have been awarded funds;

**WHEREAS**, \$605,350 in CHDO funding and \$50,000 in CHDO operating expenses remain available to be awarded;

**WHEREAS**, one applicant requesting a contract award of CHDO funding totaling \$394,650 and a contract award of CHDO operating expenses totaling \$50,000 has received a completed review for compliance with program and previous participation requirements;

**WHEREAS**, the Executive Award and Review Advisory Committee (“EARAC”) has approved the compliance history of the applicant requesting a total of two contracts awards totaling \$444,650; and

**WHEREAS**, following Board approval of the two awards presented herein, funding remaining under the NOFA will total \$210,700 in CHDO set-aside funds which may be reprogrammed for use for other CHDO eligible activities;

**NOW, therefore, it is hereby**

**RESOLVED**, that award of HOME funding from the 2017 HOME Single Family Programs SFD Open Cycle NOFA totaling \$394,650 in CHDO set-aside funds and \$50,000 in CHDO operating funds are hereby approved in the form presented at this meeting, and as may be amended by the Board.

## BACKGROUND

On December 2, 2016, HUD published an interim final rule making changes with respect to HOME Program commitment and expenditure requirements. Beginning with FY 2015 HOME allocations, HUD is no longer using the cumulative method for measuring compliance with the requirement that Participating Jurisdictions (“PJs”) commit HOME funds within 24 months of obligation. Instead HUD is determining compliance with the deadlines on a grant-specific basis instead of the “cumulative average” approach HUD previously employed. The rule was effective on January 3, 2017. Staff has determined that a significant amount of funds may be subject to a return to HUD treasury accounts unless HOME funds can be re-committed to HOME eligible projects.

To ensure that to the extent feasible all HOME funding available from prior year grant funds can be committed by HUD-imposed deadlines, staff began pursuing several different strategies as outlined in a prior Board Action Request presented on January 26, 2017, that resulted in authorization of the 2017 HOME Single Family Programs SFD Open Cycle NOFA. Under the NOFA, the selection of Applicants occurs on a first-come, first-served basis, based on Application receipt date and time. Funds in an amount not to exceed \$500,000 in CHDO set-aside funds per application were authorized to be awarded for SFD activities, and up to a total of \$50,000 in CHDO operating funds may be awarded to Applicants who receive at least one award of CHDO set-aside funds. Applicants may apply for more than one award of CHDO set-aside funds, provided that separate applications are submitted for each request, and the service areas are mutually exclusive and do not overlap. In no circumstance may an Applicant be awarded CHDO operating funds in excess of \$50,000 per fiscal year, regardless of the number of CHDO set-aside Applications awarded.

Staff recommends the following CHDO receive a total of one award to administer CHDO set-aside funds and one award of CHDO operating expense funds as follows. The CHDO certification packet for Alliance of Border Collaboratives at the time of this publication was not complete. This award is contingent upon successful completion of this review.

### Award Recommendation Log

<b>App #</b>	<b>HOME Applicant</b>	<b>CHDO set-aside funds</b>	<b>CHDO operating funds</b>	<b>Region</b>	<b>Area Served</b>
2017-1503	Alliance of Border Collaboratives	\$394,650	\$50,000	13	City of San Elizario
	<b>TOTAL</b>	<b>\$394,650</b>	<b>\$50,000</b>		

1b

**BOARD ACTION REQUEST**  
**HOME AND HOMELESS PROGRAMS DIVISION**  
**JULY 13, 2017**

Presentation, discussion, and possible action on awards for the 2017 HOME Investment Partnerships Program (“HOME”) Single Family Programs Homebuyer Assistance (“HBA”) and Tenant-Based Rental Assistance (“TBRA”) Open Cycle Notice of Funding Availability (“NOFA”)

**RECOMMENDED ACTION**

**WHEREAS**, through Board action on January 26, 2017, the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) made available approximately \$3,000,000 from de-obligated 2015 HOME Single Family funds in an Open Application Cycle NOFA;

**WHEREAS**, four applicants requesting seven contract awards totaling \$1,262,000 have been awarded funds and \$1,337,500 remains available to be awarded;

**WHEREAS**, three additional applicants requesting three contract awards totaling \$500,000 have received complete reviews for compliance with program and previous participation requirements;

**WHEREAS**, the Executive Award and Review Advisory Committee (“EARAC”) has approved the compliance history of all three applicants; and

**WHEREAS**, following Board approval of the applications presented herein, funding remaining to be awarded under the NOFA will total \$1,238,000;

**NOW, therefore, it is hereby**

**RESOLVED**, that awards of HOME funding from the Single Family Programs HBA and TBRA Open Cycle NOFA totaling \$500,000 are hereby approved in the form presented at this meeting, and as may be amended by the Board.

**BACKGROUND**

On December 2, 2016, HUD published an interim final rule making changes with respect to HOME Program commitment and expenditure requirements. Beginning with FY 2015 HOME allocations, HUD is no longer using the cumulative method for measuring compliance with the requirement that Participating Jurisdictions (“PJs”) commit HOME funds within 24 months of obligation. Instead HUD is determining compliance with the deadlines on a grant-specific basis instead of the “cumulative average” approach HUD previously employed. The rule was effective on January 3, 2017.

To ensure that to the extent feasible all HOME funding available from prior year grant funds could be re-committed timely, and in an effort to avoid the potential for a significant amount of funds to be returned to HUD treasury accounts, staff began pursuing several different strategies as outlined in a prior Board Action Request presented on January 26, 2017. That action resulted in the authorization of an Open Application Cycle NOFA, specifically for HBA and TBRA activities that was later amended on May 25, 2017, to extend the deadline and make the remaining funds available for all HBA and TBRA Applicants. Under the NOFA, the selection of Applicants occurs on a first-come, first-served basis, based on Application receipt date and time. Funds in an amount not to exceed \$100,000 in project funds per application are authorized to be awarded for HBA activities, and funds in an amount not to exceed \$200,000 in project funds per Application are authorized to be awarded for TBRA activities. Applicants can apply for up to three awards total, provided that separate Applications are submitted for each request, and the service areas are mutually exclusive and do not overlap.

Staff recommends the following two administrators receive a total of three awards as follows.

**Award Recommendation Log**

<b>App #</b>	<b>HOME Applicant</b>	<b>Activity</b>	<b>Award</b>	<b>Region</b>	<b>Area Served</b>
2017-1006	New Braunfels Community Resources	TBRA	\$200,000	9	City of New Braunfels
2017-1010	Lazarus House Initiative, Inc.	TBRA	\$200,000	3	Cities of Ennis and Waxahachie
2017-1011	City of Roma	HBA	\$100,000	11	City of Roma
		<b>TOTAL</b>	<b>\$500,000</b>		



1c

**THIS ITEM HAS BEEN PULLED  
FROM THE AGENDA**

2

**BOARD REPORT ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 13, 2017**

Report of Third Party Requests for Administrative Deficiency under 10 TAC §11.10 of the 2017 Qualified Allocation Plan received prior to the deadline:

17007	Magnolia Station	Winnie
17281	The Residence at Arbor Grove	Arlington
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17368	Cielo	McAllen
17372	Sunset Trails	Bullard
17376	The Bristol	San Antonio
17388	West Pecan Village	McAllen
17390	Las Palomas	McAllen

**BACKGROUND**

Pursuant to 10 TAC §11.10 of the 2017 Qualified Allocation Plan related to Third Party Requests for Administrative Deficiency (“RFAD”), an unrelated person or entity may bring new, material information about an Application to staff’s attention. Third parties may request that staff consider whether an Application should be the subject of an Administrative Deficiency, based on the information submitted with the request. Staff will consider the request and proceed as it deems appropriate under the applicable rules including, if the Application in question is determined by staff to not be a priority Application, not reviewing the matter further. Requestors must provide, at the time of filing the request, all briefings, documentation, and other information that the requestor offers in support of the deficiency. Requestors must provide sufficient credible evidence that, if confirmed, would substantiate the deficiency request. Assertions not accompanied by supporting documentation susceptible to confirmation will not be considered. The deadline for submission of RFADs was June 1, 2017.

The following table describes the staff determinations for 2017 Competitive Housing Tax Credit (“HTC”) RFADs received, and reflects all determinations made as of June 22, 2017. All requests referenced herein were received and reviewed in accordance with 10 TAC §11.10. Where staff determined that the request substantiated the release of a Notice of Administrative Deficiency for the Application, the Applicant was provided the opportunity to respond to the submitted request. Staff has reviewed both the request and response in making its determination. Also, described within are RFADs received where determinations have not yet been made.

Each entry identifies the HTC development/application identification number (“TDHCA ID#”), the name of the development, city, region, and the name and organization of the requestor. A brief summary of each

request has been included, followed by Department staff's analysis of the request, and finally the staff resolution of the request. The Department has posted each request received, deficiency notice released, supporting documentation received from the Applicant, and staff determination to the applicable applications, which are posted on the Department's website. Any subsequent RFAD determinations will be reported to the Board at a subsequent meeting.

The Department's Governing Board has final decision-making authority on any of the issues reflected herein, and thus these determinations are subject to change. However, a requestor may not formally appeal any staff determination if precluded by 10 TAC §10.902(b) related to the Appeal Process.

Where staff is recommending that a request result in loss of points or other action, the Applicants have already been notified and given the opportunity to appeal the staff determination. Staff has also provided notice of the result of the request to the requestor.

<b>TDHCA ID#</b>	17007	<b>Development Name:</b>	Magnolia Station
<b>City:</b>	Winnie	<b>Region:</b>	6 Rural
<b>Requester:</b>	Donald R. Ball, #17208 Waverly Village		

**Nature and Basis of Request:**

The request asked the Department to review items selected for scoring under 10 TAC §11.9(c)(4)(B)(ii) related to Opportunity Index and §11.7(3) Tie Breaker Factors. The requestor contends that the Safari Park used for scoring as an outdoor recreation facility is within the Winnie Stowell County Park, which is counted as a public park. Because Safari Park is within the County Park they are not eligible for 2 points under the Opportunity Index, and the Application should lose one point. Because the Applicant selected a total of nine (9) amenities, with three (3) of them used as Tie breaker Factors, the requestor suggests that the Application lose one point under the Tie Breaker category.

**Applicant Response to Notice of Administrative Deficiency:**

In order to expedite resolution of this question, rather than issuing an Administrative Deficiency staff issued a Scoring Notice on June 27, 2017, reflecting the loss of one tie-breaker point.

**Analysis and Resolution:**

Staff has issued a scoring notice reflecting the loss of one tie-breaker point, the applicant is able to appeal that Notice.

<b>TDHCA ID#</b>	17281	<b>Development Name:</b>	The Residence at Arbor Grove
<b>City:</b>	Arlington	<b>Region:</b>	3 Urban
<b>Requester:</b>	Stuart Shaw, #17056, Mariposa at Meagan Street and #17058, Mariposa at Circle Lane		

**Nature and Basis of Request:**

The request asked the Department to review scoring requested under 10 TAC §11.9(d)(7) related to Concerted Revitalization Plans. The requestor claims that the 2010-2015 Consolidated Plan submitted in the Application does not meet the requirements for a Concerted Revitalization Plan in the QAP because it covers the entire City of Arlington rather than a specific area, and the Consolidated Plan has expired.

**Applicant Response to Notice of Administrative Deficiency:**

An Administrative Deficiency was not issued as a result of this request.

**Analysis and Resolution:**

Staff finds that the Concerted Revitalization Rule contains no requirement regarding the timeliness of the plan, so that a restriction cannot be imposed at this time. Further, while the City of Arlington Comprehensive Plan itself covers the entire city, it includes individual plans for different sectors of the city. It is clear that the City of Arlington is still proceeding under the plan and contemplates continued improvement in the area of the proposed development.

<b>TDHCA ID#</b>	17288	<b>Development Name:</b>	Forest Trails
<b>City:</b>	Lindale	<b>Region:</b>	4 Rural
<b>Requester:</b>	Chaz Garrett, #17327 Legacy Trails of Lindale		

**Nature and Basis of Request:**

The request asks the Department to review scoring requested under 10 TAC §11.9(c)(4) related to Opportunity Index. The requestor claims that the Applicant did not provide supporting evidence for five of the 12 items listed on the Application. The requestor further states that because the Applicant only included one item, Full Service Grocery Store, as a Tie Breaker on the pre-Application, they should be limited to this one Tie Breaker on the full Application.

**Applicant Response to Notice of Administrative Deficiency:**

Because the Application listed the amenities used to gain the Opportunity Index points and Tie Breakers, an Administrative Deficiency was issued regarding the questioned evidence. The Applicant provided supporting documentation of all facilities claimed in the Application.

**Analysis and Resolution:**

Staff accepted the Applicant's response to the Administrative Deficiency and no adjustment has been made to points.

<b>TDHCA ID#</b>	17305	<b>Development Name:</b>	Payton Senior
<b>City:</b>	Killeen	<b>Region:</b>	8 Urban
<b>Requester:</b>	Robert Picerne, #17199 Santa Fe Place		

**Nature and Basis of Request:**

The request asks the Department to review scoring requested under 10 TAC §11.9(c)(4) related to Opportunity Index. The requestor claims that the site is not within ½ mile of Public Transportation on an accessible route, as required under 10 TAC §11.9(c)(4)(B)(i)(II) because the Public Transportation does not operate on weekends. The requestor further claims that the Application is not eligible for points under 10 TAC §11.9(c)(4)(B)(i)(I), because the site is not within ½ mile on an accessible route from an accessible playground, and that there is no evidence that the Bacon Ranch Park meets 2010 ADA standards or that it

is open to the public. The requestor claims that the Application is not eligible for points under TAC §11.9(c)(4)(B)(i)(X), because the Fort Hood November 5 Memorial is not a museum. The requestor expresses concern regarding a high voltage transmission line that bisects the property.

**Applicant Response to Notice of Administrative Deficiency:**

A Scoring Notice was issued on May 31, 2017, disallowing three (3) Tie Breaker points for these same items, the Applicant has provided response to both. The Applicant has provided a letter from the public transportation provider memorializing that provider's request that the Development include improvements to the existing bus stop, subject to approval by TX DOT or a related permit. They include a letter from the nonprofit organization that owns the park, which includes description of the nonprofit's Board action on February 23, 2017, to accept responsibility for maintenance of the property and park equipment, and an email from the City describing the park as a "privately owned park open to the public." The Applicant points to the language in the QAP at §11.9(c)(4)(B)(i)(I), which states "The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards." and claims that because the boundary of the park is on an accessible route as described by their third-party expert, an accessible route to the playground is not required by the rule.

**Analysis and Resolution:**

Staff has determined that the accessible route to public transportation has not been proven, because it relies on future actions on property the applicant does not control, and there is no mention in the application of creation of the route, either in the site plan or in the cost schedules. While the nonprofit owner of the park claims it is open to the public, the Department has consistently determined that privately-held parks are not considered public. Finally, the Fort Hood November 5 Memorial is not a museum because it does not have a primary purpose of “the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.” Staff has issued a scoring notice, the applicant is able to appeal that Notice.

<b>TDHCA ID#</b>	17305	<b>Development Name:</b>	Payton Senior
<b>City:</b>	Killeen	<b>Region:</b>	8 Urban
<b>Requester:</b>	Henry Flores, #17283 Avanti Manor		

**Nature and Basis of Request:**

The request asks the Department to review scoring requested under 10 TAC §11.9(c)(4) related to Opportunity Index. The request includes documentation that the Applicant purchased the property used to request one point 10 TAC §11.9(c)(4)(B)(i)(I) for accessible playground located less than 1/2 mile from the site on an accessible route. The property was transferred to a nonprofit and playground equipment installed. The playground property was not zoned as a park at the time of application, and the requestor contends that it is not on an accessible route. The requestor expresses concern that allowing the Applicant

to create a park solely for the purpose of scoring would allow other Applicants to open businesses or create amenities solely to gain a competitive advantage, and then close them after tax credits are awarded.

**Analysis and Resolution:**

The point issues raised by this RFAD were addressed in a previous determination, however, these additional concerns may be further raised with the Applicant by a separate communication and action.

<b>TDHCA ID#</b>	17305	<b>Development Name:</b>	Payton Senior
<b>City:</b>	Killeen	<b>Region:</b>	8 Urban
<b>Requester:</b>	Kelly Garrett, #17331 Westwind of Killeen		

**Nature and Basis of Request:**

The request asks the Department to review scoring requested under 10 TAC §11.9(c)(4) related to Opportunity Index. The request includes documentation that the Applicant purchased the property used to request one point 10 TAC §11.9(c)(4)(B)(i)(I) for accessible playground located less than ½ mile from the site on an accessible route. The property was transferred to a nonprofit and playground equipment installed. The playground property was not zoned as a park at the time of application, and the requestor contends that it is not on an accessible route. The request includes documentation that indicates the current owner of the property, Central Texas Youth Services, has been told the property should be maintained as a park for a minimum of one year.

This same request was received from another party, the response immediately above will also apply to this request.

<b>TDHCA ID#</b>	17322	<b>Development Name:</b>	Provision at Wilcrest
<b>City:</b>	Houston	<b>Region:</b>	6 Urban
<b>Requester:</b>	Les Kilday, #17737 Campanile at Mission Bend		

**Nature and Basis of Request:**

The request asks the Department to review representations made by the Applicant in relation to 10 TAC §10.101(a) Site Requirements and Restrictions. The requestor claims the proposed Development Site is located within the 100 year floodplain, and the Application materials do not include the appropriate measures for development in the floodplain as described in 10 TAC §10.101(a)(1). The request includes information that the Southern Crushed Concrete Plant is located across the street from the proposed site, is within the 500 feet requirement in 10 TAC §10.101(a)(2)(F) and was not disclosed by the Applicant. The requestor questions measurements on the site plan that indicate buildings are more than 100 feet from high-voltage transmission lines as required by 10 TAC §10.101(a)(2)(D).

**Applicant Response to Notice of Administrative Deficiency:**



The Applicant claims that the Southern Concrete Crushing Plant does not meet the definition of heavy industry in rule because it (a) does not require extensive capital investment in land and machinery, (b) is easily relocated, and (c) does not produce high levels of external noise. They have revised the site plan to indicate the appropriate flood zone as the result of a request for information from the Real Estate Analysis division. They claim that the buildings will be placed so that they meet the requirement in rule of being more than 100 feet from the high voltage transmission lines.

**Analysis and Resolution:**

Because the Applicant has already addressed the floodplain issues with REA, staff considers the matter closed, along with placement of building more than 100 feet from high voltage lines. In the course of researching the concrete crushing plant, it was discovered that the Texas Commission on Environmental Quality (“TECQ”) considers this company a municipal solid waste processing plant. Pursuant to 10 TAC §10.101(a)(2)(B):

- (2) Undesirable Site Features. Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) □ (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s). ...
  - ... (B) Development Sites located within 300 feet of a solid waste or sanitary landfills;

Because the Application did not disclose the presence of the solid waste facility, staff will request a determination from the Department’s Governing Board that the Development Site be found ineligible. The applicant will have an opportunity to address the Board regarding this determination.

<b>TDHCA ID#</b>	17356	<b>Development Name:</b>	The Acacia
<b>City:</b>	San Antonio	<b>Region:</b>	9 Urban
<b>Requester:</b>	Henry Flores. #17376 The Bristol		

**Nature and Basis of Request:**

Two (2) requests were received from the same requestor for this application. The first request asks the Department to review requested points for two items in 10 TAC §11.9(c)(4) related to Opportunity Index. The requestor claims the site is not eligible for points under 10 TAC §11.9(c)(4)(B)(i)(X) because neither the Nani Falcone State Park Mural and Benches, or the Butterfly sculpture meet the definition of museum. The requestor contends the application is not eligible for points under 10 TAC §11.9(c)(4)(B)(i)(I), because the route to the Nani Falcone Park and Playground is not accessible. The second request asks the department to review the Application for compliance with requirements that any site requiring rezoning include the rezoning application and indemnity letter in their application, and claims that the property cannot be constructed because a portion of it is in the 100-year floodplain.

**Applicant Response to Notice of Administrative Deficiency:**

A scoring notice regarding the museum and park accessibility was issued prior to receipt of the RFAD, the Applicant has filed a separate appeal of that item. The Applicant claims that the portion of the property that is not zoned for the development is the same part that is in the 100-year floodplain, and because it will not be developed as part of this project the zoning application and other requirements do not apply.

**Analysis and Resolution:**

The scoring question is being addressed through a separate appeal process. The Department finds that no further action is needed regarding the zoning or flood plain questions.

<b>TDHCA ID#</b>	17368	<b>Development Name:</b>	Cielo
<b>City:</b>	McAllen	<b>Region:</b>	11 Urban
<b>Requester:</b>	Mark Musmeche, 17042 Huntington at Paseo de le Resaca, #17094 Catalon at Paseo de le Resaca		

**Nature and Basis of Request:**

The request asks the Department to review the Application for compliance with 10 TAC §10.101(a)(2) related to Undesirable Site Features, specifically they claim the site is located within 500 feet of an active railroad without a quiet zone or local ordinance that would allow closer development as described in 10 TAC §10.101(a)(2)(E). The requestor further claims that the Application is not eligible for two points selected under 10 TAC §11.9(c)(4)(B). They claim the proposed site is not within ½ mile of an accessible playground on an accessible route, and the proposed site is not within ½ mile of public transportation on an accessible route.

**Applicant Response to Notice of Administrative Deficiency:**

The Applicant claims that they have provided sufficient evidence of mitigation for the proximity of the site to railroad tracks. They claim that Metro McAllen "ADA Paratranist Services" serves tenants better than an accessible route to a park or public transportation, and therefore the Application should receive the point. The Applicant states they are committed to working with the City to bring any deficiencies in accessible routes within the City's right of way into compliance with ADA standards

**Analysis and Resolution:**

Staff has determined that the information provided regarding the railroad does not provide sufficient support for a finding that the site should be determined eligible. The question of eligibility must be determined by the Board under a separate Action Item. The transportation services described does not negate the requirement in rule that there be an accessible route between the site and the amenity in order to score points for those items. The Applicant will be issued a scoring notice and have an opportunity to appeal.

<b>TDHCA ID#</b>	17372	<b>Development Name:</b>	Sunset Trails
<b>City:</b>	Bullard	<b>Region:</b>	4 Rural

<b>Requester:</b>	Kelly Garrett, #17278 Westwind of Paris
-------------------	---

**Nature and Basis of Request:**

The request asks the Department to review the Application for documentation of four items, and whether three additional items claimed under 10 TAC §11.9(c)(4) related the Opportunity Index meet requirements in the QAP. Specifically, the requestor claims the Applicant did not provide supporting documentation for Anytime Fitness, First Baptist Church of Bullard, The Community Library, or adults with an Associate's Degree or higher is 27%. The requestor claims that The Family Medicine Clinic does not meet requirements for 10 TAC §11.9(c)(4)(B)(ii)(II) because it is a physician specialty office rather than the "full service hospital, community health center or minor emergency center" described in the rule. The requestor claims that the Applicant has claimed the same City facility as both a public park under 10 TAC §11.9(c)(4)(B)(ii)(VI) and an outdoor recreation facility under 10 TAC §11.9(c)(4)(B)(ii)(XI). Finally, the requestor contends that the Application should not receive a point under 10 TAC §11.9(c)(4)(B)(ii)(IX), because the museum listed is part of a private school and not a separate nonprofit organization whose primary function is not "...acquisition, conservation, study exhibition, and educational interpretation of objects having scientific, historical or artistic value."

**Applicant Response to Notice of Administrative Deficiency:**

The Applicant claims that the medical facility is a family practice primary care clinic co-located with an Urgent Care clinic, as such it is not a physician specialty office. They claim that the City of Bullard considers the facilities to be 2 separate parks, so they should be allowed to treat it as such also. They claim that while the American Freedom Museum is on the campus of and is supported by a private school, it is a stand alone nonprofit permanent institution open to the public.

**Analysis and Resolution:**

Staff has determined that the Applicant's response provides sufficient evidence to support the points claimed, and no further action is required.

<b>TDHCA ID#</b>	17376	<b>Development Name:</b>	The Bristol
<b>City:</b>	San Antonio	<b>Region:</b>	9 Urban
<b>Requester:</b>	Manish Verma, #17356 The Acacia		

**Nature and Basis of Request:**

The request asks the Department to review the Application for two items claimed under 10 TAC §11.9(c)(4) related the Opportunity Index.

**Analysis and Resolution:**

The request does not include documentation beyond the letter request, and therefore does not meet the requirement in TAC §11.10 that the "Requestor must provide sufficient credible evidence that, if confirmed,

would substantiate the deficiency request." No further action will be taken by the Department as a result of this request.

<b>TDHCA ID#</b>	17388	<b>Development Name:</b>	West Pecan Village
<b>City:</b>	McAllen	<b>Region:</b>	11 Urban
<b>Requester:</b>	Mark Musmeche, 17042 Huntington at Paseo de le Resaca, #17094 Catalon at Paseo de le Resaca		

### **Nature and Basis of Request:**

The request asks the Department to review the Application for seven items claimed under 10 TAC §11.9(c)(4) related the Opportunity Index. The requestor claims that the playground used for points under 10 TAC §11.9(c)(4)(B)(ii)(I) is more than ½ mile from the proposed Development, they further claim that the route to the playground is not accessible. The requestor claims that the route to public transportation is not accessible as required by 10 TAC §11.9(c)(4)(B)(ii)(II). The requestor claims that the Applicant has used the same facility for points under 10 TAC §11.9(c)(4)(B)(ii)(VII) as a public library, 10 TAC §11.9(c)(4)(B)(ii)(VIII) as a Community College campus, and 10 TAC §11.9(c)(4)(B)(ii)(X) as a museum. Finally, the requestor claims that the Applicant has not provided crime information specific to the census tract, but has used city wide crime information, they include a Neighborhoodscout report that indicates the proposed site is not eligible for a point under 10 TAC §11.9(c)(4)(B)(ii)(VI) because the property crime rate exceeds 26 per 1,000.

### **Applicant Response to Notice of Administrative Deficiency:**

The Applicant claims that because the park is within ½ mile, the length of the accessible route may be longer, they further state that their Application includes a letter from a third-party Registered Accessibility Specialist who has determined that the route is accessible. They also claim that because the park boundary is within the required distance, the distance to the park entrance is immaterial. They make a similar statement regarding the accessible route to public transportation. They claim that the museum is a separate from the college and library. The Applicant has provided additional description of how they extrapolated the property crime rate included in the application, and new information.

### **Analysis and Resolution:**

Staff has determined that the Applicant has not addressed the specific information included in the RFAD regarding accessibility, or the letter from the Chief of Police which states the information used are a reflection of city-wide data rather than the census tract or block. The response does not address specific evidence that the routes to the park or public transportation are not accessible. Information provided in the response supports the Applicant's claim of points for the college and library, but the gallery appears to be part of the library and therefore ineligible for points as a separate amenity. A Scoring Notice will be issued and the Applicant will have an opportunity to appeal.

<b>TDHCA ID#</b>	17388	<b>Development Name:</b>	West Pecan Village
<b>City:</b>	McAllen	<b>Region:</b>	11 Urban
<b>Requester:</b>	Steve Lollis, #17267 Industrial Lofts		

**Nature and Basis of Request:**

The request asks the Department to review the Application for three items claimed under 10 TAC §11.9(c)(4) related the Opportunity Index. The requestor claims that the Applicant has used the same facility for points under 10 TAC §11.9(c)(4)(B)(ii)(VII) as a public library, and 10 TAC §11.9(c)(4)(B)(ii)(X) as a museum. The requestor claims that the Applicant has not provided crime information specific to the census tract, but has used city wide crime information which does not support the points requested for 10 TAC §11.9(c)(4)(B)(ii)(VI) because it does not show that the property crime rate is less than 26 per 1,000.

This same request was received from another party, the response immediately above will also apply to this request.

<b>TDHCA ID#</b>	17390	<b>Development Name:</b>	Las Palomas
<b>City:</b>	McAllen	<b>Region:</b>	11 Urban
<b>Requester:</b>	Mark Musmeche, 17042 Huntington at Paseo de le Resaca, #17094 Catalon at Paseo de le Resaca		

**Nature and Basis of Request:**

The request asks the Department to review the Application for four items claimed under 10 TAC §11.9(c)(4) related the Opportunity Index. The requestor claims that the playground used for points under 10 TAC §11.9(c)(4)(B)(ii)(I) is more than ½ mile from the proposed Development, they further claim that the route to the playground is not accessible. The requestor claims that the route to public transportation is not accessible as required by 10 TAC §11.9(c)(4)(B)(ii)(II). The requestor claims that the Applicant has used the same facility for points under 10 TAC §11.9(c)(4)(B)(ii)(VII) as a public library, and 10 TAC §11.9(c)(4)(B)(ii)(I) as a playground. Finally, the requestor claims that the Applicant has not provided crime information specific to the census tract, but has used city wide crime information, they include a Neighborhoodscout report that indicates the proposed site is not eligible for a point under 10 TAC §11.9(c)(4)(B)(ii)(VI) because the property crime rate exceeds 26 per 1,000.

**Applicant Response to Notice of Administrative Deficiency:**

The Applicant claims that because the park is within ½ mile, the length of the accessible route may be longer, they further state that their Application includes a letter from a third-party Registered Accessibility Specialist who has determined that the route is accessible. They also claim that because the park boundary is within the required distance, the distance to the park entrance is immaterial. They make a similar

statement regarding the accessible route to public transportation. The Applicant has provided additional description of how they extrapolated the property crime rate included in the application, and new information.

**Analysis and Resolution:**

Staff has determined that the Applicant has not addressed the specific information included in the RFAD regarding accessibility, or the letter from the Chief of Police which states the information used are a reflection of city-wide data rather than the census tract or block. The response does not address specific evidence that the routes to the park or public transportation are not accessible. Because the library is in its own structure and the playground is part of the park, staff has determined that both may be used for points.

<b>TDHCA ID#</b>	17390	<b>Development Name:</b>	Las Palomas
<b>City:</b>	McAllen	<b>Region:</b>	11 Urban
<b>Requester:</b>	Manish Verma, #17368 Cielo		

**Nature and Basis of Request:**

The request asks the Department to review the Application for three items claimed under 10 TAC §11.9(c) (4) related the Opportunity Index. The requestor claims that the playground used for points under 10 TAC §11.9(c) (4) (B) (ii) (I) is more than ½ mile from the proposed Development, they further claim that the route to the playground is not accessible. The requestor claims that the route to public transportation is not accessible as required by 10 TAC §11.9(c)(4)(B)(ii)(II). Finally, the requestor claims that the Applicant has not provided crime information specific to the census tract, but has used city wide crime information, they include a Neighborhood scout report that indicates the proposed site is not eligible for a point under 10 TAC §11.9(c)(4)(B)(ii)(VI) because the property crime rate exceeds 26 per 1,000.

This same request was received from another party; the response immediately above will also apply to this request.

<b>TDHCA ID#</b>	17390	<b>Development Name:</b>	Las Palomas
<b>City:</b>	McAllen	<b>Region:</b>	11 Urban
<b>Requester:</b>	Steve Lollis, #17267 Industrial Lofts		

**Nature and Basis of Request:**

The request asks the Department to review the Application for one item claimed under 10 TAC §11.9(c)(4) related the Opportunity Index. The requestor claims that the Applicant has not provided crime information specific to the census tract, but has used city wide crime information, and that the proposed site is not eligible for a point under 10 TAC §11.9(c)(4)(B)(ii)(VI) because the property crime rate exceeds 26 per 1,000.

This same request was received from another party, the response immediately above will also apply to this request.

Application #17007  
Magnolia Station  
Third Party Request for Administrative  
Deficiency



**New Waverly Village, LP**  
3735 Honeywood Court  
Port Arthur, Texas 77642

May 31, 2017

Ms. Marni Holloway  
Multifamily Division Director  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701  
Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)

Re: Third Party Request for Administrative Deficiency (“RFAD”), §11.10 of 2017 Qualified Allocation Plan (“QAP”)

Dear Ms. Holloway,

Please accept this letter, along with the required \$500 fee as a Third Party Request for Administrative Deficiency (“RFAD”) pursuant to §11.10 of 2017 Qualified Allocation Plan (“QAP”) for application 17007 Magnolia Station.

Application 17007 Magnolia Station counted a single amenity under two separate amenity categories related to §11.9(c)(4)(B)(ii) Opportunity Index and §11.7(3) Tie Breaker Factors. Pursuant to §11.9(c)(4)(B) Opportunity Index, “Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits.” As a result of an amenity being counted twice, in the evaluation of Tie Breaker Factors staff should consider application 17007 Magnolia Station to have two (2) additional amenities under §11.7(3) rather than the three (3) identified in the application.

Tab 9 Site Information Form Part II (Exhibit A) includes selections under §11.9(c)(4)(B)(ii) Opportunity Index for 1) a public park within 4 miles; and 2) outdoor recreation facility available to public within 3 miles. The map provided behind Tab 10 Supporting Documents for Site Information Form Part II (Exhibit B) shows Safari Park and Winnie Stowell County Park as two separate amenities, presumably with Safari Park counted for outdoor recreation facility and Winnie Stowell County Park counted for public park. However, the Facebook page for Safari Run (Safari Run and Safari Park are names used interchangeably) shows Safari Run as a facility located within Winnie-Stowell Park (Exhibit C). Additionally, the Winnie Area Chamber of Commerce website also shows Safari Run as being within Winnie-Stowell Park (Exhibit D). Finally, the Chambers County webpage for Winnie Stowell Park (Exhibit E) includes a photo of Safari Run in the park photos, indicating that Safari Run is within Winnie-Stowell Park.

17007 Magnolia Station counted a single public park as an amenity under two different amenity categories, which is prohibited by §11.9(c)(4)(B) Opportunity Index. Therefore, while the application selected nine (9) amenities under §11.9(c)(4)(B)(ii) Opportunity Index, because one

amenity was counted twice, the application only provides eight (8) amenities. Because six (6) of these amenities are used to qualify for Opportunity Index points, two (2) additional amenities remain for consideration under §11.7(3) Tie Breaker Factors. We respectfully request that staff consider only the two (2) additional amenities remaining after eliminating the duplicative amenity when evaluating Tie Breaker Factors pursuant to §11.7(3).

If you have any questions, please feel free to reach me directly at (409) 988-1851 or via email at [dbrall1@gt.rr.com](mailto:dbrall1@gt.rr.com).

Sincerely,



Donald R. Ball

Executive Director of Nautical Affordable Housing, Inc., the Sole Member of the General Partner

enclosures



Exhibit A

Excerpt from 17007 Magnolia Station Application - Tab 9 Site Information Form Part II

X Development is Rural and Development Site is within the required distance of eligible amenities and/or services pursuant to §11.9(c)(4)(B)(ii) of the QAP. A map showing the Development Site, scale showing radius, location of the amenities, and other evidence as applicable is included behind this tab.

- full service grocery store or pharmacy (4 miles)
- health-related facility (4 miles)
- licensed center serving children (4 miles)
- public library (4 miles)
- public park (4 miles)
- museum (4 miles)

- indoor recreation facility available to public (3 miles)
- outdoor recreation facility available to public (3 miles)
- community, civic or service organization (3 miles)

Application is seeking points for Opportunity Index. Total Points Claimed: 7

If necessary, provide a brief summary of how the Development Site is justifying the points selected:

3. §11.9(c)(8) - Proximity to the Urban Core (Competitive HTC Applications Only)

- Development Site is located in a City with a population over 300,000 and is not in At-Risk Set-Aside.
- AND
- Population of City is 300,000-500,000 and Development is located w/in 2 miles of City Hall facility.
- OR
- Population of City is more than 500,000 and Development is located w/in 4 miles of City Hall facility.

Application is seeking points for Proximity to the Urban Core. Total Points Claimed: 0

4. §11.9(c)(6) - Underserved Area (Competitive HTC and Direct Loan Applications Only)

Applications may qualify for up to five (5) points for proposed Developments located in one of the following areas:

- No Colonia (Note: Not eligible if application qualifies for Opportunity Index points);
- No Economically Distressed Area (Note: Not eligible if application qualifies for Opportunity Index points);
- No A census tract within the boundaries of an incorporated area that has not received a competitive tax credit allocation or a 4% non-competitive tax credit allocation for a Development within the last 15 years; and continues to appear on Department's inventory
- Yes If not the previous item, a census tract that does not have a Development subject to an active tax credit LURA, (or has received a tax credit award but not yet reached the point where its LURA must be recorded);
- No A census tract within the boundaries of an incorporated area and all contiguous census tracts for which neither the census tract within which the Development is located nor the contiguous census tracts have received an award or HTC allocation within the last 15 years and continues to appear on the Department's inventory (only applies in cities with a population of ≥300,000 and will not apply in At-Risk).

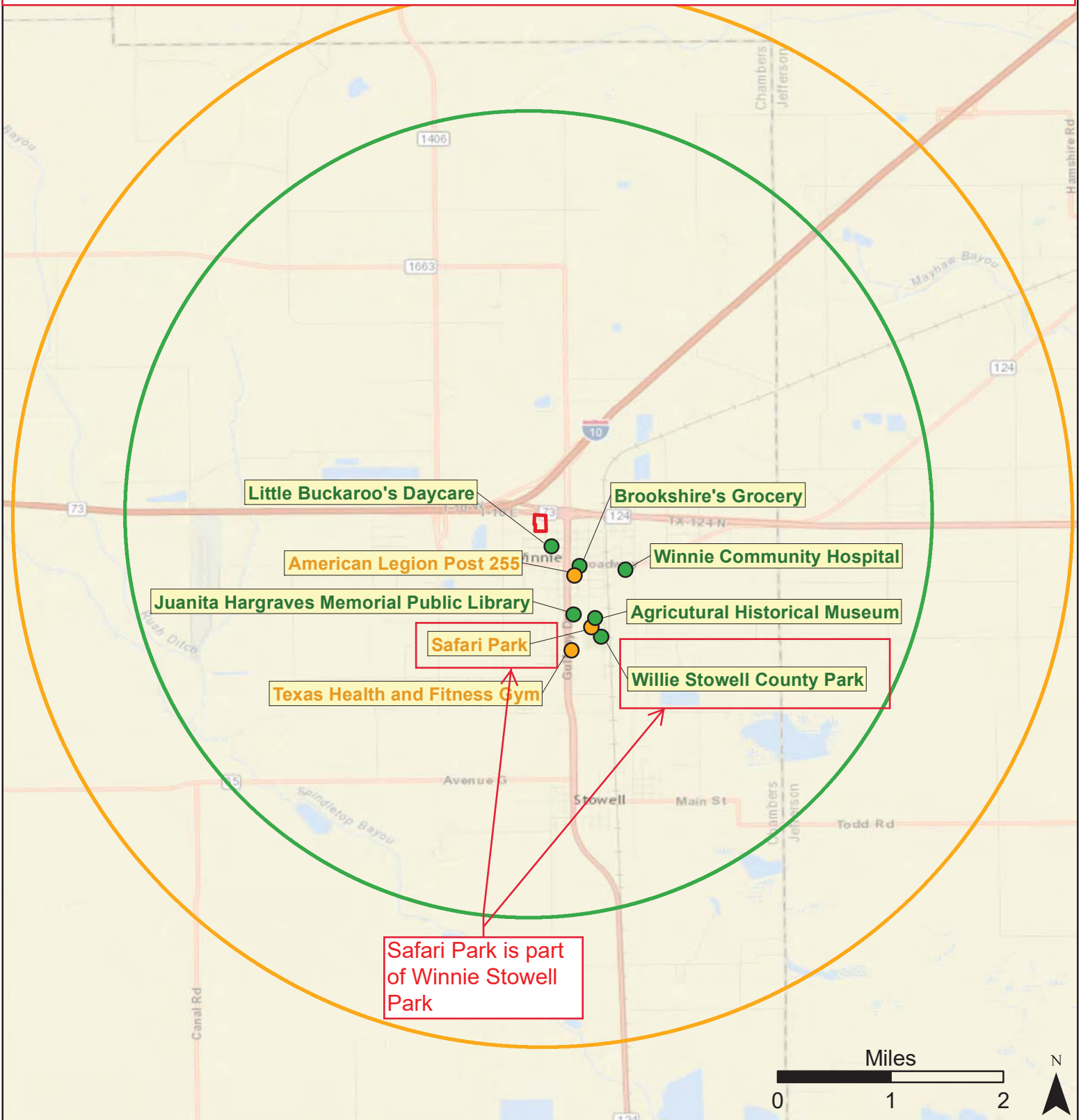
Contiguous Census Tract #	<input type="text"/>	Contiguous Census Tract #	<input type="text"/>
Contiguous Census Tract #	<input type="text"/>	Contiguous Census Tract #	<input type="text"/>
Contiguous Census Tract #	<input type="text"/>	Contiguous Census Tract #	<input type="text"/>

Application is seeking points for Underserved Area. Total Points Claimed: 2

Amenity used for Outdoor Recreation Facility (Safari Park / Run) is part of Winnie-Stowell Park, which is the amenity being used for Public Park. Pursuant to the QAP, "Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits."

Exhibit B

Excerpt from 17007 Magnolia Station Application - Tab 10 Supporting Documents for Site Information Form Part II



# High Opp Menu Items Map



## Magnolia Station

NWC Magnolia Ave and 6th St  
Winnie, TX 77665

- High Opp Items (6)
- Tie Breaker Items (3)
- Site
- 3 Miles
- 4 Miles



Exhibit C - Safari Run Facebook Page, Evidence that Safari Run is part of Winnie-Stowell Park

Email or Phone

Password

Log In

Forgot account?



Explore local businesses on Facebook

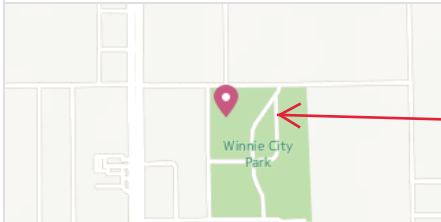
Sign up for Facebook today to discover local businesses near you.

Sign Up

Safari Run in Winnie  
Local Business

Unofficial Page · Located in Winnie, Texas

About



Address Suggest an address

Website Suggest a website

10 likes 96 visits

Photos



Near Safari Run in Winnie



**Gulfway Lumber**  
Lumber Yard  
5.0 ★ · 1 public rating

**Cattleman's Kitchen**  
Restaurant  
5.0 ★ · 28 public ratings

**Riceland Outfitters**  
Shopping & Retail  
5.0 ★ · 7 public ratings

See more places in Winnie, Texas

Places Winnie, Texas Safari Run in Winnie

English (US) · Español · Português (Brasil) · Français (France) · Deutsch

REVIEWS



Tell people what you think

No reviews. Be the first to review this!

Posts about Safari Run in Winnie



**Cristina Olvera** added 5 new photos — with Marcos Olvera at Safari Run in Winnie.

March 23, 2016 · Winnie, TX ·

Pre-k easter egg hunt 🐰 🥚



Yola America Vázquez de Rubio, Iluminacion SF, La Nueva Estructura DjChato and 58 others like this.



**Teresa Hill** cute pictures

1 · March 23, 2016 at 6:46pm



**Liz Warnock** was with Jarian Harmon at Safari Run in Winnie.

June 6, 2015 · Winnie, TX ·

Safari Run is part of Winnie Park. Safari Run / Park and Winnie-Stowell Park are the same amenity and should only be counted once for points and tie breaker.

Exhibit D - Winnie Area Chamber of Commerce Page, Evidence that Safari Run is part of Winnie-Stowell Park



Home Early History Members v Calendar Events/Attractions Media Lodging Contact Us

### AGRICULTURAL HISTORICAL MUSEUM

For over 100 years, farmers and ranchers have been the backbone of the community. This museum is a tribute to that history. Located behind the Texas Rice Festival/Chamber of Commerce offices, the museum houses authentic antique tractors, farming equipment, photos and the airplane that planted the first aerially-seeded rice crop in Texas. In addition, the Winnie Sante Fe Depot, which was established in 1905, has been relocated alongside the Agricultural Historical Museum. The Agricultural Historical Museum is open for tours by appointment.(409) 296-2231

### AWARDS BANQUET & ROAST WINNIE AREA CHAMBER OF COMMERCE

Details TBA

### CHAMBERS COUNTY LIBRARY

Juanita Hargraves Memorial Branch 924 Highway 124, Winnie

### CHAMBERS WILD – COME PLAY OUTDOORS!

### CHRISTMAS IN THE PARK

Christmas celebration in the Winnie-Stowell Community Park  
Watch Calendar for details

### CLASSIC GOLF TOURNAMENT

Annual golf tournament takes place at the Chambers County Golf Course in May.  
Watch calendar for tournament details

### Member Ads

Contact the office to get your company added!

Exhibit D - Winnie Area Chamber of Commerce Page, Evidence that Safari Run is part of Winnie-Stowell Park

409-296-2231 winnie@winnietexas.com

FOURTH OF JULY CELEBRATION

Fireworks and celebration in Winnie-Stowell Community Park



HUNTING, FISHING AND WILDLIFE

Home Early History Members Calendar Events/Attractions Media Lodging Contact Us

For those who taste runs to more natural diversions, the Winnie area offers excellent hunting and fishing opportunities. Guides are available for the enormous number of sportsmen who flock to the area each hunting season. The Gulf of Mexico is located only 18 miles south of Winnie, where travelers can enjoy saltwater fishing and fun in the sun on the beach. If you enjoy viewing wildlife in their natural habitat, the Anahuac National Wildlife Refuge is only a short drive away... and alligators are a part of the scenery in this area.

LARRY'S OLD TIME TRADE DAYS

Weekend after the first Monday of every Month

SAFARI RUN IN WINNIE-STOWELL PARK

TEXAS RICE FESTIVAL

First weekend in October

Safari Run is part of Winnie-Stowell Park. Safari Run / Park and Winnie-Stowell Park are the same amenity and should only be counted once for points and tie breaker.

409-296-2102
1354 SH 124, Winnie
(Behind Dairy Queen)
seabreezebeacon@gmail.com
Like us on Facebook

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ABSTRACT COMPANY

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BUILDERS

409-267-6262

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True Value.

NAPA KNOW HOW

409-296-4721

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Designed and Managed by Lisa Rae Photo & Web Services





Exhibit E - Chambers County Webpage, Evidence that Safari Run is part of Winnie-Stowell Park

About Chambers County Departments Directories Public Notices County Calendar Employment Fraud Hotline

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- Environmental Health
- Financial Transparency
- Golf Course
- Justice of the Peace
- Library
- Mosquito Control
- Parks
- Permitting
- Road and Bridge
- Sheriff's Office
- Tax Office
- Tourism and Events
- Treasurer's Office
- Youth Project Show

Winnie Stowell Park



This is a photo of Safari Run / Park



Amenities

- Annual Festivals
- B-B-Que Pits
- Community Building
- Covered Outdoor Stage
- Covered Pavilions
- Electricity
- Historical Markers
- Livestock Show Facilities
- Playground Equipment
- Practice Baseball & Softball Fields
- Restrooms
- Riding Area
- Water

Contact

Precinct 1  
Commissioner's Office  
409-267-2644

Location

Application #17007  
Magnolia Station  
Third Party Request for Administrative  
Deficiency

Department Determination



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*  
Leslie Bingham-Escareño, *Vice Chair*  
Paul A. Braden, Member  
Asusena Reséndiz, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

July 5, 2017

*Writer's direct phone # (512) 475-1676*  
*Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)*

Ms. Teresa Bowyer  
Magnolia Station Apartments, LP  
500 E. 96<sup>th</sup> Street  
Indianapolis, IN 46240

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17007 MAGNOLIA STATION

Dear Ms. Bowyer:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of a Third Party Request for Administrative Deficiency ("RFAD") requesting that the Department review the application above to determine whether it should be awarded tie-breakers under 10 TAC §11.9(c)(4) related to Opportunity Index. The request asserts that the Application counted a single amenity under two separate amenity categories. The requester states that Safari Park is a section of Winnie Stowell County Park, but the one park is counted as both a public park and as outdoor recreation. A scoring notice was issued on June 27, 2017.

The scoring notice indicates a reduction of one tie-breaker item as the Department determined that the Safari Park submitted for outdoor recreation appears to be a part of the same park submitted as a public park. As the scoring notice states, and within the parameters outlined in the scoring notice, you have the right to appeal the Department's determination. If you have questions or require further information, please contact me

Sincerely,

A handwritten signature in black ink, appearing to read "Marni Holloway".

Marni Holloway  
Multifamily Division Director

Cc: Donald R. Ball



Application #17281  
The Residence at Arbor Grove  
Third Party Request for Administrative  
Deficiency

June 1, 2017

Marnie Holloway  
TDHCA  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: Third Party Request for Administrative Deficiency  
The Residence at Arbor Grove (TDHCA #17281)

Dear Ms. Holloway,

This Third Party Request for Administrative Deficiency relates to the aforementioned Development in Region 3 Urban. The basis for the request is that the proposed apartment community is claiming points that are not supported by the evidence provided in the application for Concerted Revitalization Plan (CRP)

The Applicant is using the City of Arlington Consolidated Plan as a CRP, which is insufficient to qualify for this item. The Comprehensive Plan provided in the application only pertains to the years 2010-2015 City of Arlington Comprehensive Plan: Central Sector – 1999 only addresses projects as late as 2003. Therefore neither of the provided documents was in effect for the 2017 LIHTC Application Round.

The letter from Deputy City Manager James Parajon dated February 22, 2017 mentions there are other improvements planned for the future and the Consolidated Plan 2015-2019 (referred to as 2015-2020). But the application only included the Resolution No. 15-085 as evidence, which pertains to the entire City of Arlington, not a specific neighborhood or neighborhoods as required by the Qualified Allocation Plan 2017.

Due to expired evidence and the lack of detail for current revitalization, the documents provided are insufficient. Therefore, the Development should not be eligible for any points under the CRP scoring item.

Sincerely,



Stuart Shaw  
Applicant's Representative

Enclosed:

1. Excerpts from Residence at Arbor Grove: Concerted Revitalization Plan
2. \$500 Fee

cc:

Abby VanNordstrand  
Alyssa Carpenter

abby@ovpgroup.com  
ajcarpen@gmail.com

# 1. Excerpt from 2017 QAP



limited to, a listing of services and/or members, brochures, annual reports, etc. Letters of support from organizations that cannot provide reasonable evidence that they are active in the area that includes the location of the Development Site will not be awarded points. For purposes of this subparagraph, community and civic organizations do not include neighborhood organizations, governmental entities (excluding Special Management Districts), or taxing entities.

(B) An Application may receive two (2) points for a letter of support from a property owners association created for a master planned community whose boundaries include the Development Site and that does not meet the requirements of a Neighborhood Organization for the purpose of awarding points under paragraph (4) of this subsection.

(C) An Application may receive two (2) points for a letter of support from a Special Management District whose boundaries, as of the Full Application Delivery Date as identified in §11.2 of this chapter (relating to Program Calendar for Competitive Housing Tax Credits), include the Development Site.

(D) 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. If the Department receives input that could reasonably be suspected to implicate issues of non-compliance under the Fair Housing Act, staff will refer the matter to the Texas Workforce Commission for investigation, but such referral will not, standing alone, cause staff or the Department to terminate the Application. Staff will report all such referrals to the Board and summarize the status of any such referrals in any recommendations.

(7) **Concerted Revitalization Plan.** An Application may qualify for points under this paragraph only if no points are elected under subsection (c)(4) of this section, related to Opportunity Index.

(A) For Developments located in an Urban Area:

(i) An Application may qualify to receive points if the Development Site is located in a distinct area that was once vital and has lapsed into a situation requiring concerted revitalization, and where a concerted revitalization plan has been developed and executed. The area targeted for revitalization must be larger than the assisted housing footprint and should be a **neighborhood or small group of contiguous neighborhoods** with common attributes and problems. The concerted revitalization plan that meets the criteria described in subclauses (I) - (IV) of this clause:

(I) The concerted revitalization plan must have been adopted by the municipality or county in which the Development Site is located. The resolution adopting the plan, or if development of the plan and budget were delegated the resolution of delegation and other evidence in the form of certifications by authorized persons confirming the adoption of the plan and budget, must be submitted with the application.

(II) The problems in the revitalization area must be identified through a process in which affected local residents had an opportunity to express their views on problems facing the area, and how those problems should be addressed and prioritized. These problems may include the following:



(-a-) long-term disinvestment, such as significant presence of residential and/or commercial blight, streets infrastructure neglect such as inadequate drainage, and/or sidewalks in significant disrepair;

(-b-) declining quality of life for area residents, such as high levels of violent crime, property crime, gang activity, or other significant criminal matters such as the manufacture or distribution of illegal substances or overt illegal activities;

(III) Staff will review the target area for presence of the problems identified in the plan and for targeted efforts within the plan to address those problems. In addition, but not in lieu of, such a plan may be augmented with targeted efforts to promote a more vital local economy and a more desirable neighborhood, including but not limited to:

(-a-) creation of needed affordable housing by improvement of existing affordable housing that is in need of replacement or major renovation;

(-b-) attracting private sector development of housing and/or business;

(-c-) developing health care facilities;

(-d-) providing public transportation;

(-e-) developing significant recreational facilities; and/or

(-f-) improving under-performing schools.

(IV) The adopted plan must have sufficient, documented and committed funding to accomplish its purposes on its established timetable. This funding must have been flowing in accordance with the plan, such that the problems identified within the plan will have been sufficiently mitigated and addressed prior to the Development being placed into service.

(ii) Up to seven (7) points will be awarded based on:

(I) Applications will receive four (4) points for a letter from the appropriate local official providing documentation of measurable improvements within the revitalization area based on the target efforts outlined in the plan. The letter must also discuss how the improvements will lead to an appropriate area for the placement of housing; and

(II) Applications may receive (2) points in addition to those under subclause (I) of this clause if the Development is explicitly identified in a resolution by the city or county as contributing more than any other to the concerted revitalization efforts of the city or county (as applicable). A city or county may only identify one single Development during each Application Round for the additional points under this subclause. The resolution from the Governing Body of the city or county that approved the plan is required to be submitted in the Application. If multiple



## 2. Excerpt from CRP



February 22, 2017

TDHCA  
 Sharon Gamble  
 221 East 11th Street  
 Austin, TX 78701

RE: TDHCA Application #17281 -- The Residence at Arbor Grove

Dear Ms. Gamble:

Plans not included in the application, only 2015-2019 Consolidated Plan resolution.

The City of Arlington has identified The Residence at Arbor Grove, located at 1116 and 1118 Gibbins Road, as the 2017 LIHTC development that contributes more than any other to the concerted revitalization efforts in Arlington. The attached resolution, dated February 14, 2017, provides the approval for this designation.

The Residence at Arbor Grove will be a significant contributing development to both the Central Planning Sector (see ordinance 99-148), and the Central Arlington Neighborhood Revitalization Strategy Area (NRSA – see 2015-2020 Consolidated Plan resolution and 5-Year Performance Summary). The Residence at Arbor Grove is adjacent to the Arlington’s only Community Based Development Organization (CBDO), Water from the Rock, at 1015 Gibbins Road. This organization has received Community Development Block Grant (CDBG) funds from the City since 2006 due to a special waiver from HUD for flexible use of CDBG funding to serve residents of the revitalization target area.

The Central Planning Sector and NRSA plans were developed with extensive neighborhood input to provide concerted revitalization for an area that was on the decline, with higher poverty rates, aging housing stock, and poor or lacking infrastructure. The city has made significant progress in meeting the goals set for both the Central Planning Sector Plan and the Neighborhood Revitalization Strategy Area. A summary of measurable improvements and investments in the target area from 2003-2015 is highlighted below:

Improvement Type	Goal	Actual	Investment*
Neighborhood Infrastructure Improvements--Streets, sidewalks, water/sewer	20 blocks	60+ blocks	\$5,838,021
Public Facilities (e.g., Parks, Human Services Center)	3 projects	6 projects	\$2,064,035
Job Creation	36 jobs	58 jobs	\$587,766
Public Services (e.g., job skills training, dental care)	100 people/yr	120+/year	\$653,083
New & Rehabbed Housing (townhome/single family)	108	72	\$1,016,788
Demolition/Clearance	11 structures	9 structures	\$208,678
Code Compliance -- identification and correction of unsightly and/or unsafe property conditions	5500 households	8774 households	\$951,555
Historic Preservation/Façade Improvements	2 projects	2 projects	\$639,680

\*investment amounts are from a federal reporting system and do not include local leveraged dollars, which is at least double the investment listed.

No projects since 2015

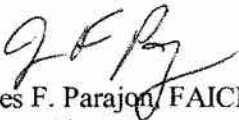


The total investment of grant funds from these projects alone is at least \$11,959,606, with additional projects planned over the next 3-5 years. The following improvements will benefit the residents of the proposed senior housing development, making the location a great fit for older adults:

- Improved street and sidewalk infrastructure will provide walkability and better access to public facilities and services for residents;
- Improvements to infrastructure and public facilities have spurred additional private sector development, including downtown restaurants, museum, theater, and the entertainment district (e.g., AT&T Stadium – Dallas Cowboy’s venue and Globe Life Park – Texas Rangers ballpark are within 1.2 miles of the proposed development);
- The Arlington Human Services Center is less than a mile from the development and will provide a host of services, including housing services, free income tax preparation, dental health care, mental health services, and case management;
- Water from the Rock across the street on Gibbins provides volunteer opportunities for seniors, computer skills classes, English as a Second Language, GED Preparation, job skills training, a food pantry, and clothing bank;
- Medical facilities such as Texas Health Arlington Memorial Hospital, health clinics and doctor’s offices are within walking distance to the site. In addition, an assisted living facility is adjacent to the project.
- A new City library, City Hall, free outdoor concert venue, and a new mixed-used development are approximately 1 mile from the development.

If you need additional information or have questions, feel free to contact Sheryl Kenny at 817-459-6251 or [sheryl.kenny@arlingtontx.gov](mailto:sheryl.kenny@arlingtontx.gov).

Sincerely,



James F. Parajon, FAICP  
Deputy City Manager

Enclosures



**Attachment G**  
**Overview of Progress in Meeting 2010-2015 Consolidated Plan Objectives**

This plan ended in 2015

Priorities & HUD Performance Codes	OBJECTIVES	PROGRESS UPDATE	PROGRAM YEAR	GOAL	ACTUAL	% COMPLETE
<b>I. AFFORDABLE HOUSING</b>						
<p><b>HIGH Priority</b> Availability/Accessibility of Decent Housing DH-1</p>	<p><b>Homebuyers' Assistance</b> To provide down payment and closing cost assistance for income-eligible, first-time homebuyers. Through a professional services contract, applications are processed, income eligibility is determined, and financing is coordinated with participating lenders. Zero percent, forgivable loans are provided according to the approved Arlington Housing Assistance Program Policy.</p>	<p>Assistance was provided to 25 first-time homebuyers during Program Year 2014. Homebuyers received HUD approved counseling prior to the purchase of their home. A total of 87 households received pre-purchase homeownership and foreclosure prevention counseling, 481 households attended a homebuyer orientation and training session.</p>	2010	50	38	76%
			2011	50	37	74%
			2012	50	34	68%
			2013	31	27	87%
			2014	31	25	81%
			Multi-Year	212	161	76%
<p><b>HIGH Priority</b> Affordability of Decent Housing DH-2</p>	<p><b>Housing Rehabilitation</b> To provide repairs to residences of income-eligible households. Grants or loan subsidies are given to provide safe, decent housing and to help preserve and upgrade neighborhoods. If the property changes ownership within a five-year period, the recipient is required to repay a prorated portion of the grant.</p>	<p>A total of 64 low-income households received housing rehabilitation assistance. 25 units received full rehabilitations (2 included barrier removal components) and 32 received only emergency repairs. Seven households received only Architectural Barrier Removal grants to improve accessibility for persons with disabilities.</p>	2010	70	81	116%
			2011	70	84	120%
			2012	70	85	121%
			2013	70	61	87%
			2014	70	64	91%
			Multi-Year	350	375	107%
<p><b>HIGH Priority</b> Affordability of Decent Housing DH-2</p>	<p><b>Temporary Rental Assistance</b> To provide tenant-based rental assistance to low-income families on the City Housing Office Section 8 waiting list and for homeless and other special needs clients referred and managed by area social service agencies for a period of up to two years.</p>	<p>72 households (using 79 different units throughout PY2014) were provided temporary rental assistance through the Tenant-Based Rental Assistance Program. The participants received case management from, Recovery Resource Council, MHMR of Tarrant County, Salvation Army, AIDS Outreach Center, SafeHaven of Tarrant County, and Community Enrichment Center.</p>	2010	40	104	260%
			2011	40	104	260%
			2012	40	75	188%
			2013	40	74	185%
			2014	40	72	180%
			Multi-Year	200	429	215%



ORDINANCE No. 99-148

AN ORDINANCE ADOPTING THE CITY OF ARLINGTON COMPREHENSIVE PLAN: NORTH SECTOR - 1999, A COMPONENT OF THE COMPREHENSIVE PLAN OF THE CITY OF ARLINGTON, TEXAS

- WHEREAS, V.T.C.A., Local Government Code, Section 211.004, requires municipalities to adopt zoning regulations in accordance with a comprehensive plan; and
- WHEREAS, the City Council directed that a comprehensive plan be prepared for the City of Arlington and its Extraterritorial Jurisdiction to address: lessening congestion in the streets; securing safety from fire, panic and other dangers; promoting health and the general welfare; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population and facilitating the adequate provisions of transportation, water, sewage, schools, parks, and other public facilities; and
- WHEREAS, the Comprehensive Plan for the City of Arlington was adopted on December 15, 1992, by Ordinance No. 92-133, as the Master or General Plan for the City of Arlington and its extraterritorial jurisdiction to guide the overall physical growth of the community and the provision of public facilities and services; and
- WHEREAS, the City Council passed Ordinance No. 96-85, amending the comprehensive planning process for the City to an on-going sector planning approach, dividing the City into six planning sectors which are to be reviewed individually thus updating the 1992 Comprehensive Plan; and
- WHEREAS, the Central Sector was the fourth planning sector to be taken through the planning process; and
- WHEREAS, the citizens of the Central Sector have contributed over a thousand hours to the development of this plan; and
- WHEREAS, an Implementation Program has been developed to facilitate the achievement of the Central Sector's goals and visions; and
- WHEREAS, the Planning and Zoning Commission voted to recommend approval of the City of Arlington Comprehensive Plan Central Sector - 1999, a component of the Comprehensive Plan for the City of Arlington, Texas; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS

I

That the City Council approves the City of Arlington Comprehensive Plan: Central Sector - 1999, as a component of the Comprehensive Plan for the City of Arlington, Texas.

II

Further, the City Council recommends the Central Sector Community Partner Team immediately begin developing partnerships with those organizations and City departments identified in the Plan which need to be responsible for the adopted strategies and actions.

III

A copy of the City of Arlington Comprehensive Plan: Central Sector-1999 is attached hereto and incorporated herein for all intents and purposes.

PRESENTED AND GIVEN FIRST READING on the 23rd day of November \_\_\_\_, 1999, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 30th day of November \_\_\_\_, 1999, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



*Elsie Odom*  
ELZIE ODOM, Mayor

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY *[Signature]*



		Work with the city in its efforts to bring rail transit to Arlington. (UTA)	Number of hours assisting in studies.	Provide assistance as needed./ Citywide	UTA resources	In Progress - Cannot use State Education funds for shuttle; must institute fee for service; Shuttle cost estimates will be developed in preparation for a July 2001 grant
		Consider shuttle service to and from rail station and campus. (UTA)	Number of students who would use service.	Increase accessibility between UTA and the Metroplex. / Citywide	Future General Funds	Grant fund for shuttle not available until July 2001
		Continue staff's participation in Trinity Railway Express Monitoring Committee. (Transportation)	City becomes a participant in the Trinity Railway Express.	City participation in the Trinity Railway Express. / Citywide	Existing and Future General Funds	<b>Accomplished – City of Arlington will offer \$140,000 for operating expenses; and \$250,00 to fund shuttle service.</b>
B1.2	Study feasibility of redesigning the interchange at Collins and I-30 to provide direct access from I-30 to Center Street and the Central Sector. (City – Transportation, Engineering) High Priority	Continue assisting TxDOT in their study of the Collins Street – Interstate 30 interchange. (Engineering)	Completion of study by TxDOT.	Completed study of interchange and recommendation. / Citywide	Existing General funds	<b>Ongoing - Information has been provided to TxDOT for inclusion in their IH-30 MIS and environmental review process. Additional geometric studies have been initiated to investigate a connection east of Collins St. to Baird Farm rd. This should be complete in early 2002.</b>
		Continue participation with I-30 Investment Committee. (Transportation)	Interchange is redesigned.	Improve I-30 and FM157 (Collins Street) intersection. / Citywide	TEA-21 and Future General Funds match	
B1.3	Improve sequential timing of traffic lights on major arterials within the Central Sector. (City – Transportation) High Priority	Improve progression (re-time lights) along major thoroughfares. (Transportation)	Number of thoroughfares re-timed.	Improve the signal coordination on major thoroughfares. / Central Sector	Future General Funds	In Progress -- Traffic signals along Division Street have been re-timed and are being monitored for fine tuning. The first phase of fiber optic cable is being installed from S.W. Green Oaks Blvd. to City Hall affecting 54 individual traffic signals. Some of which are in the Central Sector. A contract is being negotiated to replace the signal system. The vacant Signal Engineer position has been filled. A CMAQ federally funded signal timing project is scheduled in <b>2003</b> .

Most recent project was scheduled for 2003



Application #17281  
The Residence at Arbor Grove  
Third Party Request for Administrative  
Deficiency

Department Determination



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*  
Leslie Bingham-Escareño, *Vice Chair*  
Paul A. Braden, Member  
Asusena Reséndiz, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

June 21, 2017

*Writer's direct phone # (512) 475-1676*  
*Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)*

Abby VanNordstrand  
OPG Arbor Grove Partners, LLC  
5345 W 151<sup>st</sup> Terrace  
Leawood, KS 66224

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17281 RESIDENCE AT ARBOR GROVE

Dear Ms VanNordstrand:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of a Third Party Request for Administrative Deficiency ("RFAD"), dated June 1, 2017, that the Department review the application above to determine whether it is eligible to score seven points under 10 TAC §11.9(c)(7) related to Concerted Revitalization Plan. The RFAD asserts that neither the Comprehensive Plan nor the Central Sector Plan "was in effect for the 2017 LIHTC Application Round." Pursuant to §11.9(d)(7):

- (7) Concerted Revitalization Plan. An Application may qualify for points under this paragraph only if no points are elected under subsection (c)(4) of this section, related to Opportunity Index. (A) For Developments located in an Urban Area:
- (i) An Application may qualify to receive points if the Development Site is located in a distinct area that was once vital and has lapsed into a situation requiring concerted revitalization, and where a concerted revitalization plan has been developed and executed. ...

The rule contains no requirement regarding the timeliness of the plan. This is something that staff may review and propose for inclusion in a future QAP; however such a restriction cannot be imposed at this time. While the City of Arlington Comprehensive Plan itself covers the entire city, it includes individual plans for different sectors of the city. The original Application included the plan for the Central Planning Sector along with resolution 99-148, which adopted the plan as part of the comprehensive plan. Furthermore, while the plan itself may have been created some time ago, it is clear that the City of Arlington is still proceeding under the plan and contemplates timely achievement of the results described as they relate to the area around the proposed development.






June 20, 2017

Page 2

I do not find that the points raised in the request clearly demonstrate that the score for the application listed above should be revised. The matter is considered resolved and no further action is required by the Applicant. If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', with a long horizontal flourish extending to the right.

Marni Holloway

Multifamily Division Director

Cc: Stuart Shaw

Application #17288  
Forest Trails  
Third Party Request for Administrative  
Deficiency

# LKC DEVELOPMENT, LLC

7801 Jack Finney Blvd. Suite 101  
Greenville, Texas 75402  
Phone (903) 450-1520

June 1, 2017

Marni Holloway  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

RE: Third Party Request for Administrative Deficiency  
Application **#17288 Forest Trails**, Located in Lindale Texas

Dear Ms. Holloway:

In accordance with §11.10 of the 2017 Qualified Allocation Plan (“QAP”) concerning Third Party Request for Administrative Deficiency for Competitive Housing Tax Credit Applications, LKC Development presents the following concerns with the application referenced above. It is our belief that these items are not correctable based on the rules set forth in the 2017 QAP.

1. The Applicant claimed points under §11.9(c)(4)(B)(ii) Opportunity Index for Rural Areas, citing that they were within the required radii of all twelve of the amenities as listed in the 2017 Qualified Allocation Plan, and should be awarded full Opportunity Index and Tie Breaker points. The Applicant’s only provided supporting documentation for seven (7) of the twelve (12) items listed in their application for this section. The amenities with supporting documentation are; Toy Town Pre-School, Walmart Supercenter, CHRISTUS LinOdale Health Park, Lindale Junior High Tennis Courts, Old Mill Pond Museum, Crime rate under 26 per 1,000 and Tyler Junior College. The applicant did not submit any documentation for the following; Anytime Fitness, Pool Park, Grace Community Church, Lillie Russell Memorial Library, or adults with an Associate’s Degree or higher is 27%. The Applicant listed these amenities on an area map but provided no specific documentation showing services, service areas or addresses to verify the proximity to the development site, or in the case of the associates degree, census data to document the requirement. The 2017 Multifamily Application Procedures Manual states, “Include information for score **and** for tie breakers.” (Exhibit A). The applicant failed to include information about each amenity. The Applicant should not be allowed to include the remaining five (5) items pursuant to 11.9(a) *General Information* “... Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency...” The following applications have had points deducted due to insufficient documentation.  
#17097 lost one tie breaker point due to insufficient documentation on their library. This applicant attempted to provide documentation but staff determined it to be insufficient.

# LKC DEVELOPMENT, LLC

7801 Jack Finney Blvd. Suite 101

Greenville, Texas 75402

Phone (903) 450-1520

#17275 lost two points for failure to document the accessible path between their site and the local park and public transportation

#17317 lost three tie breakers for not providing sufficient evidence. They lost one point for not providing proof of an accessible path. They also lost two points for not showing “adequate” evidence for their library and museum.

#17700 lost 1 point because they failed to document the accessible path between their site and public transportation.

These four applications made attempts, in various ways, to submit something that could be counted as proper documentation. In fact, each supplied some sort of documentation, but ultimately it was determined that they were inadequately documented. Each applicant also included aerial maps but failed to show specific documentation of each amenity and ultimately resulted in the deduction of tie breaker points. The Applicant, that we are challenging, did not make any attempt to document several of the amenities that they are claiming. They did provide aerial maps with arbitrary arrows pointing to locations on the map, but this was deemed insufficient for the above-mentioned applications and should not be considered adequate documentation for this Applicant. Additionally, the Application Checklist under Tab 10 Supporting Documentation for the site Information Form Part II reads, *“Selections and maps for BOTH score and tie breakers are included.”* The Applicant marked this box as completed, as indicated by an “x” (Exhibit “B”). However, the Applicant did not “select” or provide any distinction between the scoring items and the opportunity index items. It is our belief that this checklist is provided to give, clear and distinct, information on what is to be included as part of the required supporting documentation. While it does not note exactly what kind of documentation is to be included in the supporting documentation it is a guide to advise what should be included. While we are not contesting that the Applicant submitted sufficient data to score the required seven (7) points on the application scoring for Opportunity Index, we do feel that any and all amenities that do not include supporting documentation should not be allowed for purposes of the tie breaker criteria 11.7(3).

2. This applicant failed to follow the 2017 Multifamily Applications Procedures Manual that states, **“NEW! Tie Breaker #3 Selections: Applicants must indicate those point items from §11.9(c)(4)(B) of the QAP for which application would be eligible but the Applicant was unable to claim because of the 7 point cap. These items will not be counted in the self-score. Do not select the items used for points under Opportunity Index!”** (Exhibit “B”). The Applicant only designated the “Full Service Grocery Store or Pharmacy”, in their pre-application (Exhibit “C”), as a tie breaker. While this should not disqualify the Applicant’s pre-application points, we do feel that of the documented amenities, the “Grocery Store” should be the only one that applies to

# LKC DEVELOPMENT, LLC

7801 Jack Finney Blvd. Suite 101  
Greenville, Texas 75402  
Phone (903) 450-1520

the Applicant's tie breakers because it was the only one designated in the pre-application and no amenities were designated as Opportunity Index.

We would like to thank you for the opportunity to present the information above. Upon request we will provide any additional information or documentation. We trust that the Department will find this information appropriate for review and helpful in the selection process.

Sincerely,



Chaz Garrett  
Vice President  
LKC Development, LLC

Cc:

Sharon Gamble – sharon.gamble@tdhca.state.tx.us

Michael Fogel – fogel@texco.land

Alyssa Carpenter – ajcarpen@gmail.com

# **LKC DEVELOPMENT, LLC**

7801 Jack Finney Blvd. Suite 101

Greenville, Texas 75402

Phone (903) 450-1520

## **EXHIBIT "A"**

# 2017 Multifamily Application Procedures Manual

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- **Part 3 – Proximity to the Urban Core:** Complete the applicable box if the Development Site is located within the required distance the urban core. Select the Total Points Claimed from the drop-down box.
- **Part 4 – Underserved Area:** Select from the five options available if requesting points for this item, and select the Total Points Claimed from the drop-down box. *If an application qualifies for points under Opportunity Index (§11.9(c)(4)) then the application is not eligible for points under a colonia or an Economically Distressed Area (§11.9(c)(6)).*
- **Part 5 – Concerted Revitalization:** If claiming points, be sure that no points are being claimed under the Opportunity Index. Complete the appropriate boxes and make sure supporting documentation is included behind the following tab. Select the Total Points Claimed from the drop-down box.
- **Part 6 – Declared Disaster Area:** If claiming points, simply mark the yellow box and select the Total Points Claimed from the drop-down box. The 2017 list of eligible counties are posted on the TDHCA website:  
<http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>.

## ❖ **Tab 10 – Supporting Documentation for the Site Information Form Part II**

- **School Attendance Zone Map and/school rating:**
  - Map should come from the school district and clearly show the attendance zone boundaries of the applicable public school(s) for determining the school rating. The location of the subject Property should be clearly marked as present within the applicable public school’s boundaries. If no map is available, other forms of evidence may be acceptable, including but not limited to a letter from the school district stating the school’s attendance zone in which the site is located.
  - The map (or other evidence) should indicate the ***most current*** school attendance zones, not necessarily the attendance zones at the time the schools were rated. This map should indicate where the children that would live in the proposed Development would attend school as of March 1, 2017 or later.
  - The rating of the school, ESC region, or state should be documented by a copy of the documentation available on the Texas Education Agency (TEA) website (<http://tea.texas.gov/2016accountability.aspx>).

Note that there are prescribed methods for dealing with a number of commonly occurring special circumstances. These rules are described in the discussion of scoring the Opportunity Index and Educational Quality in the 2017 QAP.

- **Opportunity Index information:** The map(s) should indicate the location of the Development Site and include an accurate radius appropriate for the asset. Refer to §11.9(c)(4)(B) for details regarding the radius. If applicable, information about the schools (see above) and/or child care center(s) should be included behind this tab. Evidence of the licenses held by the child care centers can be found by searching for the child care center on the Department of Family and Protective Services (DFPS) website at [http://www.dfps.state.tx.us/Child\\_Care/Search\\_Texas\\_Child\\_Care/ppFacilitySearchDay\\_Care.asp](http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilitySearchDay_Care.asp). Applicants should also be prepared to submit evidence surrounding the detailed operations of any full service grocery stores, senior centers, and health related facilities.

→ **Include information for score and for tie breakers.**

- **NEW! Proximity to the Urban Core:** The map should indicate the location of the Development Site and include an accurate straight-line distance to the city hall facility.
- **Evidence of Underserved area:**

# **LKC DEVELOPMENT, LLC**

7801 Jack Finney Blvd. Suite 101








Greenville, Texas 75402

Phone (903) 450-1520

## **EXHIBIT "B"**



## Supporting Documentation for the Site Information Form Part II

- Educational Quality (Competitive HTC Only)**
- School Attendance Zone Map with Development labeled and TEA information 
  - TEA information
- Opportunity Index (Competitive HTC and Direct Loan Only)**
- Map of Community Assets with Development, radius, and each asset labeled. 
  - Map with Development, census tract boundaries, and distance labeled. 
  - Print-out from DFPS website confirming daycare licensed to serve relevant age groups.
  - Miscellaneous information regarding health-related facility, museum, and/or full service grocery.
  - Crime rate information for census tract from Neighborhood Scout or local data source (<https://www.neighborhoodscout.com>)
  - NA Tabulation from 2010-2014 American Community Survey
  - Selections and maps for BOTH score and tie breakers are included
- Proximity to Urban Core (Competitive HTC Only)**
- n/a Map with the appropriate radius, City Hall location, and evidence of meetings regularly scheduled for City Council, City Commission, or similar. 
- Evidence of Underserved Area (Competitive HTC and Direct Loan Only)**
- n/a For Colonia:  Evidence from Attorney General of boundaries and map showing distance from Rio Grande river border; *and* letter from the appropriate local government official or other evidence that the colonia lacks infrastructure and the Development will enable the current dwellings to connect to such infrastructure.
  - n/a For Economically Distressed Areas: A letter or correspondence from Texas Water Development Board.
- Concerted Revitalization Plan (Competitive HTC Only)**
- Urban:
- n/a Map of target area(s) with location of Development Site clearly identified. 
  - n/a Resolution adopting the Concerted Revitalization Plan or certification
  - n/a Letter from appropriate local official providing documentation of measurable improvements.
- Rural:
- n/a Current rent roll
  - n/a Evidence Development constructed prior to 1985 
  - n/a Evidence Development is public housing or affordable housing supported by USDA, HUD, HOME or CDBG
  - n/a Evidence demolition and relocation of units has been determined locally to be necessary to comply with Affirmatively Furthering Fair Housing Rule or to create acceptable distance from Undesirable Neighborhood Characteristics.
  - n/a Letter from appropriate Governing Body describing concerted revitalization effort and identifying Development as contruting more than any other to such effort.

# **LKC DEVELOPMENT, LLC**

7801 Jack Finney Blvd. Suite 101

Greenville, Texas 75402

Phone (903) 450-1520

## **EXHIBIT "C"**

# 2017 Multifamily Application Procedures Manual

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- Answer the question, “Are there Neighborhood Organizations whose boundaries contain the Development Site?” If the answer is no, read the certification. When you submit the Pre-application you are certifying to an understanding of the program requirements and the accuracy of the submission. Continue to the next page by clicking the **Next** button. If yes, then a box will appear in order to list the name of the organization and its address. There are twelve spaces to enter Neighborhood Organizations, after which, a box will appear asking “**More than 12 Neighborhood Organizations?**” If yes, attach additional list in the “Other Pertinent Information” section on the last page of the Pre-application.
- Use the **Next** button to advance to Page 4.

## ❖ **Page 4: Self Score**

- Select points for each scoring item from the yellow drop-down boxes. Subtotals and the total self-score will auto-populate. *Note that the score cannot change by more than 6 points between Pre-application and full application in order to qualify for Pre-application participation points.*
- The Local Government Support, Quantifiable Community Participation, Support from State Representative, Input from Community Organizations, and Concerted Revitalization Plan sections are not available for applicants to Self Score. These scoring items will also not be included in the calculation to determine eligibility for Pre-application participation points in the full Application. **NEW! Indicate points you intend to claim for these items.**
- **NEW! Tie Breaker #3 Selections:** Applicants must indicate those point items from §11.9(c)(4)(B) of the QAP for the which application would be eligible but the Applicant was unable to claim because of the 7 point cap. **These items will not be counted in the self-score. Do not select the items used for points under Opportunity Index!**

Note that tie breaker #3 **will not apply** to CRP applications.

**Note:** There is a point adjustment field prior to the Final Self Score. This can be used to adjust a self score based on a Staff Determination. For example, a scattered site development may have an Opportunity Index score calculated to be six points, which is not an option on the drop-down menu for that scoring item. In this case, an Applicant may need to adjust the final self score. Enter negative numbers to reduce the score. *This field is not intended for manipulation of the self score in order to increase chances of being eligible for Pre-application Participation points*, and Applicants entering information in this field should also upload their Staff Determination or request for such determination under the “Other Pertinent Information” section on the last page of the Pre-application.

- Use the **Next** button to advance to Page 5.

## ❖ **Page 5: Attachments and Certifications:**

- **NEW! For Site Control, Census Tract, and Other Pertinent Information, multiple documents may be attached under each section as needed.**
  - Attach **Site Control Documentation**. By attaching the document(s), the Applicant is certifying that the site control conforms to all applicable rules. Files cannot be larger than 7 MB total.
  - Attach a **Census Tract Map**. The census tract Map(s) will be verified against the census tract(s) entered on the Development Information Page. **Again – be sure to double check your census tract number(s)!** Files cannot be larger than 5 MB total.

# **LKC DEVELOPMENT, LLC**

7801 Jack Finney Blvd. Suite 101

Greenville, Texas 75402

Phone (903) 450-1520

## **EXHIBIT "D"**

## 2017 Competitive HTC Pre-Application

<b>Submission Date</b>	2017-01-07 17:28:51
<b>Application Number</b>	17288
<b>Full Name</b>	Michael Fogel
<b>Address</b>	PO Box 41326 Austin TX 78704
<b>Phone Number</b>	(713) 409-0211
<b>Email</b>	Michael@aqualanddevelopment.com
<b>Full Name</b>	Alyssa Carpenter
<b>Email</b>	ajcarpen@gmail.com
<b>Phone Number</b>	(512) 789-1295
<b>Full Name</b>	Alyssa Carpenter
<b>Email</b>	ajcarpen@gmail.com
<b>Phone Number</b>	(512) 789-1295
<b>Name of Proposed Entity</b>	Lindale Forest Trails, LP
<b>Development Name</b>	Forest Trails
<b>Development Type</b>	New Construction
<b>Secondary Type</b>	None
<b>Target Population</b>	Elderly Limitation
<b>Address</b>	West side of FM 849, S of Perryman Rd
<b>City</b>	Lindale
<b>Zip Code</b>	75771
<b>ETJ?</b>	Yes
<b>County</b>	Smith
<b>Region</b>	4
<b>Rural/Urban</b>	Rural
<b>Census Tract</b>	48423001401
<b>Total LI Units</b>	60
<b>Total MR Units</b>	0

<b>Total Units</b>	60
<b>HTC Request</b>	800000
<b>Pre-App Fee Due</b>	600
<b>Has Fee already been submitted?</b>	No
<b>Set-Asides</b>	None
<b>U.S. Representative</b>	Louie Gohmert
<b>District</b>	1
<b>State Senator</b>	Kevin Eltife
<b>District</b>	1
<b>State Representative</b>	Bryan Hughes
<b>District</b>	5
<b>School Superintendent</b>	Stan Surratt
<b>District Name</b>	Lindale ISD
<b>Address</b>	PO Box 370 Lindale 75771
<b>Presiding Officer of Board of Trustees</b>	Kelly Cox
<b>Address</b>	PO Box 370 Lindale 75771
<b>Name</b>	Nathaniel Moran
<b>Office</b>	County Judge
<b>Name 2</b>	Jeff Warr
<b>Office 2</b>	County Commissioner
<b>Name 3</b>	Cary Nix
<b>Office 3</b>	County Commissioner
<b>Name 4</b>	Terry Phillips
<b>Office 4</b>	County Commissioner
<b>Name 5</b>	JoAnn Hampton
<b>Office 5</b>	County Commissioner
<b>Name 6</b>	Jeff Daugherty

<b>Office 6</b>	Mayor
<b>Name 7</b>	Rick Thelen
<b>Office 7</b>	City Council Member
<b>Name 8</b>	Clyde Harper
<b>Office 8</b>	City Council Member
<b>Name 9</b>	Ginger Sims
<b>Office 9</b>	City Council Member
<b>Name 10</b>	Bob Tardiff
<b>Office 10</b>	City Council Member
<b>Name 11</b>	Bryan Summerville
<b>Office 11</b>	City Council Member
<b>Are there Neighborhood Organizations whose boundaries contain the Development Site?</b>	No
<b>Unit Sizes</b>	8
<b>Unit Features</b>	7
<b>Sponsor Characteristics</b>	1
<b>High Quality Housing Total</b>	16
<b>Income Levels of Tenants</b>	16
<b>Rent Levels of Tenants</b>	11
<b>Tenant Services</b>	10
<b>Opportunity Index</b>	7
<b>Educational Quality</b>	3
<b>Underserved Area</b>	2
<b>Tenant Populations with Special Housing Needs</b>	2
<b>Proximity to the Urban Core</b>	0
<b>Serve and Support Texans Most in Need Total</b>	51
<b>Commitment of Development Funding by Local Political Subdivision</b>	1



<b>Declared Disaster Area</b>	10
<b>Local Government Support §11.9(d)(1)</b>	17 points
<b>Quantifiable Community Participation §11.9(d)(4)</b>	4 points
<b>Support from State Representative §11.9(d)(5)</b>	Yes
<b>Input from Community Organizations §11.9(d)(6)</b>	4 points
<b>Concerted Revitalization Plan §11.9(d)(7)</b>	0 points
<b>Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)?</b>	Yes
<b>Community Support and Engagement Total</b>	11
<b>Financial Feasibility</b>	18
<b>Cost of Development per Square Foot</b>	12
<b>Pre-Application Participation</b>	6
<b>Leveraging Private, State and Federal Resources</b>	3
<b>Extended Affordability</b>	2
<b>Historic Preservation</b>	0
<b>Right of First Refusal</b>	1
<b>Funding Request Amount</b>	1
<b>Efficient Use of Limited Resources and Applicant Accountability Total</b>	43
<b>Total Applicant Self-Score</b>	121
<b>Do not select items used to score points under Opportunity Index</b>	full-service grocery store or pharmacy
<b>Site Control Documentation</b>	<a href="#">site_control_Forest Trails.pdf</a>
<b>Census Tract Map</b>	<a href="#">census_lindale.pdf</a>

Application #17288  
Forest Trails  
Third Party Request for Administrative  
Deficiency

Applicant Response

17288 Forest Trails

Third Party Request for Administrative Deficiency Response 6/26/17

1. Please find the attached documentation for the following amenities claimed in the Application: Anytime Fitness, Pool Park, Grace Community Church, and Lillie Russell Memorial Library. Per the deficiency notice, we have not submitted evidence of the percentage of Associate's Degrees as that information is maintained by the Department.

Consistent with a similar decision made by the TDHCA Governing Board at the May 25, 2017 meeting, this documentation is being provided as clarification and additional descriptive evidence to support the request of these tie breaker items.



FIND A GYM

WHY JOIN

BLOG

MY ANYTIME STORY

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TRAINING

TRY US FOR FREE

# Lindale

618 N. Main St.  
Lindale, TX 75771

(903) 882-0202

Open 24/7 to Members  
Staffed Hours

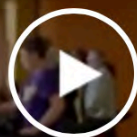
7 DAY FREE TRIAL

MEMBERSHIP INQUIRY

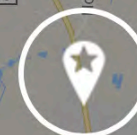
CONTACT US ▾



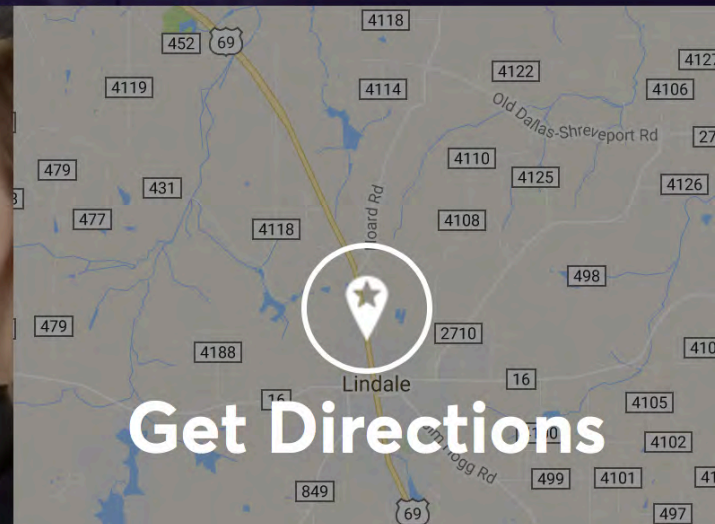
View Gym



Why Anytime  
Fitness



Get Directions



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About

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HOURS

Open Now 12:00AM - 12:00AM

BUSINESS INFO

Business Details

Price Range \$\$

ADDITIONAL CONTACT INFO

lindaletx@anytimefitness.com

http://anytimefitness.com/gyms/1062

MORE INFO

About

We are the leading coed 24 hour gym, and the fastest growing franchise in the US. We offer state of the art equipment, clean and safe locations, multiple gym acces, and we cover all aspects of fitness and weight training.

General Information

Office hours are 9am-7pm Monday - Thursday and 9am-5pm on Fridays. Feel free to call, if we aren't able to answer the phone just leave a voicemail and we will get back to you within

24 hours!

Gym/Physical Fitness Center - Personal Trainer

STORY

Welcome to your neighborhood 24 hour gym in Lindale! Affordable and convenient, one membership gives you access to thousands of our locations worldwide. Try us for free today!

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# Lindale Texas

Site Tools

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Living in Lindale

Visiting Lindale

How Do I...

Faulkner Park

Old Mill Pond

Pool Park

Events

Chamber of Commerce

Farmers Market

Texas Rose Horse Park

Lindale Community Theater

Dining in Lindale

Hotels

Downtown Redevelopment Project



Calendar

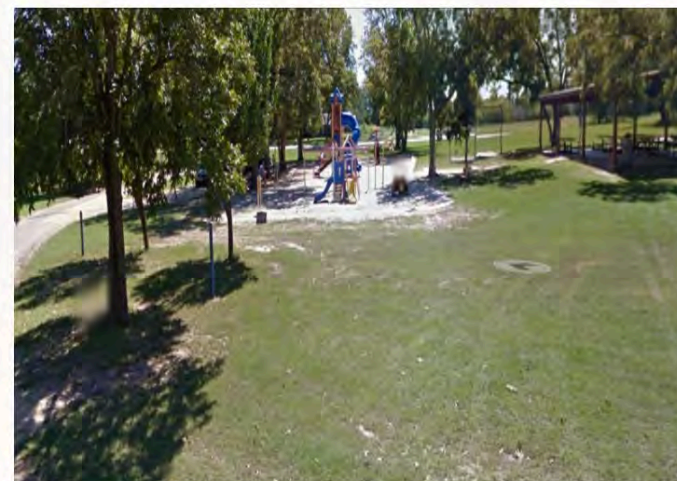
Home > Visiting Lindale > Pool Park

## Pool Park

Located in the heart of Lindale, Pool Park is a recreational park complete with:

- A covered pavilion - not reserved unless by City for an event hosted by the City of Lindale.
- A playground
- Amble parking
- Bathroom facilities
- Picnic tables
- Soccer practice fields

Located next door to Kinzie Community Center, Pool Park includes 4 baseball fields, which serves as the home of Lindale Summer Baseball and Softball Association during the spring months.



Email or Phone

Password

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Forgot account?



# Pool Park Playground

3.5 ★ · 23 public ratings

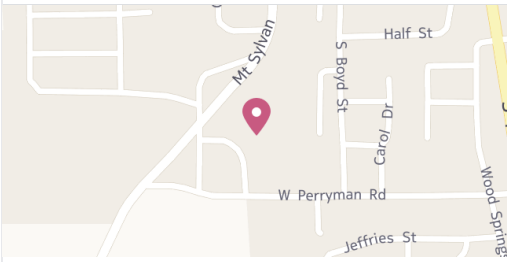
Unofficial Page · Located in Lindale, Texas

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### About



Address FM 849  
Lindale, Texas 75771  
Website <http://www.lindaletx.gov/186/Pool-Park>  
Tags outdoors

50 likes 4,490 visits

### Photos



### Near Pool Park



**Lindale Veterans Memorial**  
Public & Government Service  
5.0 ★ · 11 public ratings

**Candy Syring, Realtor, Cypress Land & ...**  
Real Estate Agent  
5.0 ★ · 7 public ratings

**C2 Firepits**  
Local Service  
4.9 ★ · 7 public ratings

Playgrounds in Lindale, Texas

### REVIEWS



Tell people what you think



**Sarah Armstrong** — Fun! cx  
about 3 years ago · 2 Reviews ·



**Nina Colter** —  
about 2 months ago · 1 Review ·



**Lisa Neeley Long** —  
about 2 years ago ·

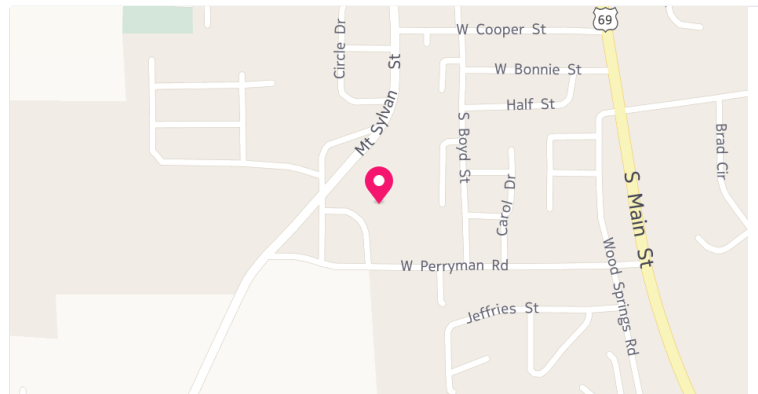
More Reviews

### Posts about Pool Park



**Leilani Stoker Shoulders** checked in to Pool Park.  
June 16 at 4:45pm · Lindale, TX ·

Watching a little T-ball! Go Carter!



**Pool Park**  
Playground · Lindale, TX  
2,740 people checked in here

Karen A Walker, Sabrina Smith, Pat Finch and 46 others like this.

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[MENU](#)

# LINDALE CAMPUS

Lindale, TX

The Lindale Campus has three services on Sunday morning.

## LINDALE CAMPUS

15567 Woodsprings Rd.  
Lindale, Texas 75771

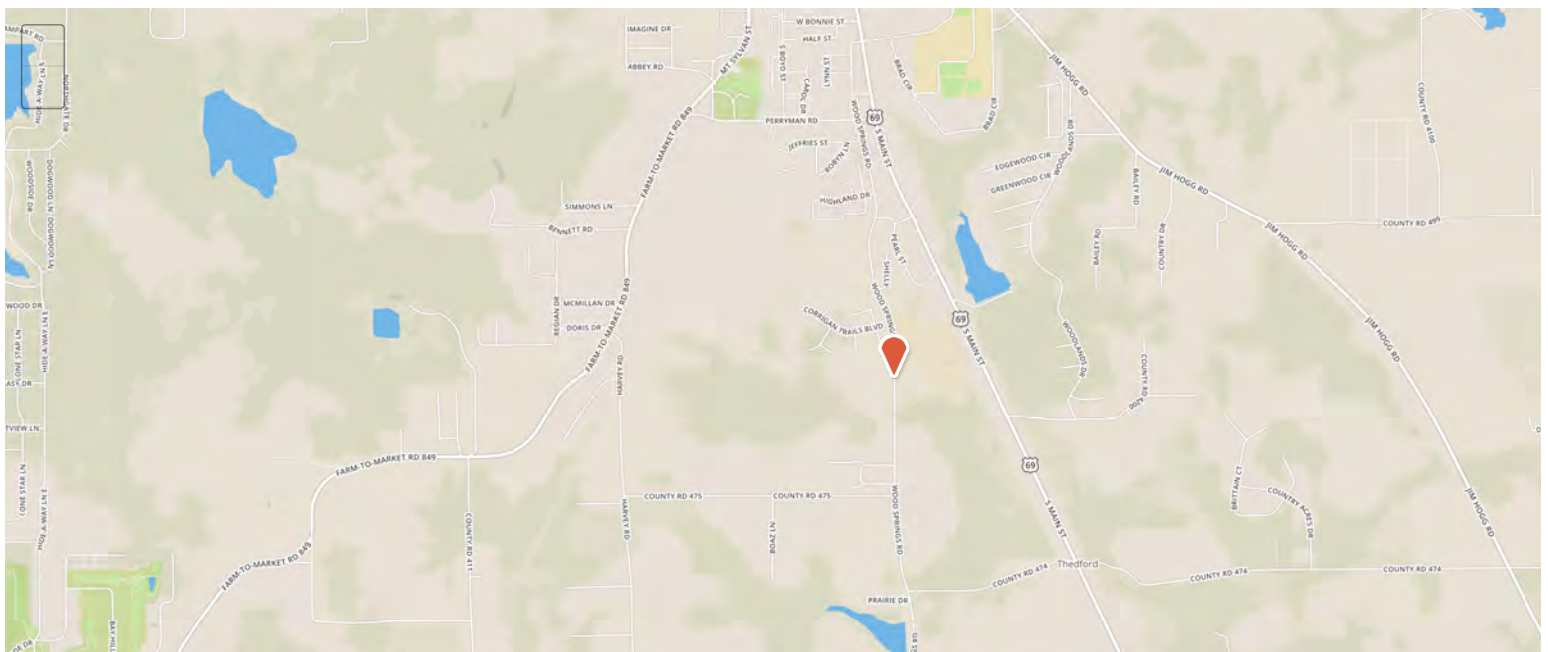
First Service **8:00am**  
Second Service **9:30am**

### DIRECTIONS

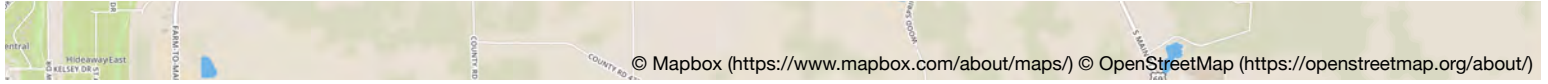
[HTTP://MAPS.APPLE.COM/?](http://maps.apple.com/?DADDR=32.4933207,-95.40658859999996&SADDR=CURRENT%20LOCATION)

[DADDR=32.4933207,-95.40658859999996&SADDR=CURRENT%20LOCATION\)](http://maps.apple.com/?DADDR=32.4933207,-95.40658859999996&SADDR=CURRENT%20LOCATION) Third Service **11:00am**

[903.882.3323](tel:903.882.3323) (tel:903.882.3323)







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→ **MY ACCOUNT**

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**early ed** (<http://www.graceeec.com/>)  
 //  
**counseling center**  
 (<http://gracecounselingtyler.org>)



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(<https://vimeo.com/gracety>)



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**GET THE APP**

available on the *App Store*  
 (<https://itunes.apple.com/us/app/grace-community/id702536886?mt=8&uo=4>), *Google Play*  
 (<https://play.google.com/store/apps/details?id=com.subsplash.thechurchapp.gcc>), and *Windows Mobile*  
 (<http://www.windowsphone.com/s?appid=79346759-5793-405c-be1d-372f69fa104a>)

**CHURCH OFFICE**

**1828 ESE Loop 323, Ste #300**  
**Tyler, TX 75701**  
 (<http://maps.apple.com/?daddr=32.3100396,-95.2779833000000,903.593.3800>)

**CAMPUS INFO**

**LINDALE TYLER OJ TYLER UB**

**15567 Woodsprings Rd.**  
**Lindale, Texas 75771**  
 (<http://maps.apple.com/?daddr=32.4933207,-95.4065885999999,903.882.3323>)

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[MENU](#)

**Night of Prayer – All  
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*Night of Prayer – All Campus  
Prayer & Worship Night of Prayer is  
an evening...*

JUN            15567  
**25**            Woodsprings Rd.  
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[\(http://www.gcc.org/event/raise-a-praise-back-to-school-supply-drive/2017-06-25/\)](http://www.gcc.org/event/raise-a-praise-back-to-school-supply-drive/2017-06-25/)

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 LINDALE, MISSIONAL LIFE

15567 Woodsprings Rd.  
 June 25, 2017  
 8:00am - 12:15pm



[\(http://www.gcc.org/event/diaenelparque/\)](http://www.gcc.org/event/diaenelparque/)

**Día en el Parque**  
[\(http://www.gcc.org/event/diaenelparque/\)](http://www.gcc.org/event/diaenelparque/)  
 GRACE ESPAÑOL

July 2, 2017  
 11:00am - 2:00pm



[\(http://www.gcc.org/event/family-baptism-class-university-blvd/\)](http://www.gcc.org/event/family-baptism-class-university-blvd/)

**Family Baptism Class | University Blvd**  
[\(http://www.gcc.org/event/family-baptism-class-university-blvd/\)](http://www.gcc.org/event/family-baptism-class-university-blvd/)

UNIVERSITY BLVD, GRACE KIDS, MARRIAGE AND FAMILY  
 3001 University Blvd  
 July 9, 2017  
 11:00am - 12:00pm



[\(http://www.gcc.org/event/ojmembersh07-16/\)](http://www.gcc.org/event/ojmembersh07-16/)

**Membership Class | Old Jacksonville Campus**  
[\(http://www.gcc.org/event/ojmembersh07-16/\)](http://www.gcc.org/event/ojmembersh07-16/)

OLD JACKSONVILLE, GUEST SERVICES  
 3215 Old Jacksonville Rd.  
 July 16, 2017  
 11:00am - 12:30pm

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**Day**

**EVENTS FOR JUNE 2017**

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
28 Membership Class   Lindale <a href="http://www.gcc.org/class-lindale-2/2017-05-28/">(http://www.gcc.org/class-lindale-2/2017-05-28/)</a> Ecuador Christmas Celebration Trip <a href="http://www.gcc.org/">(http://www.gcc.org/)</a>	29	30	31	1	2	3 Saturday Night Services <a href="http://www.gcc.org/night-services/2017-06-03/">(http://www.gcc.org/night-services/2017-06-03/)</a>
4	5	6	7	8	9	10

<p>Membership Class I Lindale (<a href="http://www.gcc.o class-lindale-2/2017-06-04/">http://www.gcc.o class-lindale-2/2017-06-04/</a>)</p>	<p>Monday Fundays Lindale (<a href="http://www.gcc.o fundays-lindale/2017-06-05/">http://www.gcc.o fundays-lindale/2017-06-05/</a>)</p>			<p>WOMEN OF THE WORD SUMMER STUDY (<a href="http://www.gcc.o of-the-word-summer-study/">http://www.gcc.o of-the-word-summer-study/</a>)</p>		<p>Saturday Night Services (<a href="http://www.gcc.o night-services/2017-06-10/">http://www.gcc.o night-services/2017-06-10/</a>)</p>
<p><b>11</b></p> <p>Financial Peace University (<a href="http://www.gcc.o peace-university-2/2017-06-11/">http://www.gcc.o peace-university-2/2017-06-11/</a>)</p> <hr/> <p>Summer Ignite I Lindale (<a href="http://www.gcc.o 06-11/">http://www.gcc.o 06-11/</a>)</p>	<p><b>12</b></p> <p>Monday Fundays Lindale (<a href="http://www.gcc.o fundays-lindale/2017-06-12/">http://www.gcc.o fundays-lindale/2017-06-12/</a>)</p> <hr/> <p>Summer Ignite I Lindale (<a href="http://www.gcc.o 06-12/">http://www.gcc.o 06-12/</a>)</p>	<p><b>13</b></p> <p>Summer Ignite I Lindale (<a href="http://www.gcc.o 06-13/">http://www.gcc.o 06-13/</a>)</p>	<p><b>14</b></p> <p>Summer Ignite I Lindale (<a href="http://www.gcc.o 06-14/">http://www.gcc.o 06-14/</a>)</p>	<p><b>15</b></p>	<p><b>16</b></p>	<p><b>17</b></p> <p>Saturday Night Services (<a href="http://www.gcc.o night-services/2017-06-17/">http://www.gcc.o night-services/2017-06-17/</a>)</p>
<p><b>18</b></p> <p>DENIM DRIVE (<a href="http://www.gcc.o drive/2017-06-18/">http://www.gcc.o drive/2017-06-18/</a>)</p> <hr/> <p>Financial Peace University (<a href="http://www.gcc.o peace-university-2/2017-06-18/">http://www.gcc.o peace-university-2/2017-06-18/</a>)</p>	<p><b>19</b></p> <p>Monday Fundays Lindale (<a href="http://www.gcc.o fundays-lindale/2017-06-19/">http://www.gcc.o fundays-lindale/2017-06-19/</a>)</p>	<p><b>20</b></p>	<p><b>21</b></p>	<p><b>22</b></p>	<p><b>23</b></p>	<p><b>24</b></p> <p>Saturday Night Services (<a href="http://www.gcc.o night-services/2017-06-24/">http://www.gcc.o night-services/2017-06-24/</a>)</p>
<p><b>25</b></p> <p>DENIM DRIVE (<a href="http://www.gcc.o drive/2017-06-25/">http://www.gcc.o drive/2017-06-25/</a>)</p> <hr/> <p>RAISE A PRAISE BACK TO SCHOOL SUPPLY DRIVE (<a href="http://www.gcc.o a-praise-back-to-school-supply-drive/2017-06-25/">http://www.gcc.o a-praise-back-to-school-supply-drive/2017-06-25/</a>)</p> <hr/> <p>Financial Peace University (<a href="http://www.gcc.o peace-university-2/2017-06-25/">http://www.gcc.o peace-university-2/2017-06-25/</a>)</p> <hr/> <p><b>View All 4 Events</b> » (<a href="http://www.gcc.org/events/2017-06-25/?tribe_tags%5B0%5D=124">http://www.gcc.org/events/2017-06-25/?tribe_tags%5B0%5D=124</a>)</p>	<p><b>26</b></p> <p>Monday Fundays Lindale (<a href="http://www.gcc.o fundays-lindale/2017-06-26/">http://www.gcc.o fundays-lindale/2017-06-26/</a>)</p>	<p><b>27</b></p>	<p><b>28</b></p>	<p><b>29</b></p>	<p><b>30</b></p>	<p><b>1</b></p>

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*(<http://www.windowsphone.com/s?appid=79346759-5793-405c-be1d-372f69fa104a>)*

**CHURCH OFFICE**

1828 ESE Loop 323, Ste #300

Tyler, TX 75701

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903.593.3800

**CAMPUS INFO**

**LINDALE TYLER OJ TYLER UB**

15567 Woodsprings Rd.

Lindale, Texas 75771

([http://maps.apple.com/?](http://maps.apple.com/?daddr=32.4933207,-95.4065885999999)

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  - [Kids books](#)
  - [Teen books](#)
- [Tools & Research](#)
- [Video](#)
- ▼ [Events](#)
  - [Calendar](#)
  - [Bookmark Contest](#)
- ▼ [About](#)
  - [History](#)
  - [Friends of the Library](#)
  - [Thank You!](#)
  - [Hours and Location](#)

- [Mission](#)
- [Volunteer](#)
- [About Lillie Russell](#)
- [Meet the Director](#)

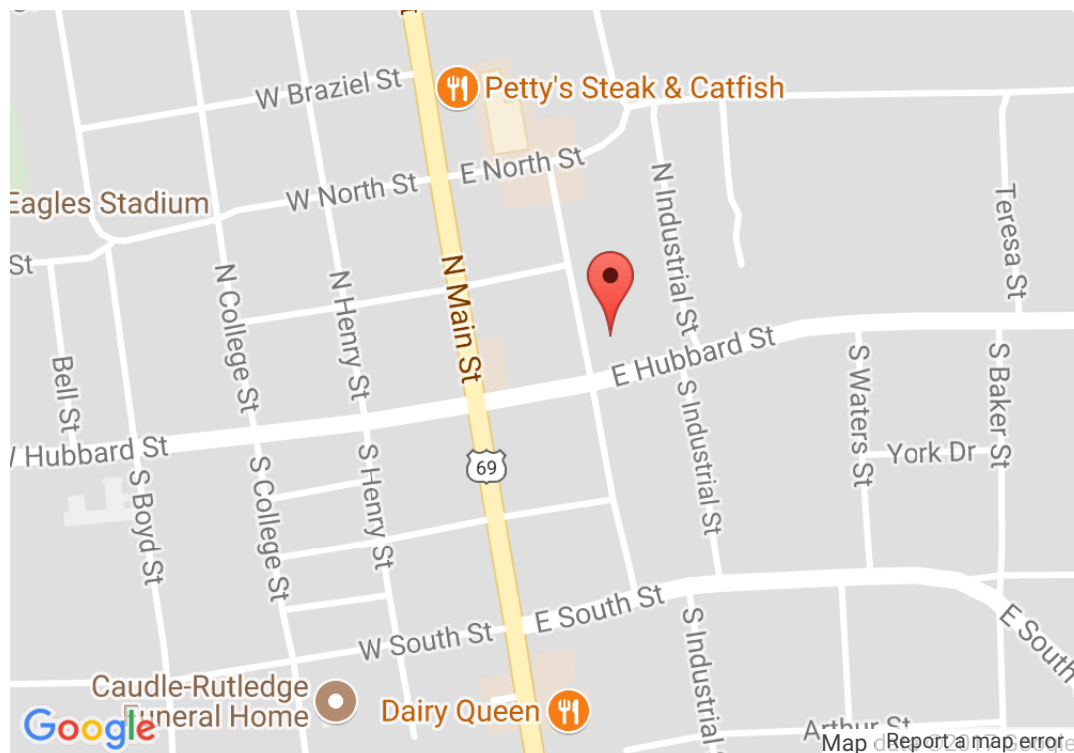
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## About

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## Library Hours

Lillie Russell Memorial Library is located near downtown Lindale, Texas at 200 East Hubbard Street, Lindale, TX 75771.



You can reach us by phone at 903-882-1900. Our library is staffed with exceptional employees who are dedicated to assisting their customers.

### **Our hours are:**

- **Tues: 10am-6pm**
- **Wed: 10am-6pm**
- **Thurs: 10am-6pm**
- **Fri-Sat: 10am -4pm**
- **Sun & Mon Closed**

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## **Contact**

Call: [903.882.1900](tel:903.882.1900)  
200 East Hubbard Street, Lindale, TX 75771-3397

## **Working Hours**

Tues - Thurs: 10am - 6pm. Fri-Sat: 10am - 4pm.  
Sun & Mon Closed.

© Lillie Russell Memorial Library Lindale 2017





ajcarpen . &lt;ajcarpen@gmail.com&gt;

## TDHCA Application #17288 - Third Party Request for Administrative Deficiency

Sharon Gamble <sharon.gamble@tdhca.state.tx.us>

Sun, Jun 25, 2017 at 4:55 PM

To: "fogel@texco.land" <fogel@texco.land>

Cc: "ajcarpen@gmail.com" <ajcarpen@gmail.com>

It appears that I neglected to send this request. **Please provide your response by July 3, 2017, at 5:00 p.m. Austin local time.**

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17288 Forest Trails**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued.

1. The Applicant claimed points under §11.9(c)(4)(B)(ii) Opportunity Index for Rural Areas, citing that they were within the required radii of all twelve of the amenities as listed in the 2017 Qualified Allocation Plan, and should be awarded full Opportunity Index and Tie Breaker points. The applicant did not submit any documentation for the following; **Anytime Fitness, Pool Park, Grace Community Church, Lillie Russell Memorial Library**, or adults with an Associate's Degree or higher is 27%.

While there is ongoing conversation about whether such evidence is required as the supporting documentation page from the Application does not explicitly ask for it, the requester has asked for evidence to support the request for the above bolded and underlined items. You are not required to submit evidence of the percentage of Associate's Degrees as that information is maintained by the Department.

**The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.**

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same

time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at [liz.cline@tdhca.state.tx.us](mailto:liz.cline@tdhca.state.tx.us) or by phone at (512)475-3227. You may also contact Jason Burr at [jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us) or by phone at (512)475-3986.

**All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.**

Regards,

Sharon D. Gamble MSW, PMP

Competitive Housing Tax Credit Program Administrator

Texas Department of Housing and Community Affairs

(512) 936-7834

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

---

**From:** Chaz Garrett [<mailto:chaz@lkcdevelopment.com>]

**Sent:** Thursday, June 01, 2017 2:31 PM

**To:** Marni Holloway; Sharon Gamble

**Cc:** [fogel@texco.land](mailto:fogel@texco.land); [ajcarpen@gmail.com](mailto:ajcarpen@gmail.com)

**Subject:** TDHCA Application #17288 - Third Party Request for Administrative Deficiency

[Quoted text hidden]

Application #17288  
Forest Trails  
Third Party Request for Administrative  
Deficiency

Department Determination



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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July 5, 2017

*Writer's direct phone # (512) 475-1676*  
*Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)*

Mr. Michael Fogel  
Lindale Forest Trails, LP  
P.O. Box 41326  
Austin, TX 78704

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17288 FOREST TRAILS

Dear Mr. Fogel:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of a Third Party Request for Administrative Deficiency ("RFAD"), dated June 1, 2017, requesting that the Department review the application above to determine whether it should lose points under 10 TAC §11.9(c)(4) related to Opportunity Index. The request asserts that the Application did not contain sufficient documentation of community assets used to claim points and tie-breakers.

Consistent with similar decisions made by the Department's Governing Board at its May 25, 2017, meeting, an Administrative Deficiency was determined to be appropriate for the Application. The Department issued a deficiency notice on June 25, 2017, and a response was received timely.

The response provides sufficient backup documentation to support the designations in original Application to have Anytime Fitness, Pool Park, Grace Community Church, and the Lillie Russell Memorial Library count toward Opportunity Index and tie-breakers.

The request mentions the outcomes for several other applications that received an Administrative Deficiency regarding §11.9(c)(4). It is noted below that the situations for each of these Applications is different and comparisons cannot be easily made:

1. 17097 – lost one point not because of documentation, but because the submitted library was not a public library.
2. 17275 – appealed staff's decision and was able to provide appropriate documentation
3. 17317 – lost two points because the "history museum" and "lending library and reading room" located at the Christian Bible Church were not a museum and not a public library. The Applicant had the opportunity to appeal staff's decision regarding the accessible items but chose not to.
4. 17700 - The Applicant had the opportunity to appeal staff's decision regarding the accessible items but chose not to.





July 5, 2017

Page 2

Your request also asserts that since the Applicant did not provide any distinction between scoring items and tie-breaker items, no tie-breaker items should be awarded. There is nothing in statute or in the rules that directs the Department to take such action.

I do not find that the points raised in the request clearly demonstrate that the score for the application listed above should be revised. The matter is considered resolved and no further action is required by the Applicant. If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', with a long horizontal flourish extending to the right.

Marni Holloway  
Multifamily Division Director

Cc: Chaz Garrett

Application #17305  
Payton Senior  
Third Party Request for Administrative  
Deficiency

# PICERNE AFFORDABLE DEVELOPMENT OF TEXAS, LLC

13785 RESEARCH BLVD., SUITE 125,

AUSTIN, TX 78750

(512) 409-6170 PHONE

May 26, 2017

Via Federal Express 5866 5056 0065 and  
Via Electronic Mail to Marni Holloway- [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)

Ms. Marni Holloway  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

RE: Third Party Request for Administrative Deficiency  
TDHCA Application No. 17305

Dear Ms. Holloway:

Pursuant to Section 11.10 of the 2017 Qualified Application Plan ("QAP"), please consider this letter as our formal Third Party Request for Administrative Deficiency with regard to Application No. 17305-Payton Senior, SWQ E. Central Texas Expy and Cunningham Rd, Killeen, Texas (the "Application").

A. We believe that Payton Senior, LLC (the "Applicant") will not be eligible for points for the following amenities in the following sections of the 2017 QAP:

1. Section 11.9(c)(4)(B)(i)(II): The Applicant's Development Site is not located less than 1/2 mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, the term "regular" is defined as scheduled service beyond 8 am to 5 pm plus weekend service. Per the 2017 TDHCA FAQ, weekend service needs to be Saturday AND Sunday. (See attached 2017 TDHCA FAQ-[Exhibit 1](#)) The HOP public transportation in Killeen does not run on Sundays so it will not qualify as an amenity under of the 2017 TDHCA QAP. The HOP public transportation schedule only shows routes for weekdays and Saturday. The HOP customer service states they do not run routes on Sundays. (See attached HOP public transportation schedule-[Exhibit 2](#))
2. Section 11.9(c)(4)(B)(i)(I): The Applicant's Development site is not located within 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards.
  - a. A public park is any area or portions of areas dedicated or designated by any federal, state, or local agency primarily for public recreational use. The applicant shows no proof that the Bacon Ranch Park is a public park. This park is not a city park per the City of Killeen website (See attached City Park Location pages from City of Killeen website-[Exhibit 3](#)) and there is no proof on the Central Texas Youth Services website that they built the park or have any involvement with the park therefore their written statement that this park is "open to the public" does not give staff enough concrete proof that this park is a "Public Park". (See attached letter from CTYS-[Exhibit 3](#))
  - b. There is no third-party corroboration that the Bacon Ranch Park playground is compliant for 2010 ADA standards. There is no map or proof in the application

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that there is a 2010 ADA accessible route from the Bacon Ranch Park to the development site. The route from the playground is not 100% accessible per the 2010 ADA standards. (See attached 2010 ADA Standards-Exhibit 4) There are also no sidewalks or routes depicted in the Applicants site plan that provides an accessible route to the park. The site plan shows a fence between the development property and park. (See attached development site plan-Exhibit 5)


3. Section 11.9(c)(4)(B)(i)(X): The Applicant's Development site is not located within 2 miles of a museum. Per the Applicant's application, they are using the Fort Hood Memorial as a museum. Per the Merriam-Webster Dictionary, a memorial is serving to preserve or commemorate remembrance (see attached Memorial definition and website shots for the November 5<sup>th</sup> Fort Hood Shooting Memorial, -Exhibit 6). The sculptures in the Fort Hood Memorial are part of the commemoration of the November 5<sup>th</sup> Fort Hood shooting. This memorial is an organization whose primary purpose is something other than the acquisition, conservation, study, exhibit, and educational interpretation of objects having scientific, historical or artistic value and does not qualify as a museum.

B. The site plan for Payton Senior is bisected by a high voltage transmission easement/line (see attached site plan and Google Earth site depiction-Exhibit 7). Per the Applicant's site plan, the location of the buildings does not appear to be in violation of Section 10.101 (a) (2)(D) where the buildings of the Development site must be outside 100 feet of the nearest line or structural element of any overhead high voltage transmission line but I'm not sure staff anticipated the high voltage transmission easement/line to bisect the Development site. We would like the staff to review the site plan for potential fire hazards at the development site and high voltage transmission easement issues with Texas Power and Light Company. The applicant needs to ensure Fire/EMS access to the site and all buildings.

Enclosed please find a check in the amount of \$500.00 covering the Third-Party Request for Administrative Deficiency processing fee. Thank you for your attention to this matter. Please feel free to contact us with any questions.

Sincerely,

Picerne Affordable Development of Texas, LLC

By:   
Robert M. Picerne, Sole Member

cc: Lisa Stephens- [lisa@saigebrook.com](mailto:lisa@saigebrook.com)  
Alyssa Carpenter- [ajcarpen@gmail.com](mailto:ajcarpen@gmail.com)



**Third Party Request for Administrative Deficiency Exhibits  
TDHCA Application No. 17305**

**EXHIBIT 1**

# 2017 Competitive Application Cycle FAQ

A: Your description would qualify as part of the accessible route. If a resident takes accessible transportation from the development to the park, the route from the transportation stop to the actual park would also have to be accessible. Just getting them to the vicinity of the park would not be enough.

**CLARIFICATION:** The provision of transportation is not a substitute for having an accessible route. If transportation is one of the services you will provide at your development, then that transportation must be accessible as described above, but it may not take the place of an accessible route.

Q: Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long?

A: The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable).

Q: If a public transportation stop or park is located less than half a mile from a vacant site where sidewalks are not yet built, but the development plan includes the sidewalks which would connect the proposed development to the park/transit stop, could that qualify an application for points?

A: In this case, if the missing part of the feature is under the Developer's control for completion and can be verified with the Site Plan, it could qualify.

Q: Is a small river/creek considered a census tract "barrier" if there is a bridge that connects both sides?

A: This will depend on a number of factors that will be unique to each situation. For instance, is the bridge right there, or is it 15 miles away? How accessible is the bridge? Provide information in the Application that assists staff in seeing the whole picture.

Q: With the addition of the language regarding hours and "weekend service" to the following point item, does just Saturday service work or does the service need to be both Saturday AND Sunday?

A: **Saturday and Sunday are required.** Note that it is acceptable for them to provide reduced service on weekends as most transit systems do.

Q: The neighborhood scout crime data on the website is for 2014 and I understand it will be updated in December or January. Depending on when the data is finally updated, it is possible that an application did not have an 18/1000 crime rate at preapp but it could at full app. Should we just take screenshots of the data and the date to prove disclosure was not needed at preapp if it should change?

A: You should definitely keep a copy of the data that was available at the time you submit the Pre-application, or the Application if no Pre-application is submitted. Of course, whatever source you are using for whatever purpose, you need to use the most current data as of the date of your submission. You can't use the old data because the new data doesn't fit.

## Underserved Area

Q: Is this section implied to be a menu-type election to total or add-up to 5 points **OR** are developers only allowed to take points in just one subpart?

A: Applicants may not combine the subparagraphs:

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to five (5) points if the Development Site is located in one of the areas described in subparagraphs (A) - (E) of this paragraph

Q: The rule states that the census tract should fall within the boundaries of an incorporated area. That seems to say that at least a part of that census tract should be in the boundaries of the incorporated area. Is that correct?

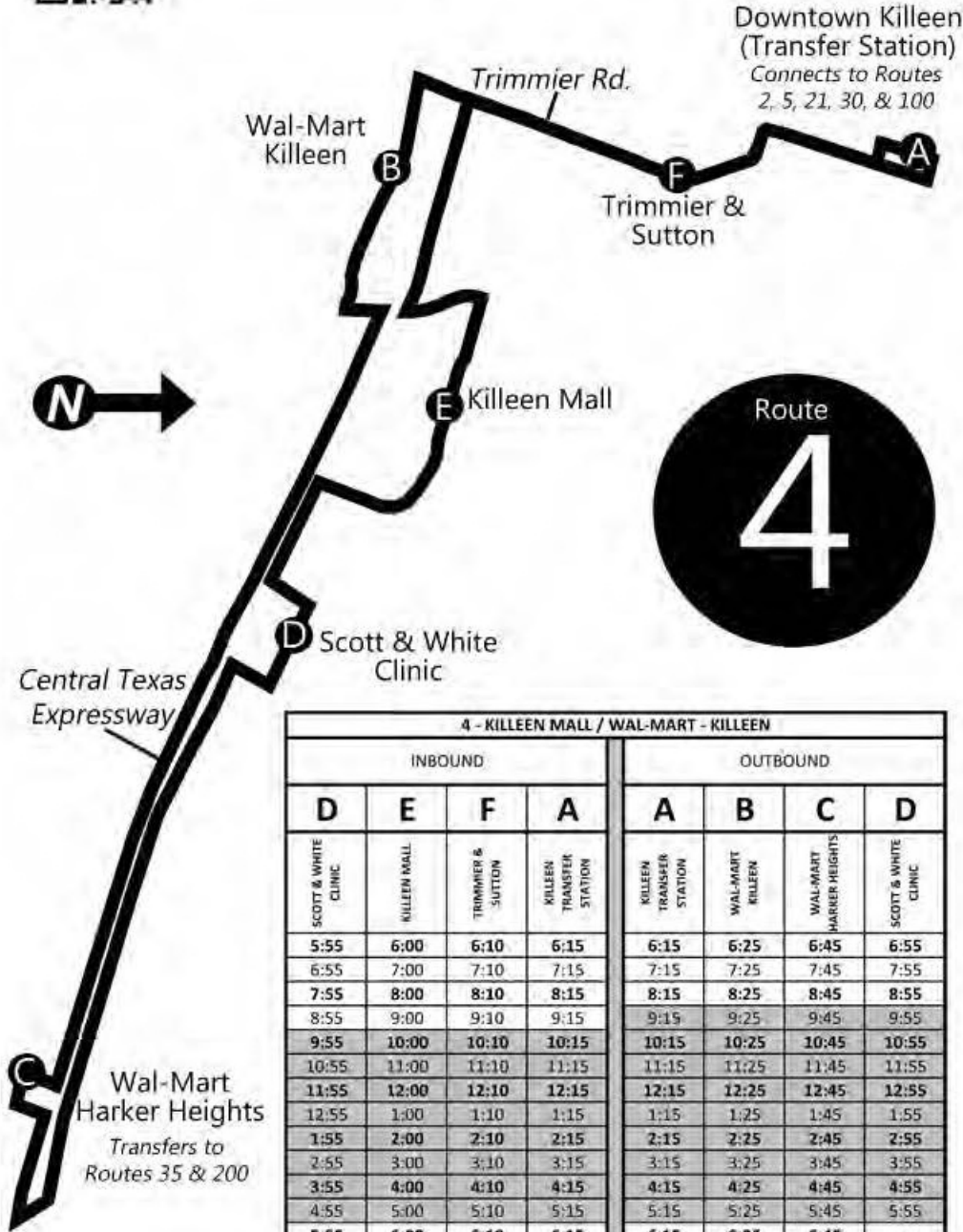
A: No. The entire census tract would have to be within the boundaries of the incorporated area in order to get these points.

**Third Party Request for Administrative Deficiency Exhibits  
TDHCA Application No. 17305**

**EXHIBIT 2**



(Hover mouse cursor over route number for route description.)



4 - KILLEEN MALL / WAL-MART - KILLEEN							
INBOUND				OUTBOUND			
D	E	F	A	A	B	C	D
SCOTT & WHITE CLINIC	KILLEEN MALL	TRIMMIER & SUTTON	KILLEEN TRANSFER STATION	KILLEEN TRANSFER STATION	WAL-MART KILLEEN	WAL-MART HARKER HEIGHTS	SCOTT & WHITE CLINIC
5:55	6:00	6:10	6:15	6:15	6:25	6:45	6:55
6:55	7:00	7:10	7:15	7:15	7:25	7:45	7:55
7:55	8:00	8:10	8:15	8:15	8:25	8:45	8:55
8:55	9:00	9:10	9:15	9:15	9:25	9:45	9:55
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11:55	12:00	12:10	12:15	12:15	12:25	12:45	12:55
12:55	1:00	1:10	1:15	1:15	1:25	1:45	1:55
1:55	2:00	2:10	2:15	2:15	2:25	2:45	2:55
2:55	3:00	3:10	3:15	3:15	3:25	3:45	3:55
3:55	4:00	4:10	4:15	4:15	4:25	4:45	4:55
4:55	5:00	5:10	5:15	5:15	5:25	5:45	5:55
5:55	6:00	6:10	6:15	6:15	6:25	6:45	-

SATURDAY SERVICE

The HOP has No Sunday Service per The HOP Schedule and the HOP customer service.



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**Third Party Request for Administrative Deficiency Exhibits  
TDHCA Application No. 17305**

**EXHIBIT 3**

# 2017 Competitive Application Cycle FAQ

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Q: For the opportunity index property crime item, are you going to specify the data to be used for the "or local data sources"? Should the "local data sources" be 2015 data or can it be 2016 data? What population figure should we use?

A: We will not specify which local data to use; though the subject data should mirror as much as possible that of Neighborhood Scout. For consistency, use the population data included in the Site Demographics Report, which is based on 2010-2014 ACS.

Q: Please confirm if a fast food restaurant such as McDonalds, Chic Fil A, etc. that has an indoor playground qualify as an indoor recreation facility. Would a bowling alley qualify as an indoor recreation facility?

A: The playground inside a fast food restaurant would not be considered an indoor recreation facility. A bowling alley would qualify.

Q: Would you consider an Anytime Fitness 24 hour gym or any other facility that requires memberships to use them as Indoor Recreation?

A: Yes, we would consider the Anytime Fitness or similar facility to be Indoor Recreation.

Q: Must indoor and outdoor recreation facilities be free or just open to the public? Also, must they be accessible?

A: They don't have to be free. They have to be accessible by law, even if the QAP does not single them out.

Q: Please further clarify what qualifies for an outdoor recreation facility. For example, would any school's outdoor playgrounds, baseballs fields, tennis courts etc. qualify? What if these were only available to students during school hours but after school hours the facilities are gated and locked to the general public?

A: If evidence shows that the facilities are open and available to the public, then they would be considered. If not, they would not qualify. We would need something from the school saying it is, as they are usually not.

Q: Would a public park qualify for an outdoor recreation facility if the park did not have any actual recreation equipment? For example, if the public park is a nature preserve or an open field with expansive lawns and walking trails qualify or would the park have to have an amenity such as a playground, basketball court or similar activity to qualify as an outdoor recreation facility? Would a football stadium where collegiate or professional sports are played qualify?

A: A park such as one you have described would qualify. A stadium wouldn't count.

Q: The rule states that the museum cannot be "an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value". Please explain this carve-out and if possible specific examples of museums that would not qualify based on this provision.

A: The carve-out is simply "it has to be a museum". If you tour a bakery, and at some point in the tour there is a room that has all of the bread-making equipment since 1943 on display, that does not make the bakery a museum. It is a bakery that has a room where they display things. However, a free-standing "The Museum of 20<sup>th</sup> Century Baking" that operates as an independent organization would qualify as a museum for this point item.

Q: How does one determine if a museum is government sponsored? If a museum is listed with the Texas Historical Commission, would that be qualifying criteria?

A: THC is not the criteria. You would see it on their website, or you would have to contact them. It could be a city or county museum. Most will be nonprofit.

## **Clarified January 31:**

Q: Can an accessible route include accessible public transportation (wheelchair capable/meets ADA standards) service that stops at the development site and has service to and from a public park that is located w/in ½ from the development site?



# 2017 Competitive Application Cycle FAQ

A: Your description would qualify as part of the accessible route. If a resident takes accessible transportation from the development to the park, the route from the transportation stop to the actual park would also have to be accessible. Just getting them to the vicinity of the park would not be enough.

**CLARIFICATION:** The provision of transportation is not a substitute for having an accessible route. If transportation is one of the services you will provide at your development, then that transportation must be accessible as described above, but it may not take the place of an accessible route.

Q: Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long?

A: The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable).

Q: If a public transportation stop or park is located less than half a mile from a vacant site where sidewalks are not yet built, but the development plan includes the sidewalks which would connect the proposed development to the park/transit stop, could that qualify an application for points?

A: In this case, if the missing part of the feature is under the Developer's control for completion and can be verified with the Site Plan, it could qualify.

Q: Is a small river/creek considered a census tract "barrier" if there is a bridge that connects both sides?

A: This will depend on a number of factors that will be unique to each situation. For instance, is the bridge right there, or is it 15 miles away? How accessible is the bridge? Provide information in the Application that assists staff in seeing the whole picture.

Q: With the addition of the language regarding hours and "weekend service" to the following point item, does just Saturday service work or does the service need to be both Saturday AND Sunday?

A: Saturday and Sunday are required. Note that it is acceptable for them to provide reduced service on weekends as most transit systems do.

Q: The neighborhood scout crime data on the website is for 2014 and I understand it will be updated in December or January. Depending on when the data is finally updated, it is possible that an application did not have an 18/1000 crime rate at preapp but it could at full app. Should we just take screenshots of the data and the date to prove disclosure was not needed at preapp if it should change?

A: You should definitely keep a copy of the data that was available at the time you submit the Pre-application, or the Application if no Pre-application is submitted. Of course, whatever source you are using for whatever purpose, you need to use the most current data as of the date of your submission. You can't use the old data because the new data doesn't fit.

## Underserved Area

Q: Is this section implied to be a menu-type election to total or add-up to 5 points **OR** are developers only allowed to take points in just one subpart?

A: Applicants may not combine the subparagraphs:

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to five (5) points if the Development Site is located in one of the areas described in subparagraphs (A) - (E) of this paragraph

Q: The rule states that the census tract should fall within the boundaries of an incorporated area. That seems to say that at least a part of that census tract should be in the boundaries of the incorporated area. Is that correct?

A: No. The entire census tract would have to be within the boundaries of the incorporated area in order to get these points.

**Third Party Request for Administrative Deficiency Exhibits  
TDHCA Application No. 17305**

**EHIBIT 4**



[Print](#)

## Chapter 4: Accessible Routes

### 401 General

401.1 Scope. The provisions of Chapter 4 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

### 402 Accessible Routes

402.1 General. Accessible routes shall comply with 402.

402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4.

Advisory 402.2 Components. Walking surfaces must have running slopes not steeper than 1:20, see 403.3. Other components of accessible routes, such as ramps (405) and curb ramps (406), are permitted to be more steeply sloped.

### 403 Walking Surfaces

403.1 General. Walking surfaces that are a part of an accessible route shall comply with 403.

403.2 Floor or Ground Surface. Floor or ground surfaces shall comply with 302.

403.3 Slope. The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48.

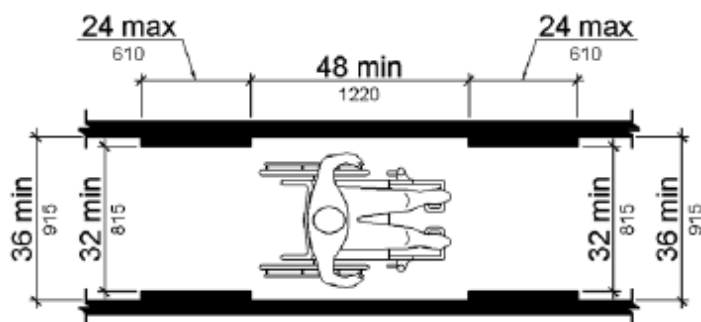
403.4 Changes in Level. Changes in level shall comply with 303.

403.5 Clearances. Walking surfaces shall provide clearances complying with 403.5.

EXCEPTION: Within employee work areas, clearances on common use circulation paths shall be permitted to be decreased by work area equipment provided that the decrease is essential to the function of the work being performed.

403.5.1 Clear Width. Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.

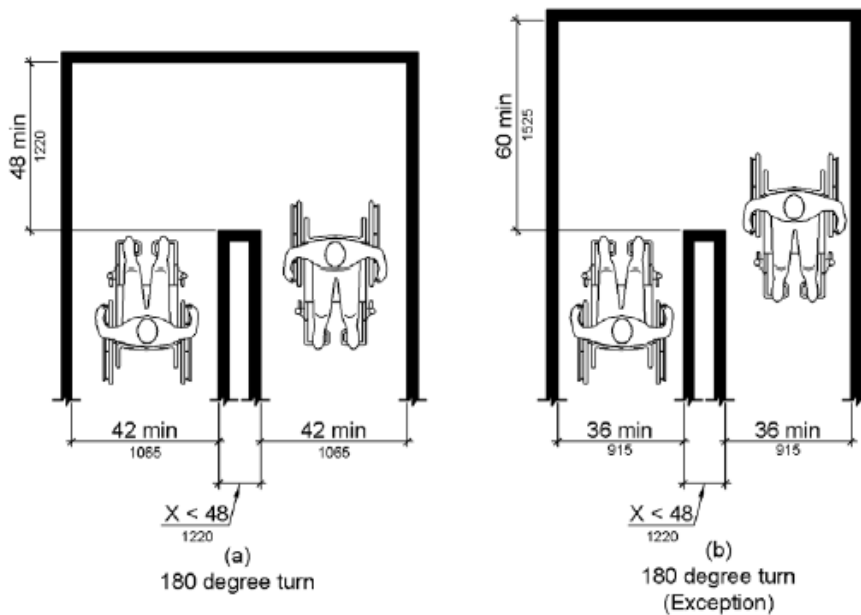
EXCEPTION: The clear width shall be permitted to be reduced to 32 inches (815 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum.



**Figure 403.5.1 Clear Width of an Accessible Route**

403.5.2 Clear Width at Turn. Where the accessible route makes a 180 degree turn around an element which is less than 48 inches (1220 mm) wide, clear width shall be 42 inches (1065 mm) minimum approaching the turn, 48 inches (1220 mm) minimum at the turn and 42 inches (1065 mm) minimum leaving the turn.

EXCEPTION: Where the clear width at the turn is 60 inches (1525 mm) minimum compliance with 403.5.2 shall not be required.



**Figure 403.5.2 Clear Width at Turn**

403.5.3 Passing Spaces. An accessible route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.

403.6 Handrails. Where handrails are provided along walking surfaces with running slopes not steeper than 1:20 they shall comply with 505.

Advisory 403.6 Handrails. Handrails provided in elevator cabs and platform lifts are not required to comply with the requirements for handrails on walking surfaces.

## 404 Doors, Doorways, and Gates

404.1 General. Doors, doorways, and gates that are part of an accessible route shall comply with 404.

EXCEPTION: Doors, doorways, and gates designed to be operated only by security personnel shall not be required to comply with 404.2.7, 404.2.8, 404.2.9, 404.3.2 and 404.3.4 through 404.3.7.

Advisory 404.1 General Exception. Security personnel must have sole control of doors that are eligible for the Exception at 404.1. It would not be acceptable for security personnel to operate the doors for people with disabilities while allowing others to have independent access.

404.2 Manual Doors, Doorways, and Manual Gates. Manual doors and doorways and manual gates intended for user passage shall comply with 404.2.

404.2.1 Revolving Doors, Gates, and Turnstiles. Revolving doors, revolving gates, and turnstiles shall not be part of an accessible route.

404.2.2 Double-Leaf Doors and Gates. At least one of the active leaves of doorways with two leaves shall comply with 404.2.3 and 404.2.4.

404.2.3 Clear Width. Door openings shall provide a clear width of 32 inches (815 mm) minimum. Clear openings of doorways with swinging doors shall be measured between the face of the door and the stop, with the door open 90 degrees. Openings more than 24 inches (610 mm) deep shall provide a clear opening of 36 inches (915 mm) minimum.

[Print](#)

## Chapter 1: Application and Administration

### 101 Purpose

101.1 General. This document contains scoping and technical requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities. The requirements are to be applied during the design, construction, additions to, and alteration of sites, facilities, buildings, and elements to the extent required by regulations issued by Federal agencies under the Americans with Disabilities Act of 1990 (ADA).

Advisory 101.1 General. In addition to these requirements, covered entities must comply with the regulations issued by the Department of Justice and the Department of Transportation under the Americans with Disabilities Act. There are issues affecting individuals with disabilities which are not addressed by these requirements, but which are covered by the Department of Justice and the Department of Transportation regulations.

101.2 Effect on Removal of Barriers in Existing Facilities. This document does not address existing facilities unless altered at the discretion of a covered entity. The Department of Justice has authority over existing facilities that are subject to the requirement for removal of barriers under title III of the ADA. Any determination that this document applies to existing facilities subject to the barrier removal requirement is solely within the discretion of the Department of Justice and is effective only to the extent required by regulations issued by the Department of Justice.

### 102 Dimensions for Adults and Children

The technical requirements are based on adult dimensions and anthropometrics. In addition, this document includes technical requirements based on children's dimensions and anthropometrics for drinking fountains, water closets, toilet compartments, lavatories and sinks, dining surfaces, and work surfaces.

### 103 Equivalent Facilitation

Nothing in these requirements prevents the use of designs, products, or technologies as alternatives to those prescribed, provided they result in substantially equivalent or greater accessibility and usability.

Advisory 103 Equivalent Facilitation. The responsibility for demonstrating equivalent facilitation in the event of a challenge rests with the covered entity. With the exception of transit facilities, which are covered by regulations issued by the Department of Transportation, there is no process for certifying that an alternative design provides equivalent facilitation.

### 104 Conventions

104.1 Dimensions. Dimensions that are not stated as "maximum" or "minimum" are absolute.

104.1.1 Construction and Manufacturing Tolerances. All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.

Advisory 104.1.1 Construction and Manufacturing Tolerances. Conventional industry tolerances recognized by this provision include those for field conditions and those that may be a necessary consequence of a particular manufacturing process. Recognized tolerances are not intended to apply to design work.

It is good practice when specifying dimensions to avoid specifying a tolerance where dimensions are absolute. For example, if this document requires "1 inches," avoid specifying "1 inches plus or minus X inches."

Where the requirement states a specified range, such as in Section 609.4 where grab bars must be installed between 33 inches and 36 inches above the floor, the range provides an adequate tolerance and therefore no tolerance outside of the range at either end point is permitted.

Where a requirement is a minimum or a maximum dimension that does not have two specific minimum and maximum end points, tolerances may apply. Where an element is to be installed at the minimum or maximum permitted dimension, such as "15 inches minimum" or "5 pounds maximum", it would not be

private buildings or facilities that contain not more than five rooms for rent or hire and that are actually occupied by the proprietor as the residence of such proprietor.

**Transition Plate.** A sloping pedestrian walking surface located at the end(s) of a gangway.

**TTY.** An abbreviation for teletypewriter. Machinery that employs interactive text-based communication through the transmission of coded signals across the telephone network. TTYS may include, for example, devices known as TDDs (telecommunication display devices or telecommunication devices for deaf persons) or computers with special modems. TTYS are also called text telephones.

**Use Zone.** The ground level area beneath and immediately adjacent to a play structure or play equipment that is designated by ASTM F 1487 (incorporated by reference, see "Referenced Standards" in Chapter 1) for unrestricted circulation around the play equipment and where it is predicted that a user would land when falling from or exiting the play equipment.

**Vehicular Way.** A route provided for vehicular traffic, such as in a street, driveway, or parking facility.

**Walk.** An exterior prepared surface for pedestrian use, including pedestrian areas such as plazas and courts.

**Wheelchair Space.** Space for a single wheelchair and its occupant.

**Work Area Equipment.** Any machine, instrument, engine, motor, pump, conveyor, or other apparatus used to perform work. As used in this document, this term shall apply only to equipment that is permanently installed or built-in in employee work areas. Work area equipment does not include passenger elevators and other accessible means of vertical transportation.



**Third Party Request for Administrative Deficiency Exhibits  
TDHCA Application No. 17305**

**EXHIBIT 5**



Administration Office  
204 N. East St. Suite A  
Belton, TX 76513  
Office: 254.939.3466  
Fax: 254.939.2103

March 1, 2017

To Whom It May Concern:

This letter is to confirm that the park at 2812 Bacon Ranch Road, Killeen, TX 76542 is open to the public. Please feel free to contact me at 254.939.3466 with any questions regarding this property.

Sincerely,

Kami L. Diaz, LCSW  
Executive Director

*Mission: Assist troubled children, youth and families toward development of their full potential through provision of quality community-based services.*

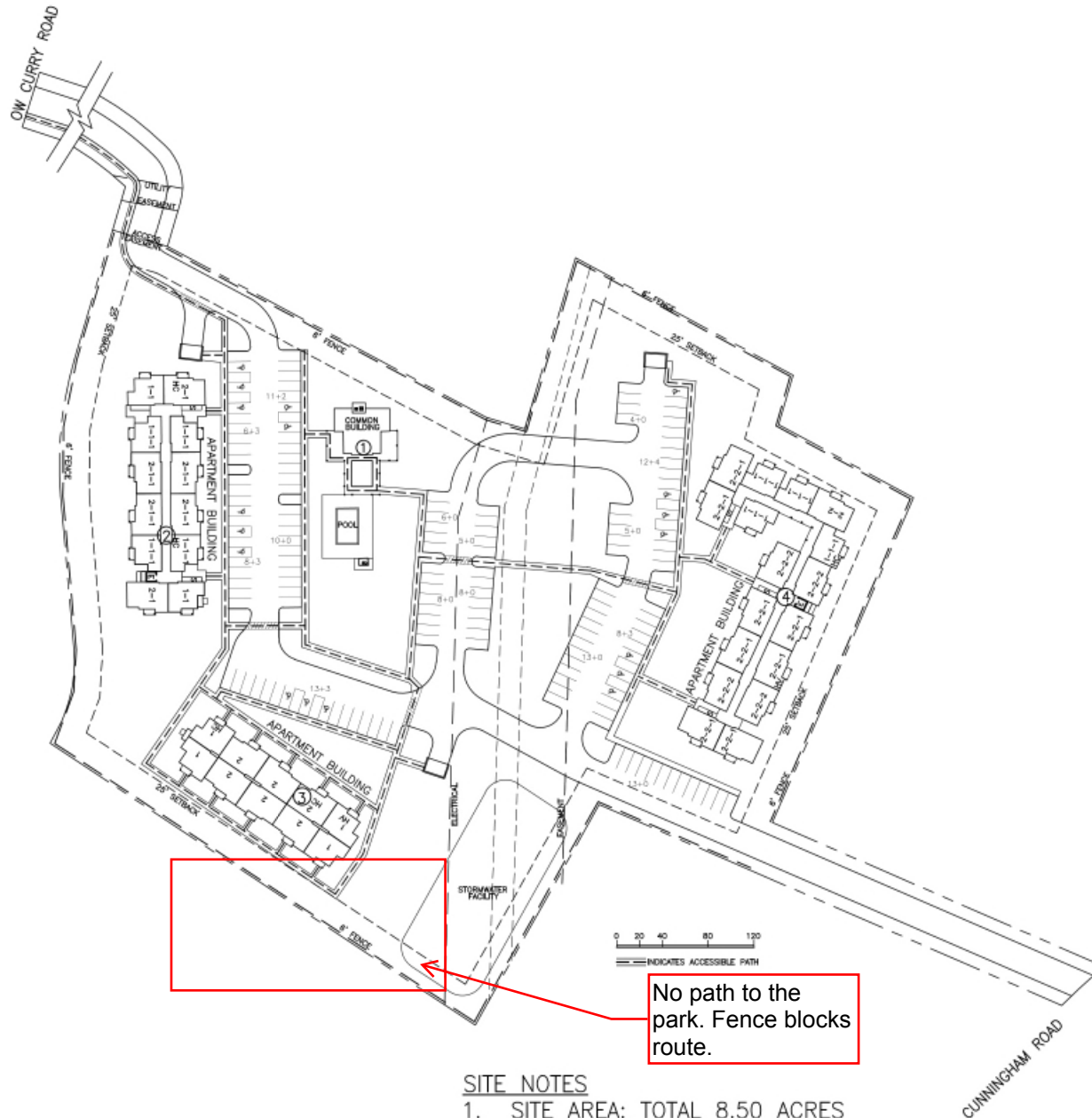
**EXHIBIT A**

**DEPICTION OF ACCESS DRIVE PORTION OF SUBJECT PROPERTY**  
**(all of Subject Property is outlined in yellow)**



MIADOCS 14118180 8

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65



No path to the park. Fence blocks route.

SITE NOTES

1. SITE AREA: TOTAL 8.50 ACRES
2. ENTIRE SITE IS IN FLOOD ZONE X
3. ALL ONSITE CONSTRUCTION IS NEW CONSTRUCTION
4. MINIMUM 8'-0" CEILING HEIGHT
5. PARKING COUNT MEETS THE REQUIREMENTS OF LOCAL JURISDICTION.

# ARCHITECTURAL SITE PLAN

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## PAYTON SENIOR

Killeen, Texas





**Third Party Request for Administrative Deficiency Exhibits  
TDHCA Application No. 17305**

**EXHIBIT 6**

# 2017 Competitive Application Cycle FAQ

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Q: For the opportunity index property crime item, are you going to specify the data to be used for the "or local data sources"? Should the "local data sources" be 2015 data or can it be 2016 data? What population figure should we use?

A: We will not specify which local data to use; though the subject data should mirror as much as possible that of Neighborhood Scout. For consistency, use the population data included in the Site Demographics Report, which is based on 2010-2014 ACS.

Q: Please confirm if a fast food restaurant such as McDonalds, Chic Fil A, etc. that has an indoor playground qualify as an indoor recreation facility. Would a bowling alley qualify as an indoor recreation facility?

A: The playground inside a fast food restaurant would not be considered an indoor recreation facility. A bowling alley would qualify.

Q: Would you consider an Anytime Fitness 24 hour gym or any other facility that requires memberships to use them as Indoor Recreation?

A: Yes, we would consider the Anytime Fitness or similar facility to be Indoor Recreation.

Q: Must indoor and outdoor recreation facilities be free or just open to the public? Also, must they be accessible?

A: They don't have to be free. They have to be accessible by law, even if the QAP does not single them out.

Q: Please further clarify what qualifies for an outdoor recreation facility. For example, would any school's outdoor playgrounds, baseballs fields, tennis courts etc. qualify? What if these were only available to students during school hours but after school hours the facilities are gated and locked to the general public?

A: If evidence shows that the facilities are open and available to the public, then they would be considered. If not, they would not qualify. We would need something from the school saying it is, as they are usually not.

Q: Would a public park qualify for an outdoor recreation facility if the park did not have any actual recreation equipment? For example, if the public park is a nature preserve or an open field with expansive lawns and walking trails qualify or would the park have to have an amenity such as a playground, basketball court or similar activity to qualify as an outdoor recreation facility? Would a football stadium where collegiate or professional sports are played qualify?

A: A park such as one you have described would qualify. A stadium wouldn't count.

Q: The rule states that the museum cannot be "an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value". Please explain this carve-out and if possible specific examples of museums that would not qualify based on this provision.

A: The carve-out is simply "it has to be a museum". If you tour a bakery, and at some point in the tour there is a room that has all of the bread-making equipment since 1943 on display, that does not make the bakery a museum. It is a bakery that has a room where they display things. However, a free-standing "The Museum of 20<sup>th</sup> Century Baking" that operates as an independent organization would qualify as a museum for this point item.

Q: How does one determine if a museum is government sponsored? If a museum is listed with the Texas Historical Commission, would that be qualifying criteria?

A: THC is not the criteria. You would see it on their website, or you would have to contact them. It could be a city or county museum. Most will be nonprofit.

## **Clarified January 31:**

Q: Can an accessible route include accessible public transportation (wheelchair capable/meets ADA standards) service that stops at the development site and has service to and from a public park that is located w/in ½ from the development site?



# museum

*noun* | mu·se·um | \myù-'zē-əm\

Popularity: Bottom 50% of words

**Examples:** MUSEUM in a sentence ▼

## Definition of MUSEUM

: an institution devoted to the procurement, care, study, and display of objects of lasting interest or value • American *Museum* of Natural History; *also* : a place where objects are exhibited

- an art *museum*

---

See *museum* defined for English-language learners

See *museum* defined for kids



# <sup>1</sup> memorial

*adjective* | me·mo·ri·al | \mə-'môr-ē-əl\

Popularity: Bottom 50% of words

**Examples:** MEMORIAL in a sentence ▼

## Definition of MEMORIAL

**1** : serving to preserve remembrance : **COMMEMORATIVE**

**2** : of or relating to **memory**

—**memorially** \-ə-'lē\ *adverb*

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See *memorial* defined for English-language learners

See *memorial* defined for kids



# Fort Hood November 5 Memorial (<http://november5memorial.com>)

[Home](#)   [How To Donate](#)   [Business](#)   [Timeline](#)   [Cost Estimate](#)

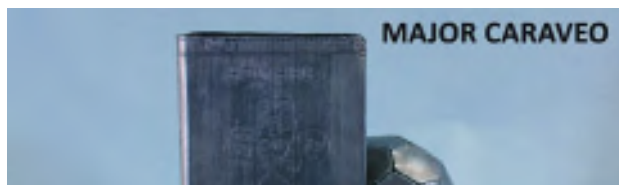
[Wounded on that tragic day](#)   [Sculptures](#)   [Donor List](#)

[HOME \(HTTP://NOVEMBER5MEMORIAL.COM\)](#) > SCULPTURES

## Sculptures



([http://november5memorial.com/wp-content/uploads/2014/07/IMG\\_00301.jpg](http://november5memorial.com/wp-content/uploads/2014/07/IMG_00301.jpg))

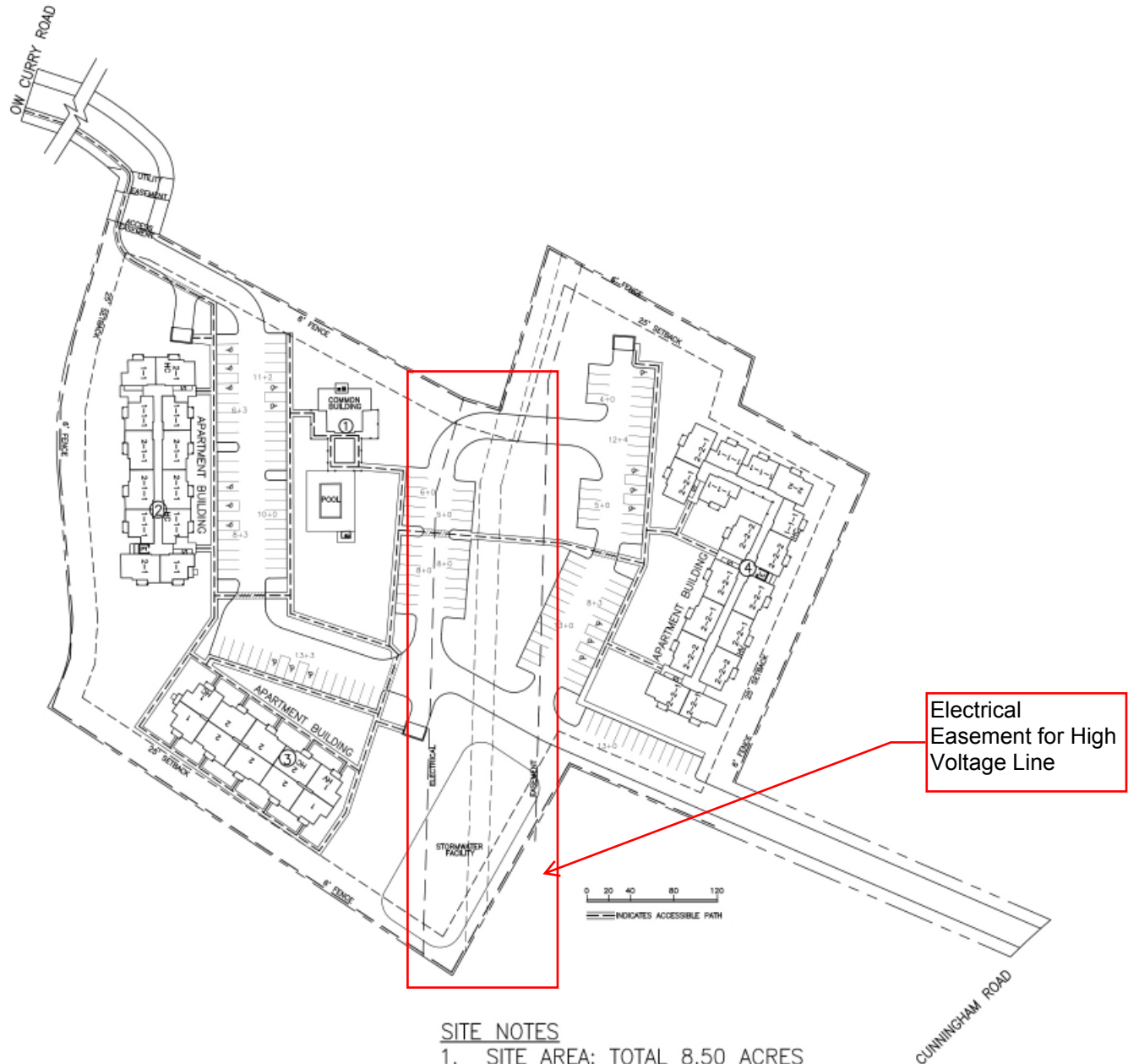




November 5 Memorial Dedication

**Third Party Request for Administrative Deficiency Exhibits  
TDHCA Application No. 17305**

**EXHIBIT 7**



Electrical Easement for High Voltage Line



SITE NOTES

1. SITE AREA: TOTAL 8.50 ACRES
2. ENTIRE SITE IS IN FLOOD ZONE X
3. ALL ONSITE CONSTRUCTION IS NEW CONSTRUCTION
4. MINIMUM 8'-0" CEILING HEIGHT
5. PARKING COUNT MEETS THE REQUIREMENTS OF LOCAL JURISDICTION.

# ARCHITECTURAL SITE PLAN

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## PAYTON SENIOR

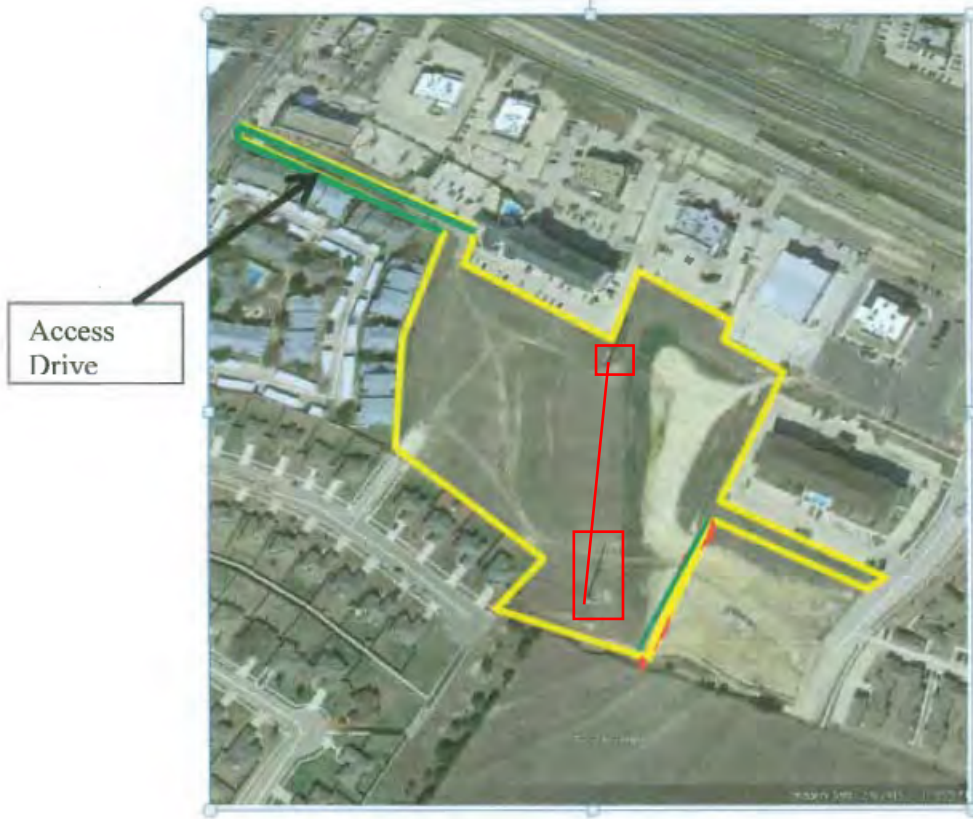
Killeen, Texas





**EXHIBIT A**

**DEPICTION OF ACCESS DRIVE PORTION OF SUBJECT PROPERTY**  
**(all of Subject Property is outlined in yellow)**



MIADOCS 14118180 8

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Application #17305  
Payton Senior  
Third Party Request for Administrative  
Deficiency

Administrative Deficiency issued as result of  
the Request

Application #17305  
Payton Senior  
Third Party Request for Administrative  
Deficiency

Applicant Response

1a. Please find the attached confirmations regarding the public park from the certified Accessibility Specialist, the local agency that owns the park, and the City of Killeen.

1b. The language of the QAP states as follows:

The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards. (1 point)

The scoring appeal for this Application provided a letter from a certified Accessibility Specialist, also attached here, that states that he reviewed the location of the development site, the site plan, the site fencing, and the sidewalk route for the park and he confirmed that the route from the site to the park meets 2010 ADA accessibility standards and the playground meets 2010 ADA accessibility standards, consistent with the QAP language. The QAP specifically states “the Development site is located less than ½ mile on an accessible route from a public park...” The QAP does not say “located less than ½ mile on an accessible route from an accessible playground,” which is what this deficiency notice seems to imply. The Administrative Deficiency asks for us to “Explain how the route to the playground meets accessibility standards when there appears to be **no accessible path** leading to the playground” (emphasis added). However, there is no such requirement in the QAP for an accessible path leading to the playground. The QAP does not state “the Development site is located less than ½ mile on an accessible route from a public park *and* an accessible playground.” The actual language of the QAP does not require an accessible route to the playground itself—the QAP only states the site is less than ½ mile on an accessible route from a “park” with an accessible playground. There is no doubt that there is an accessible route from the Development Site to a park with an accessible playground, which has been confirmed by the certified Accessibility Specialist.

2a. The scoring appeal for this Application provided a letter from a certified Accessibility Specialist, also attached here, that states that he reviewed the location of the development site, the site plan, and the route to the transit stop and he confirmed that the route from the site to the bus stop meets 2010 ADA accessibility standards. The Accessibility Specialist reviewed the site plan to extend the sidewalk over the drainage swale to the bus stop (the sidewalk plan was also included in the Application). The Applicant has been coordinating with The HOP, as demonstrated by the attached letter, regarding the bus stop improvements.

Per the following FAQ question regarding missing sections of an accessible route, the Developer has coordinated a plan to complete the sidewalk which is verified with the site plan included in the Application.

*Q: If a public transportation stop or park is located less than half a mile from a vacant site where sidewalks are not yet built, but the development plan includes the sidewalks which would connect the proposed development to the park/transit stop, could that qualify an application for points?*

*A: In this case, if the missing part of the feature is under the Developer's control for completion and can be verified with the Site Plan, it could qualify.*





**Alejandro ALEX) Arreguin**  
REGISTERED ACCESSIBILITY SPECIALIST  
RAS # 396 TX Dept Of Lic & Reg  
1901 Convent Ave  
Laredo, TX 78040-4852  
(956) 285-4091 Fax 602-0430



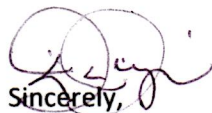
9 June 2017

Ms. Megan Lasch  
Payton Senior, LLC  
Suite 1504  
421 W. 3<sup>rd</sup> St.  
Austin, TX. 78701

RE: Question Regarding Whether Bacon Ranch Park, Located on an Accessible Route From the Proposed Payton Senior Development in Killeen, TX is a Public Park That is Free and Open for Public Use.

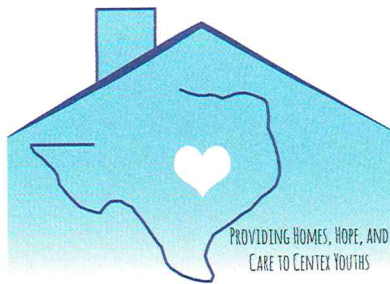
Ms. Lasch,

I would like to confirm that Bacon Ranch Park for which I reviewed the accessible route from and to the proposed Payton Senior development and for which I also reviewed accessible features of the playground, itself, is a public park, free of charge and open for public use. As a Texas Accessibility Specialist I am aware of numerous facilities that are privately owned and funded but are open to the public and due to these circumstances and by virtue of these facts meet the definition of public parks. An example of similar parks that meet the definition of public parks are athletic fields and other public parks that are open free to the public and owned by private, non-profit, local, charitable organizations such as school booster clubs, the Lions Club, and land conservation institutions.

  
Sincerely,

alex arreguin RAS #396

Administration Office  
204 N. East St. Suite A  
Belton, TX 76513  
Office: 254.939.3466  
Fax: 254.939.2103



Central Texas Youth Services  
[www.centraltexasyouthservices.com](http://www.centraltexasyouthservices.com)

June 12, 2017

Tim Irvine  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701  
E-Mail: [tim.irvine@tdhca.state.tx.us](mailto:tim.irvine@tdhca.state.tx.us)

RE: Bacon Ranch Park

Dear Mr. Irvine:

Please accept this letter as confirmation that the Bacon Ranch Park is open to the public.

Central Texas Youth Services Bureau (CTYSB) is a tax exempt 501(c)(3) nonprofit organization that serves the community with a primary purpose of assisting vulnerable youth in need and the overall betterment of the community. We are a local agency that receives federal funding

CTYSB is responsible for maintaining the park and carries a general liability policy to allow for the public use of this park. There is no charge to access the park.

On, February 23, 2017 the CTYSB Board of Directors voted to maintain this land, currently operating as a public park, and accept responsibility for the maintenance of property and the park equipment.

A handwritten signature in blue ink, appearing to be "Buck Major".

Buck Major  
Central Texas Youth Services Bureau  
Board Chair

*Mission: Assist troubled children, youth and families toward development of their full potential through provision of quality community-based services.*



ajcarpen . <ajcarpen@gmail.com>

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**FW: Private park**

---

**Megan Lasch** <megan@o-sda.com>

Wed, Jun 21, 2017 at 5:53 PM

To: Lisa Stephens <Lisa@saigebrook.com>, Alyssa Carpenter <ajcarpen@gmail.com>, sarah@sarahandersonconsulting.com

Megan Lasch

421 West 3<sup>rd</sup> Street #1504

Austin, TX 78701

[830.330.0762](tel:830.330.0762)

---

**From:** Tony McIlwain [mailto:[TMcIlwain@killeentexas.gov](mailto:TMcIlwain@killeentexas.gov)]

**Sent:** Wednesday, June 21, 2017 4:45 PM

**To:** Megan Lasch

**Subject:** Private park

Hello Megan,

Per our previous conversation, Bacon Ranch Park is a privately owned park open to the public. I hope this helps.

Thanks,

Tony D. McIlwain, AICP, CFM

City Planner

Planning and Development Services Department

200 E. Ave. D, Killeen, Texas 7640

Ph: [254-501-7633](tel:254-501-7633)

Fax: [254-501-7628](tel:254-501-7628)

Cell: [254-290-9277](tel:254-290-9277)

E-mail: [tmcilwain@killeentexas.gov](mailto:tmcilwain@killeentexas.gov)



Alejandro (ALEX) Arreguin  
REGISTERED ACCESSIBILITY SPECIALIST  
RAS Lic # 396



**1901 Convent Ave**  
*Laredo, TX 78040-4852*  
(956) 723-0290 Fax 602-0340  
[Jando342@yahoo.com](mailto:Jando342@yahoo.com)

3 June 2017

Ms. Megan Lasch  
Payton Senior, LLC  
Suite 1504  
421 W. 3<sup>rd</sup> St.  
Austin, TX. 78701

RE: 2010 ADA Accessible Sidewalk Route to Park and Transit Stop and 2010 ADA Accessible Playground Within ½ Mile of Proposed Payton Senior Development in Killeen, TX.

Ms. Lasch,

I have reviewed the location of the Payton Senior development site, in Killeen, TX, the engineer prepared site plan and the route to the accessible public park and transit stop located within 1/2 mile of the development site as indicated on the attached map. I have confirmed that the site fencing will include a pedestrian gate to allow a sidewalk connection point, behind building 3, to the existing sidewalk route for the park. As such I can confirm that the routes meet 2010 ADA accessibility standards from the proposed site location to the transit stop and park, respectively, as indicated on the map.

I have also reviewed the public playground at the park location indicated on the map and can confirm that the playground and engineered mulch surface beneath meets 2010 ADA standards.

Sincerely,

Alex Arreguin RAS #396



# Payton Senior Opportunity Index



4515 W. US 190  
Belton, Texas 76513  
(254) 933-3700  
(254) 933-3724 fax



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February 20, 2017

Payton Senior, LLC  
421 West 3<sup>rd</sup> Street #1504  
Austin, TX 78701

RE: Sidewalk Extension Requirement

To Whom It May Concern,

As part of the Payton Senior site plan approval, we recommend the existing bus stop located on the eastbound CTE Expressway access road at its intersection with OW Curry be improved. Our understanding is that future residents of the Payton Senior project will rely on this bus stop.

Therefore, we request the Payton Senior development include improvement to the existing bus stop, made in accordance with the attached Exhibit A subject to approval by TX DOT or a related permit. Thanks for your consideration. Please feel free to contact me with any questions.

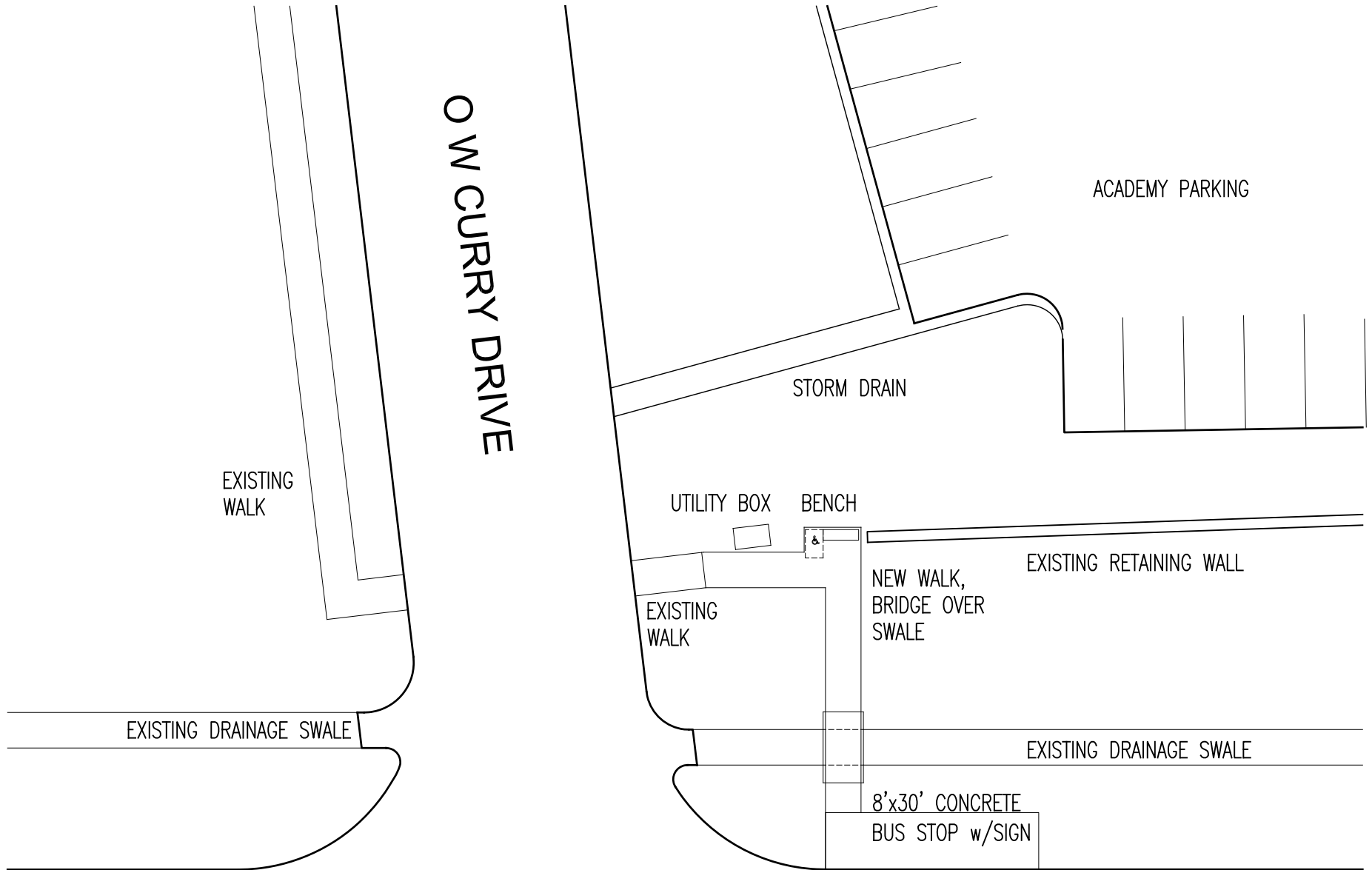
Sincerely,

A handwritten signature in blue ink that reads 'Robert S. Ator'. The signature is fluid and cursive, with the first name 'Robert' being the most prominent part.

Robert S. Ator  
Director of Urban Operations

*Central Texas' Regional Public Transit System!*

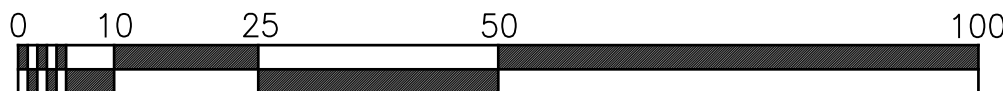
Operated by Hill Country Transit District



# EAST CENTRAL TEXAS EXPRESSWAY



AA26000913  
2114 NW 40th Terrace B-3  
Gainesville, Texas 77605  
P 352.377.0505  
F 352.377.0520



1"=20'



ajcarpen . &lt;ajcarpen@gmail.com&gt;

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**17305 - 9% HTC Application Deficiency Notice - TIME SENSITIVE**

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**Sharon Gamble** <sharon.gamble@tdhca.state.tx.us>

Fri, Jun 16, 2017 at 1:29 PM

To: Lisa Stephens &lt;lisa@saigebrook.com&gt;

Cc: Alyssa Carpenter &lt;ajcarpen@gmail.com&gt;

I am re-issuing the notice as the RFAD contains information that was not covered in the appeal.

**\*\*All deficiencies must be corrected or clarified by 5 pm Austin local time on JUNE 23, 2017. Please respond to this email as confirmation of receipt.\*\***

**If you can reply sooner (by Wednesday), we can get this is the June Board book.**

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17305 Payton Senior**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued.

1. In your scoring notice appeal, you stated that "Applicant should be awarded the additional Opportunity Index Tie-Breaker Point by virtue of Applicant's development site being located less than one-half mile on an accessible route from a public park with an accessible playground." Please refer to the attached and provide information regarding the following:
  - a. Provide evidence in the form of certification from the city that Bacon Ranch Park is a public park.
  - b. Explain how the route to the playground meets accessibility standards when there appears to be no accessible path leading to the playground.
2. Please refer to the attached and provide information regarding the following:
  - a. Explain how the route to the bus stop meets accessibility standards when there appears to be no accessible path leading to the bus stop.

**The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.**

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the



fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at [liz.cline@tdhca.state.tx.us](mailto:liz.cline@tdhca.state.tx.us) or by phone at (512)475-3227. You may also contact Jason Burr at [jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us) or by phone at (512)475-3986.

**All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.**

Thanks,

Ben Sheppard

Specialist, Multifamily Finance

Texas Department of Housing and Community Affairs

Ph. [512.475.2122](tel:512.475.2122)

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in [10 TAC Section 11.1\(b\)](#) there are important limitations and caveats (Also see [10 TAC §10.2\(b\)](#)).*

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## 2 attachments

 **Pages from #17305 Payton Senior RFAD.pdf**  
1637K

 **Pages from #17305 Payton Senior RFAD-2.pdf**  
1122K

Application #17305  
Payton Senior  
Third Party Request for Administrative  
Deficiency

Department Determination



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*  
Leslie Bingham-Escareño, *Vice Chair*  
Paul A. Braden, Member  
Asusena Reséndiz, Member  
Sharon Thomason, Member  
Leo Vasquez, Member

July 5, 2017

*Writer's direct phone # (512) 475-3296*  
*Email: [tim.irvine@tdhca.state.tx.us](mailto:tim.irvine@tdhca.state.tx.us)*

Ms. Lisa Stephens  
Saigebrook Development  
421 West 3<sup>rd</sup> Street, Ste 1504  
Austin, TX 78731

RE: REQUESTS FOR ADMINISTRATIVE DEFICIENCY: 17305 PAYTON SENIOR

Dear Ms. Stephens:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of three Third Party Requests for Administrative Deficiency ("RFAD") requesting that the Department review the Application above to determine whether it qualifies for several tie-breaker items under 10 TAC §11.9 (c)(4), related to Opportunity Index. The requests assert that the Application did not contain sufficient documentation of community assets used to claim the tie-breakers.

Consistent with similar decisions made by the Department's Governing Board at its May 25, 2017, meeting, an Administrative Deficiency was determined to be appropriate for the Application and the Department issued a deficiency notice on June 7, 2017. The Department had previously issued a scoring notice which included these same issues, and the appeal for that notice was received prior to the due date for the deficiency response. After reviewing the information included in the appeal, staff determined that the questions raised in the RFAD were not answered by the response, and a second deficiency notice was issued on June 16, 2017. The response was received timely.

After reviewing the submitted documentation, the Department has determined that Bacon Ranch Park is not a public park, but is, as the email from the City of Killeen states, "a privately owned park open to the public." The accessible route to public transportation has not been proven, as the Applicant cannot promise to complete a route on land not owned/controlled by the Applicant. Regarding the memorial, the Department has determined that it does not meet the definition given in §11.9(c)(4) as neither the City of Killeen nor Killeen Volunteers, Inc. has a primary purpose of "the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value." Further, the memorial is not an institution, as a history museum would be. The City of Killeen did not build a museum to honor those affected by the disaster at Fort Hood; rather it built a memorial.



17305 PAYTON PLACE

July 5, 2017

Page 2

For purposes of these requests, the matter is considered closed. The Applicant will be issued a scoring notice indicating the loss of two tie-breaker items and will have the ability to appeal staff's decision. Furthermore, the issues raised through the RFAD process have revealed additional issues that will be presented to the Applicant through a separate communication and action. If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', written over a horizontal line.

Marni Holloway  
Multifamily Division Director

Cc: Robert M. Picerno  
Henry Flores  
Kelly Garrett



Application #17305  
Payton Senior  
Second - Third Party Request for  
Administrative Deficiency

# MDS Housing Indian Oaks, LTD.



June 1, 2017

Texas Department of Housing and Community Affairs  
Attention: Marni Holloway, Director of Multifamily Finance  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

## **RE: Request for Administrative Deficiency – TDHCA # 17305**

Dear Ms. Holloway:

Pursuant to Section 11.10 of the 2017 Qualified Allocation Plan (“QAP”), please accept this letter and attached exhibits as our formal Third Party Request for Administrative Deficiency pertaining to TDHCA #17305 (Development Name: Payton Senior). We believe the application elected points that were not adequately justified and chose tie breaker factors that do not apply. These issues are described below.

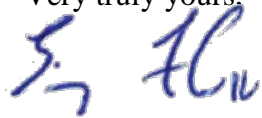
1. Section 11.9(c)(4)(B)(i)(I): The Applicant has claimed their Development Site is located within ½ mile on an accessible route from a public park with an accessible playground, both of which meet the 2010 ADA design standards. This item does not qualify as the playground does not qualify as a public park, nor is there an accessible route from the Development Site.
  - i) The developer purchased a single-family lot across from the proposed Development Site and installed a playground in an effort to qualify for an opportunity index point. According to the Bell County Appraisal District, the original acquisition by the Developer occurred on February 27<sup>th</sup>, 2017 which then transferred the deed to Central Texas Youth Services Bureau on February 28<sup>th</sup>, 2017 a day prior to the TDHCA application deadline. Since the acquisition and deed transfer of the lot came from a Developer in the transaction we believe that this violates the intent of the rule in the QAP. If this is allowed it could open the door for other developers to open businesses near their Development Site in an effort to gain a competitive advantage and then close the business and/or amenity shortly after an allocation of tax credits is awarded. Per Tony McIlwain with the City of Killeen, the lot is not zoned for a public park and the playground was constructed without the city’s approval. The current zoning designation for the parcel of the playground structure is R-1 (Single Family Residential District). Parks, playgrounds, community buildings and other public recreational

facilities, *owned and operated by the municipality or other public agency are a permitted use*, emphasis is placed on owned and operated by the municipality or other public agency since Central Texas Youth Service Bureau does not meet either requirement. This organization is a 501(c)(3) tax-exempt nonprofit organization that provides services only to Bell, Coryell and McLennan Counties. This organization is not owned by the City of Killeen or any other public agency. This should be an indication that the construction of this playground structure was specifically to advantage the Applicant without receiving the necessary approvals from the local jurisdiction prior to the application deadline. While the Developer has applied for a conditional use permit for the “park”, consideration for the permit will not occur until the City Council meeting in June which is after the application deadline.

- ii) In addition, the Applicant included misleading photos in the tax credit application which did not show the lack of sidewalks to the playground. Please see the attached photos behind Attachment #2 which clearly show no paving on the lot in question.

Based on the lack of appropriate zoning, no public park existed as of March 1, 2017. In addition, no accessible route which meets the 2010 ADA design standards has been constructed to date. We respectfully request TDHCA deny the tie breaker point item requested by the applicant.

Very truly yours,



Henry Flores  
Authorized Representative of MDS Housing Indian Oaks, Ltd.

*Attachments*

cc: Lisa Stephens , Payton Senior, LLC (via email – [lisa@saigebrook.com](mailto:lisa@saigebrook.com))  
Alyssa Carpenter (via email – [ajcarpen@gmail.com](mailto:ajcarpen@gmail.com))

# ATTACHMENT #1



# Bell CAD

## Property

### Account

Property ID: 77239      Legal Description: COPPER MOUNTAIN ONE PHASE II, BLOCK 003, LOT 0056  
 Geographic ID: 0162261165      Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

### Location

Address: 2812 BACON RANCH RD      Mapsco:  
 KILLEEN, TX  
 Neighborhood: COPPER MOUNTAIN      Map ID: 29D04 T62  
 Neighborhood CD: COPPERMTN

### Owner

Name: KIELLA FAMILY LTD      Owner ID: 619413  
 Mailing Address: PO BOX 1344      % Ownership: 100.0000000000%  
 TEMPLE, TX 76503-1344  
 Exemptions:

## Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$9,120	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
-----			
(=) Market Value:	=	\$9,120	
(-) Ag or Timber Use Value Reduction:	-	\$0	
-----			
(=) Appraised Value:	=	\$9,120	
(-) HS Cap:	-	\$0	
-----			
(=) Assessed Value:	=	\$9,120	

## Taxing Jurisdiction

Owner: KIELLA FAMILY LTD  
 % Ownership: 100.0000000000%  
 Total Value: \$9,120

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	TAX APPRAISAL DISTRICT, BELL COUNTY	0.000000	\$9,120	\$9,120	\$0.00
CB	BELL COUNTY	0.421200	\$9,120	\$9,120	\$38.42
JCTC	CENTRAL TEXAS COLLEGE	0.136600	\$9,120	\$9,120	\$12.46
RRD	BELL COUNTY ROAD	0.029900	\$9,120	\$9,120	\$2.73

SKIL	KILLEEN ISD	1.126000	\$9,120	\$9,120	\$102.69
TKI	CITY OF KILLEEN	0.749800	\$9,120	\$9,120	\$68.38
WCLW	CLEARWATER U.W.C.D.	0.003920	\$9,120	\$9,120	\$0.36
WWC6	BELL COUNTY WCID #6	0.030000	\$9,120	\$9,120	\$2.74
Total Tax Rate:		2.497420			
				Taxes w/Current Exemptions:	\$227.78
				Taxes w/o Exemptions:	\$227.76

### Improvement / Building

No improvements exist for this property.

### Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	DL	DEVELOPER LOTS	0.0000	0.00	95.00	130.00	\$9,120	\$0

### Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2017	\$0	\$9,120	0	9,120	\$0	\$9,120
2016	\$0	\$9,120	0	9,120	\$0	\$9,120
2015	\$0	\$9,120	0	9,120	\$0	\$9,120
2014	\$0	\$9,120	0	9,120	\$0	\$9,120
2013	\$0	\$9,120	0	9,120	\$0	\$9,120
2012	\$0	\$7,220	0	7,220	\$0	\$7,220
2011	\$0	\$7,220	0	7,220	\$0	\$7,220
2010	\$0	\$7,220	0	7,220	\$0	\$7,220
2009	\$0	\$800	0	800	\$0	\$800
2008	\$0	\$800	0	800	\$0	\$800
2007	\$0	\$800	0	800	\$0	\$800
2006	\$0	\$800	0	800	\$0	\$800
2005	\$0	\$800	0	800	\$0	\$800
2004	\$0	\$800	0	800	\$0	\$800
2003	\$0	\$800	0	800	\$0	\$800
2002	\$0	\$800	0	800	\$0	\$800
2001	\$0	\$800	0	800	\$0	\$800
2000	\$0	\$800	0	800	\$0	\$800
1999	\$0	\$800	0	800	\$0	\$800

### Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	2/28/2017	1	WARRANTY DEED	SAIGEBROOK LAND HOLDING LLC	CENTRAL TEXAS YOUTH SERVICES BUREAU			201700008001
2	2/27/2017	1	WARRANTY DEED	KIELLA FAMILY LTD	SAIGEBROOK LAND HOLDING LLC			201700007994
3	4/13/2006	1	WARRANTY DEED	MOUNTAIN PARTNERS LTD	KIELLA FAMILY LTD	Deed Num	200800010071	200800010071

### Tax Due

Property Tax Information as of 06/01/2017

Amount Due if Paid on: 

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
2016	BELL COUNTY	\$9,120	\$38.42	\$41.33	\$0.00	\$0.00	\$0.00	\$0.00
2016	CENTRAL TEXAS COLLEGE	\$9,120	\$12.46	\$13.78	\$0.00	\$0.00	\$0.00	\$0.00
2016	BELL COUNTY ROAD	\$9,120	\$2.73	\$2.94	\$0.00	\$0.00	\$0.00	\$0.00
2016	KILLEEN ISD	\$9,120	\$102.69	\$110.45	\$0.00	\$0.00	\$0.00	\$0.00
2016	CITY OF KILLEEN	\$9,120	\$68.38	\$75.60	\$0.00	\$0.00	\$0.00	\$0.00
2016	CLEARWATER U.W.C.D.	\$9,120	\$0.36	\$0.39	\$0.00	\$0.00	\$0.00	\$0.00
2016	BELL COUNTY WCID #6	\$9,120	\$2.74	\$3.02	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2016 TOTAL:</b>		<b>\$227.78</b>	<b>\$247.51</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2015	BELL COUNTY	\$9,120	\$38.41	\$37.26	\$0.00	\$0.00	\$0.00	\$0.00
2015	CENTRAL TEXAS COLLEGE	\$9,120	\$12.46	\$12.46	\$0.00	\$0.00	\$0.00	\$0.00
2015	BELL COUNTY ROAD	\$9,120	\$2.73	\$2.65	\$0.00	\$0.00	\$0.00	\$0.00
2015	KILLEEN ISD	\$9,120	\$102.88	\$99.79	\$0.00	\$0.00	\$0.00	\$0.00
2015	CITY OF KILLEEN	\$9,120	\$68.38	\$66.33	\$0.00	\$0.00	\$0.00	\$0.00
2015	CLEARWATER U.W.C.D.	\$9,120	\$0.36	\$0.35	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2015 TOTAL:</b>		<b>\$225.22</b>	<b>\$218.84</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2014	BELL COUNTY	\$9,120	\$38.42	\$37.27	\$0.00	\$0.00	\$0.00	\$0.00
2014	CENTRAL TEXAS COLLEGE	\$9,120	\$12.46	\$12.46	\$0.00	\$0.00	\$0.00	\$0.00
2014	BELL COUNTY ROAD	\$9,120	\$2.73	\$2.65	\$0.00	\$0.00	\$0.00	\$0.00
2014	KILLEEN ISD	\$9,120	\$102.88	\$99.79	\$0.00	\$0.00	\$0.00	\$0.00
2014	CITY OF KILLEEN	\$9,120	\$68.38	\$66.33	\$0.00	\$0.00	\$0.00	\$0.00
2014	CLEARWATER U.W.C.D.	\$9,120	\$0.36	\$0.35	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2014 TOTAL:</b>		<b>\$225.23</b>	<b>\$218.85</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2013	BELL COUNTY	\$9,120	\$38.41	\$37.26	\$0.00	\$0.00	\$0.00	\$0.00
2013	CENTRAL TEXAS COLLEGE	\$9,120	\$12.49	\$12.49	\$0.00	\$0.00	\$0.00	\$0.00
2013	BELL COUNTY ROAD	\$9,120	\$2.73	\$2.65	\$0.00	\$0.00	\$0.00	\$0.00
2013	KILLEEN ISD	\$9,120	\$102.88	\$99.79	\$0.00	\$0.00	\$0.00	\$0.00
2013	CITY OF KILLEEN	\$9,120	\$67.74	\$65.71	\$0.00	\$0.00	\$0.00	\$0.00
2013	CLEARWATER U.W.C.D.	\$9,120	\$0.36	\$0.35	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2013 TOTAL:</b>		<b>\$224.61</b>	<b>\$218.25</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2012	BELL COUNTY	\$7,220	\$30.41	\$29.50	\$0.00	\$0.00	\$0.00	\$0.00
2012	CENTRAL TEXAS COLLEGE	\$7,220	\$10.11	\$10.11	\$0.00	\$0.00	\$0.00	\$0.00
2012	BELL COUNTY ROAD	\$7,220	\$2.16	\$2.10	\$0.00	\$0.00	\$0.00	\$0.00
2012	KILLEEN ISD	\$7,220	\$81.66	\$79.21	\$0.00	\$0.00	\$0.00	\$0.00
2012	CITY OF KILLEEN	\$7,220	\$53.63	\$52.02	\$0.00	\$0.00	\$0.00	\$0.00
2012	CLEARWATER U.W.C.D.	\$7,220	\$0.29	\$0.28	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2012 TOTAL:</b>		<b>\$178.26</b>	<b>\$173.22</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2011	BELL COUNTY	\$7,220	\$29.57	\$28.69	\$0.00	\$0.00	\$0.00	\$0.00
2011	CENTRAL TEXAS COLLEGE	\$7,220	\$10.17	\$10.17	\$0.00	\$0.00	\$0.00	\$0.00
2011	BELL COUNTY ROAD	\$7,220	\$2.16	\$2.10	\$0.00	\$0.00	\$0.00	\$0.00
2011	KILLEEN ISD	\$7,220	\$82.39	\$79.92	\$0.00	\$0.00	\$0.00	\$0.00
2011	CITY OF KILLEEN	\$7,220	\$53.63	\$52.02	\$0.00	\$0.00	\$0.00	\$0.00
2011	CLEARWATER U.W.C.D.	\$7,220	\$0.29	\$0.28	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2011 TOTAL:</b>		<b>\$178.21</b>	<b>\$173.18</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2010	BELL COUNTY	\$7,220	\$27.58	\$27.14	\$0.00	\$0.00	\$0.00	\$0.00
2010	CENTRAL TEXAS COLLEGE	\$7,220	\$10.17	\$10.31	\$0.00	\$0.00	\$0.00	\$0.00
2010	BELL COUNTY ROAD	\$7,220	\$2.16	\$2.13	\$0.00	\$0.00	\$0.00	\$0.00
2010	KILLEEN ISD	\$7,220	\$82.39	\$81.05	\$0.00	\$0.00	\$0.00	\$0.00

2010	CITY OF KILLEEN	\$7,220	\$53.63	\$52.75	\$0.00	\$0.00	\$0.00	\$0.00
2010	CLEARWATER U.W.C.D.	\$7,220	\$0.29	\$0.28	\$0.00	\$0.00	\$0.00	\$0.00
<b>2010 TOTAL:</b>			<b>\$176.22</b>	<b>\$173.66</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2009	BELL COUNTY	\$800	\$3.01	\$3.01	\$0.00	\$0.00	\$0.00	\$0.00
2009	CENTRAL TEXAS COLLEGE	\$800	\$1.13	\$1.13	\$0.00	\$0.00	\$0.00	\$0.00
2009	BELL COUNTY ROAD	\$800	\$0.24	\$0.24	\$0.00	\$0.00	\$0.00	\$0.00
2009	KILLEEN ISD	\$800	\$9.13	\$9.13	\$0.00	\$0.00	\$0.00	\$0.00
2009	CITY OF KILLEEN	\$800	\$5.56	\$5.56	\$0.00	\$0.00	\$0.00	\$0.00
2009	CLEARWATER U.W.C.D.	\$800	\$0.03	\$0.03	\$0.00	\$0.00	\$0.00	\$0.00
<b>2009 TOTAL:</b>			<b>\$19.10</b>	<b>\$19.10</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2008	BELL COUNTY	\$800	\$3.03	\$3.03	\$0.00	\$0.00	\$0.00	\$0.00
2008	CENTRAL TEXAS COLLEGE	\$800	\$1.13	\$1.13	\$0.00	\$0.00	\$0.00	\$0.00
2008	BELL COUNTY ROAD	\$800	\$0.24	\$0.24	\$0.00	\$0.00	\$0.00	\$0.00
2008	KILLEEN ISD	\$800	\$9.13	\$9.13	\$0.00	\$0.00	\$0.00	\$0.00
2008	CITY OF KILLEEN	\$800	\$5.56	\$5.56	\$0.00	\$0.00	\$0.00	\$0.00
2008	CLEARWATER U.W.C.D.	\$800	\$0.03	\$0.03	\$0.00	\$0.00	\$0.00	\$0.00
<b>2008 TOTAL:</b>			<b>\$19.12</b>	<b>\$19.12</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>KIELLA FAMILY LTD TOTAL:</b>			<b>\$1473.75</b>	<b>\$1461.73</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2007	BELL COUNTY	\$800	\$3.04	\$2.95	\$0.00	\$0.00	\$0.00	\$0.00
2007	CENTRAL TEXAS COLLEGE	\$800	\$1.14	\$1.14	\$0.00	\$0.00	\$0.00	\$0.00
2007	BELL COUNTY ROAD	\$800	\$0.24	\$0.23	\$0.00	\$0.00	\$0.00	\$0.00
2007	KILLEEN ISD	\$800	\$9.13	\$8.85	\$0.00	\$0.00	\$0.00	\$0.00
2007	CITY OF KILLEEN	\$800	\$5.56	\$5.39	\$0.00	\$0.00	\$0.00	\$0.00
2007	CLEARWATER U.W.C.D.	\$800	\$0.03	\$0.03	\$0.00	\$0.00	\$0.00	\$0.00
<b>2007 TOTAL:</b>			<b>\$19.14</b>	<b>\$18.59</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2006	BELL COUNTY	\$800	\$3.05	\$3.02	\$0.00	\$0.00	\$0.00	\$0.00
2006	CENTRAL TEXAS COLLEGE	\$800	\$1.14	\$1.14	\$0.00	\$0.00	\$0.00	\$0.00
2006	BELL COUNTY ROAD	\$800	\$0.24	\$0.24	\$0.00	\$0.00	\$0.00	\$0.00
2006	KILLEEN ISD	\$800	\$11.35	\$11.24	\$0.00	\$0.00	\$0.00	\$0.00
2006	CITY OF KILLEEN	\$800	\$5.56	\$5.50	\$0.00	\$0.00	\$0.00	\$0.00
2006	CLEARWATER U.W.C.D.	\$800	\$0.03	\$0.03	\$0.00	\$0.00	\$0.00	\$0.00
<b>2006 TOTAL:</b>			<b>\$21.37</b>	<b>\$21.17</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2005	BELL COUNTY	\$800	\$2.78	\$2.70	\$0.00	\$0.00	\$0.00	\$0.00
2005	CENTRAL TEXAS COLLEGE	\$800	\$1.17	\$1.17	\$0.00	\$0.00	\$0.00	\$0.00
2005	BELL COUNTY ROAD	\$800	\$0.24	\$0.23	\$0.00	\$0.00	\$0.00	\$0.00
2005	KILLEEN ISD	\$800	\$12.47	\$12.10	\$0.00	\$0.00	\$0.00	\$0.00
2005	CITY OF KILLEEN	\$800	\$5.56	\$5.39	\$0.00	\$0.00	\$0.00	\$0.00
2005	CLEARWATER U.W.C.D.	\$800	\$0.04	\$0.04	\$0.00	\$0.00	\$0.00	\$0.00
<b>2005 TOTAL:</b>			<b>\$22.26</b>	<b>\$21.63</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2004	BELL COUNTY	\$800	\$2.66	\$2.58	\$0.00	\$0.00	\$0.00	\$0.00
2004	CENTRAL TEXAS COLLEGE	\$800	\$1.18	\$1.18	\$0.00	\$0.00	\$0.00	\$0.00
2004	BELL COUNTY ROAD	\$800	\$0.24	\$0.23	\$0.00	\$0.00	\$0.00	\$0.00
2004	KILLEEN ISD	\$800	\$12.47	\$12.10	\$0.00	\$0.00	\$0.00	\$0.00
2004	CITY OF KILLEEN	\$800	\$5.56	\$5.39	\$0.00	\$0.00	\$0.00	\$0.00
2004	CLEARWATER U.W.C.D.	\$800	\$0.04	\$0.04	\$0.00	\$0.00	\$0.00	\$0.00
<b>2004 TOTAL:</b>			<b>\$22.15</b>	<b>\$21.52</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2003	BELL COUNTY	\$800	\$2.68	\$2.60	\$0.00	\$0.00	\$0.00	\$0.00
2003	CENTRAL TEXAS COLLEGE	\$800	\$1.18	\$1.18	\$0.00	\$0.00	\$0.00	\$0.00
2003	BELL COUNTY ROAD	\$800	\$0.24	\$0.23	\$0.00	\$0.00	\$0.00	\$0.00
2003	KILLEEN ISD	\$800	\$12.51	\$12.14	\$0.00	\$0.00	\$0.00	\$0.00
2003	CITY OF KILLEEN	\$800	\$5.59	\$5.42	\$0.00	\$0.00	\$0.00	\$0.00
2003	CLEARWATER U.W.C.D.	\$800	\$0.04	\$0.04	\$0.00	\$0.00	\$0.00	\$0.00



	<b>2003 TOTAL:</b>		<b>\$22.24</b>	<b>\$21.61</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2002	BELL COUNTY	\$800	\$2.70	\$2.62	\$0.00	\$0.00	\$0.00	\$0.00
2002	CENTRAL TEXAS COLLEGE	\$800	\$1.18	\$1.18	\$0.00	\$0.00	\$0.00	\$0.00
2002	BELL COUNTY ROAD	\$800	\$0.23	\$0.22	\$0.00	\$0.00	\$0.00	\$0.00
2002	KILLEEN ISD	\$800	\$12.18	\$11.82	\$0.00	\$0.00	\$0.00	\$0.00
2002	CITY OF KILLEEN	\$800	\$5.44	\$5.28	\$0.00	\$0.00	\$0.00	\$0.00
2002	CLEARWATER U.W.C.D.	\$800	\$0.04	\$0.04	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2002 TOTAL:</b>		<b>\$21.77</b>	<b>\$21.16</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2001	BELL COUNTY	\$800	\$2.70	\$2.62	\$0.00	\$0.00	\$0.00	\$0.00
2001	CENTRAL TEXAS COLLEGE	\$800	\$1.19	\$1.19	\$0.00	\$0.00	\$0.00	\$0.00
2001	BELL COUNTY ROAD	\$800	\$0.23	\$0.22	\$0.00	\$0.00	\$0.00	\$0.00
2001	KILLEEN ISD	\$800	\$11.42	\$11.08	\$0.00	\$0.00	\$0.00	\$0.00
2001	CITY OF KILLEEN	\$800	\$5.44	\$5.28	\$0.00	\$0.00	\$0.00	\$0.00
2001	CLEARWATER U.W.C.D.	\$800	\$0.05	\$0.05	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2001 TOTAL:</b>		<b>\$21.03</b>	<b>\$20.44</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
2000	BELL COUNTY	\$800	\$2.69	\$2.69	\$0.00	\$0.00	\$0.00	\$0.00
2000	CENTRAL TEXAS COLLEGE	\$800	\$1.19	\$1.19	\$0.00	\$0.00	\$0.00	\$0.00
2000	BELL COUNTY ROAD	\$800	\$0.23	\$0.23	\$0.00	\$0.00	\$0.00	\$0.00
2000	KILLEEN ISD	\$800	\$11.42	\$11.42	\$0.00	\$0.00	\$0.00	\$0.00
2000	CITY OF KILLEEN	\$800	\$5.44	\$5.44	\$0.00	\$0.00	\$0.00	\$0.00
2000	CLEARWATER U.W.C.D.	\$800	\$0.05	\$0.05	\$0.00	\$0.00	\$0.00	\$0.00
	<b>2000 TOTAL:</b>		<b>\$21.02</b>	<b>\$21.02</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
1999	BELL COUNTY	\$0	\$2.69	\$2.69	\$0.00	\$0.00	\$0.00	\$0.00
1999	CENTRAL TEXAS COLLEGE	\$0	\$1.19	\$1.19	\$0.00	\$0.00	\$0.00	\$0.00
1999	BELL COUNTY ROAD	\$0	\$0.23	\$0.23	\$0.00	\$0.00	\$0.00	\$0.00
1999	KILLEEN ISD	\$0	\$11.42	\$11.42	\$0.00	\$0.00	\$0.00	\$0.00
1999	CITY OF KILLEEN	\$0	\$4.80	\$4.80	\$0.00	\$0.00	\$0.00	\$0.00
	<b>1999 TOTAL:</b>		<b>\$20.33</b>	<b>\$20.33</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
1998	BELL COUNTY	\$0	\$2.49	\$2.49	\$0.00	\$0.00	\$0.00	\$0.00
1998	CENTRAL TEXAS COLLEGE	\$0	\$1.20	\$1.20	\$0.00	\$0.00	\$0.00	\$0.00
1998	BELL COUNTY ROAD	\$0	\$0.24	\$0.24	\$0.00	\$0.00	\$0.00	\$0.00
1998	KILLEEN ISD	\$0	\$11.66	\$11.66	\$0.00	\$0.00	\$0.00	\$0.00
1998	CITY OF KILLEEN	\$0	\$4.72	\$4.72	\$0.00	\$0.00	\$0.00	\$0.00
	<b>1998 TOTAL:</b>		<b>\$20.31</b>	<b>\$20.31</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
1997	BELL COUNTY	\$0	\$2.13	\$2.13	\$0.00	\$0.00	\$0.00	\$0.00
1997	CENTRAL TEXAS COLLEGE	\$0	\$1.21	\$1.21	\$0.00	\$0.00	\$0.00	\$0.00
1997	BELL COUNTY ROAD	\$0	\$0.24	\$0.24	\$0.00	\$0.00	\$0.00	\$0.00
1997	KILLEEN ISD	\$0	\$10.80	\$10.80	\$0.00	\$0.00	\$0.00	\$0.00
1997	CITY OF KILLEEN	\$0	\$4.56	\$4.56	\$0.00	\$0.00	\$0.00	\$0.00
	<b>1997 TOTAL:</b>		<b>\$18.94</b>	<b>\$18.94</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
1996	BELL COUNTY	\$0	\$2.07	\$2.07	\$0.00	\$0.00	\$0.00	\$0.00
1996	CENTRAL TEXAS COLLEGE	\$0	\$1.21	\$1.21	\$0.00	\$0.00	\$0.00	\$0.00
1996	BELL COUNTY ROAD	\$0	\$0.24	\$0.24	\$0.00	\$0.00	\$0.00	\$0.00
1996	KILLEEN ISD	\$0	\$10.80	\$10.80	\$0.00	\$0.00	\$0.00	\$0.00
1996	CITY OF KILLEEN	\$0	\$4.38	\$4.38	\$0.00	\$0.00	\$0.00	\$0.00
	<b>1996 TOTAL:</b>		<b>\$18.70</b>	<b>\$18.70</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
	<b>MOUNTAIN PARTNERS LTD TOTAL:</b>		<b>\$249.26</b>	<b>\$245.42</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
	<b>GRAND TOTAL (ALL OWNERS):</b>		<b>\$1723.01</b>	<b>\$1707.15</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.



# RE: Zoning Verification Request

Tony McIlwain <TMcIlwain@killeentexas.gov>

Thu 5/11/2017 3:36 PM

To: Charlie Johnson <cjohnson@madhousedevlopment.net>;

 1 attachments (86 KB)

2812 Bacon Ranch.pdf;

Hello Mr. Johnson,

I have attached the zoning verification letter per your request. Please be advised that the property in question is currently undergoing a Conditional Use Permit (CUP) request to allow for an existing pocket park to continue to occupy this lot. The City Council will review this case in June.

Thanks,

Tony D. McIlwain, AICP, CFM  
City Planner  
Planning and Development Services Department  
[200 E. Ave. D, Killeen, Texas 7640](#)  
Ph: 254-501-7633  
Fax: 254-501-7628  
Cell: 254-290-9277  
E-mail: [tmcilwain@killeentexas.gov](mailto:tmcilwain@killeentexas.gov)

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From: Charlie Johnson [mailto:cjohnson@madhousedevlopment.net]  
Sent: Thursday, May 11, 2017 9:33 AM  
To: Tony McIlwain  
Subject: Zoning Verification Request

Good Morning Mr. McIlwain,

Please accept this email as an official request for a zoning verification letter for the property located at [2812 Bacon Ranch Road, Killeen, TX](#). I have attached an aerial map and the Bell County CAD information to this email for your convenience. Please let me know if you need anything else.

Thank you for your service to the City of Killeen!

Charles Johnson  
Assistant Development Manager  
Madhouse Development Services, Inc.  
P: 512.799.2130  
F: 512.900.2860  
[cjohnson@madhousedevlopment.net](mailto:cjohnson@madhousedevlopment.net)



## CITY OF KILLEEN

PLANNING & DEVELOPMENT SERVICES

May 11, 2017

Mr. Charles Johnson  
Assistant Development Manager  
Madhouse Development Services, Inc.

RE: 2812 Bacon Ranch Road

Mr. Johnson:

This is to advise that the zoning and use of the above-captioned premises is governed by the laws and regulations of Killeen Code of Ordinances, Chapter 31, Article IV, Division 4. Specifically, the subject property is currently zoned "R-1" (Single-Family Residential District). I have listed the respective land uses within their respective districts in the text below.

District Descriptions:

A building or premises in a district "R-1" single-family residential district shall be used only for the following purposes:

- 1) One-family dwellings.
- (2) Churches or other places of worship.
- (3) Colleges, universities or other institutions of higher learning.
- (4) Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
- (5) Farms, nurseries or truck gardens, limited to the proportion and cultivation of plants, provided no retail or wholesale business is conducted on the premises, and provided further that no poultry or livestock other than normal household pets shall be housed within one hundred (100) feet of any property line.
- (6) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
- (7) Public buildings, including libraries, museums, police and fire stations.
- (8) Real estate sales offices during the development of residential subdivisions but not to exceed two (2) years. Display residential houses with sales offices, provided that if such display houses are not moved within a period of one (1) year, specific permission must be obtained from the city council for such display houses to remain on their locations.
- (9) Schools, public elementary or high.
- (10) Schools, private with curriculum equivalent to that of a public elementary or high school.
- (11) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- (12) Water supply reservoirs, pumping plants and towers.
- (13) Accessory buildings and uses, incident to the uses in this section and located on the same lot therewith, not involving the conduct of a retail building.
- 14) A subdivision entry sign, when such sign is located on a lot that abuts a subdivision boundary and fronts on a street entering the subdivision.

Further research can be accomplished by visiting the City's website at [www.killeentexas.gov](http://www.killeentexas.gov) or through open records requests (additional charges apply for printed materials). The website includes the City's Code of Ordinances as well a GIS site that will help you obtain property information. Please contact our office at (254) 501-7630 if you have any questions about the information that I have provided to you.



CITY OF KILLEEN  
PLANNING & DEVELOPMENT SERVICES

Sincerely,

Tony D. McIlwain, AICP, CFM  
City Planner  
Planning and Development Services Department  
200 E. Ave. D, Killeen, Texas 7640  
Ph: 254-501-7633  
Fax: 254-501-7628  
Cell: 254-290-9277  
E-mail: [tmcilwain@killeentexas.gov](mailto:tmcilwain@killeentexas.gov)





# Central Texas Youth Services

[HOME](#)[ABOUT US](#)[PROGRAMS](#)[ACTIVITIES](#)[GET INVOLVED](#)[MORE](#)

## ABOUT US

**Mission Statement:**

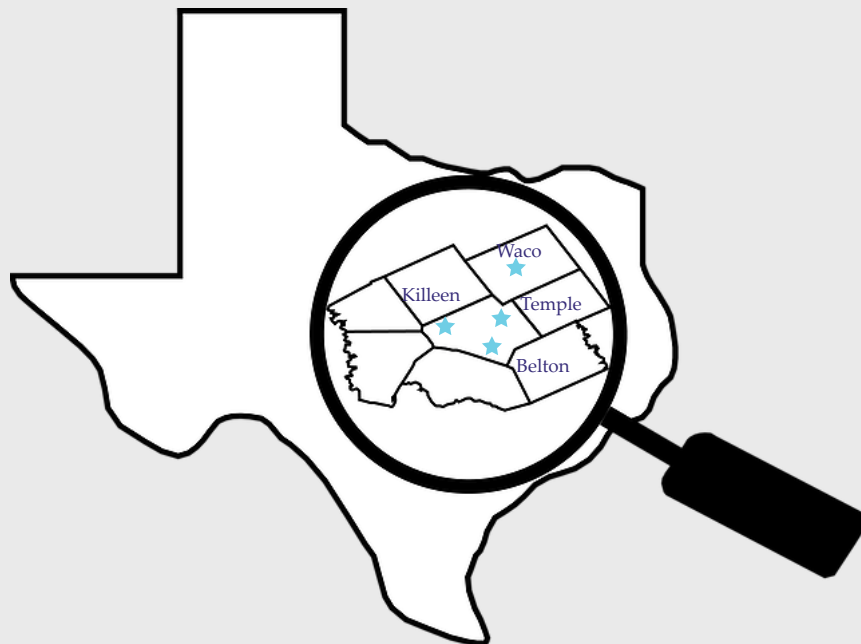
*To assist troubled children, youth, and families toward development of their full potential through provision of quality community-based services.*

Central Texas Youth Services is a 501(c)3 tax-exempt nonprofit organization that provides services to runaways, homeless, troubled youth, and their families throughout the Central Texas region.

Central Texas Youth Services has been providing services to the Central Texas area since 1970. The agency opened its first emergency shelter, Option House, in 1974. This program has since evolved to include emergency services, respite services, and transitional living services for ages 3-17 years of age.

In 2002 Central Texas Youth Services identified the need for housing assistance programs for young adults aging out foster care and exiting the care of their families at age 18. This began the development of Project FUTURE (Focus Upon Utilization of Resources and Employment) residential and outreach programs.

Today Central Texas Youth Services offers a variety of services to Bell, Coryell, and McLennan Counties. Please feel free to explore our site for further details.



SERVING BELL, CORYELL, & MCLENNAN COUNTIES

# ATTACHMENT #2

















Bacon Ranch Park  
Bacon Ranch Park  
Bacon Ranch Park





Bacon Ranch Park  
1000 Bacon Ranch Road  
Cape Canaveral, FL 32925  
(321) 255-1234



# on Ranch Park



Central Texas Youth Services

Privately Owned Park

Open To The Public

Contact Number: 254-939-3466

























Application #17305  
Payton Senior  
Third - Third Party Request for  
Administrative Deficiency



# SALEM | CLARK

June 1, 2017

Marni Holloway  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs  
221 E. 11th Street  
Austin, Texas 78701

RE: Application #17305 Payton Senior, Located in Killeen, Texas

Dear Ms. Holloway:

In accordance with §11.10 of the 2017 Qualified Allocation Plan (“QAP”) concerning Third Party Request for Administrative Deficiency for Competitive Housing Tax Credit Applications, we present the following material information about the application referenced above to staff’s attention. It is our belief that Payton Senior LLC, the applicant (the “Applicant”) of Payton Senior has requested points/tiebreakers for multiple site amenities under the opportunity index for projects located in urban areas that do qualify under the QAP/Multifamily Rules.

## **A. Bacon Ranch Park:**

The Applicant has claimed one tie-breaker for Bacon Ranch Park. The QAP requirement is:

(I) The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards.

There are multiple issues that preclude this park from qualifying for earning the tie-breaker point requested.

### **Accessible Route:**

Bacon Ranch Park does not have an accessible route that reaches the playground installed. This fails to meet the requirement for an accessible playground. As shown on Exhibit A attached hereto the playground feature of the park is located in the middle of the property with no pathway or hard surface that extends to the playground.

### **Zoning/Code Enforcement Action:**

Bacon Ranch Park is not currently a permitted use under the City of Killeen’s zoning ordinance. Bacon Ranch Park is located on a property zoned R-1, the relevant zoning section can be found below:

DIVISION 4. - DISTRICT "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 31-186. - Use regulations.



A building or premises in a district "R-1" single-family residential district shall be used only for the following purposes:

- (6) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency

Bacon Ranch Park does not comply with the permitted use as it is not owned and/or operated by the municipality or other public agency. An affiliate of the Applicant purchased the land that the Applicant is defining as Bacon Ranch Park on 2/28/17, built the playground equipment thereon and then donated the land and the improvements to Central Texas Youth Services ("CTYS"), a non-profit organization located in Belton, Texas on 2/28/17, the next day. CTYS does not qualify to own or operate a public park on land in Killeen, Texas zoned R-1 (Exhibit B). While the Applicant had attempted to donate the land and the park to the City of Killeen, or have the Parks Department of the City of Killeen accept Bacon Ranch Park as part of their overall park master plan, the City of Killeen declined to do so. It is currently under a code enforcement action and the City of Killeen has yet to decide to permit Bacon Ranch Park to continue to exist in the community.

## **B. Accessible Bus Stop:**

The Applicant for Payton Senior has requested a point/tiebreaker for an accessible route to Public Transportation. The QAP state the requirements for this Opportunity Index amenity as:

- (II) The Development Site is located less than ½ mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service.

While there is a bus stop within ½ mile of the proposed site there is no accessible route to the bus stop itself. The Applicant provided plans to extend the accessible route to the existing bus stop but did not show that the plans for the new bus stop are in their control, or that they have permission to execute those plans. The plans the Applicant provided are shown on Exhibit C attached hereto. In the 2017 Multifamily FAQ staff provided the following regarding incomplete accessible routes:

*Q: If a public transportation stop or park is located less than half a mile from a vacant site where sidewalks are not yet built, but the development plan includes the sidewalks which would connect the proposed development to the park/transit stop, could that qualify an application for points?*

*A: In this case, if the missing part of the feature is under the Developer's control for completion and can be verified with the Site Plan, it could qualify.*

The Applicant did not include evidence of control over the proposed extension of the existing route, and we believe the route is in TxDOT/City of Killeen right of way which would require a lengthy and time consuming process to receive approval, with no guarantee of approval. We believe that, if awarded, the Applicant cannot guarantee that this amenity will be built for the use of future tenants. As it currently exists, and as shown in the photographs attached hereto as Exhibit D, the bus stop is not currently accessible because it is located on a sloped patch of grass next to a busy highway service road backing up to a drainage swale.



The Applicant's submission of plans for an accessible bus stop indicate their belief that the current state of the bus stop would not qualify under the Opportunity Index.

Also, while the bus does have Saturday service Central Texas HOP does not offer Sunday service which was included in the 2017 Multifamily FAQ as a criteria for public transportation.

### **C. Museum - Fort Hood November 5<sup>th</sup> Memorial:**

The Applicant has included the Fort Hood November 5<sup>th</sup> Memorial as their museum under the Opportunity Index. We do not believe this memorial qualifies as a museum because it is a memorial for those lost on that tragic day. The website for the memorial which we have attached hereto as Exhibit E states that:

It is our hope that people visiting the Memorial will understand that each column, it's markings and adornments, represents a life, a family, a hometown and a country of each person, who gave their life for all of those things. They deserve to be remembered and honored by us all.

The memorial is an outdoor stone pavilion with small bronze sculptures representing the lives of the victims of the Fort Hood attack. We believe the primary purpose of this memorial is for people to remember the tragic events of that day and pay respects to those who were lost. This purpose is not recognized as one that would qualify the memorial as a museum under the 2017 QAP which states:

(X) Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

### **E. Submission of Bacon Ranch Park as Misrepresentation**

We believe the circumstances surrounding the development and submission of Bacon Ranch Park purposefully misrepresented this amenity to the Department as a public park with an accessible playground for purposes of qualifying for Opportunity Index points. An affiliate of the Applicant purchased the vacant land and built the playground equipment thereon within 2-3 days before the 2017 Low Income Housing Tax Credit 9% Competitive Application deadline. Neither the Applicant nor its affiliate pulled a permit to install the signage or applied to have the land rezoned to allow for a park owned by a private entity. The Applicant knew or should have known that the playground equipment was built on land that was not zoned for use as a public park during its ownership by the affiliate of the Applicant or Central Texas Youth Services, the non-profit organization that the land was donated to the day before the Application Submission Deadline. Also, the applicant affiliate represented to CTYS that they only needed to keep the land a public park for one year and then could use the land as they wish (Exhibit F). This time frame shows that the applicant never intended for this amenity to be used by the



tenants, because the proposed development would not be near completion one year from the date of donation, February 28<sup>th</sup> 2017. All applicants sign an Application Certification made a part of each application that certifies to the following statement:

By signing this document, Applicant is affirming that all statements and representations made in this certification and application, including all supporting materials, are true and correct under penalty of law, including Chapter 37 of the Texas Penal Code titled Perjury and Other Falsification and subject to criminal penalties as defined by the State of Texas.

The statements and representations made by the Applicant in support of representing Bacon Ranch Park as a public park with an accessible playground for the purposes of scoring under the Opportunity Index were purposefully misleading and the Applicant knew or should have known that the way Bacon Ranch Park came into existence would not be eligible to be submitted for points/tiebreakers under the 2017 QAP. Attached please find as Exhibit G the zoning of Bacon Ranch Park as well as the last three deed transfers from the Bell County CAD.

We submitted the required Third Party Deficiency Request Fee in the amount of \$500 under separate submission. We appreciate your due consideration of this RFAD.

Sincerely,

  
Kelly Garrett



# Exhibit A





Grass growing through accessible surface



No Path to Play Structure



No Path to Play Structure



Sidewalk ends and does not connect to a path



Private Property Sign





# Exhibit B



**Tony McIlwain**

to Hollie, Earl, me

9:49 AM (22 minutes ago)

Hello Mr. Krochtengel,

I am providing responses to your questions. Please see my responses in **red**. I have copied the City's Deputy City Attorney (Clements) and Building Official (Abbott) on this response.

Thanks,

Tony D. McIlwain, AICP, CFM  
City Planner  
Planning and Development Services Department  
200 E. Ave. D, Killeen, Texas 7640  
Ph: [254-501-7633](tel:254-501-7633)  
Fax: [254-501-7628](tel:254-501-7628)  
Cell: [254-290-9277](tel:254-290-9277)  
E-mail: [tmcilwain@killeentexas.gov](mailto:tmcilwain@killeentexas.gov)

**From:** Zach Krochtengel [<mailto:zach@saalemclark.com>]

**Sent:** Friday, May 26, 2017 1:03 PM

**To:** Tony McIlwain

**Subject:** Bacon Ranch Park

Tony,

I just have a few questions regarding Bacon Ranch Park.

Does the City of Killeen believe Bacon Ranch Park is a public park with proper zoning at this point in time? Bacon Ranch Park is not a public park (i.e. it is not a City of Killeen park that is maintained by public funds and operated by city employees); the park is private and not allowed "by right" in the R-1 (Single-Family Residential District).

Were permits ever pulled to build this park? No permits were pulled for this property. Should they have been? Playground equipment does not require a permit; however a sign has been placed on the property, which does require a permit. If the City Council allows the private park to remain on site, it will be necessary to have the sign properly permitted.

What is the current status of the code enforcement action? All code enforcement action has been placed into a suspense category pending the outcome of the City Council's decision on June 13<sup>th</sup>. If the applicant is unsuccessful, they have been advised by the staff that the park will no longer be allowed to exist at this location.

Did the City of Killeen ever give approval for this park? The City of Killeen has not given permission for a private park at this location. The property owner is petitioning the City Council for approval of a Conditional Use Permit to allow the private park to continue to operate on this property.

Is Central Texas Youth Services considered a Public Agency for the purposes of R-1 zoning and operating a public park? No, the city's zoning ordinance does not consider them a public agency.

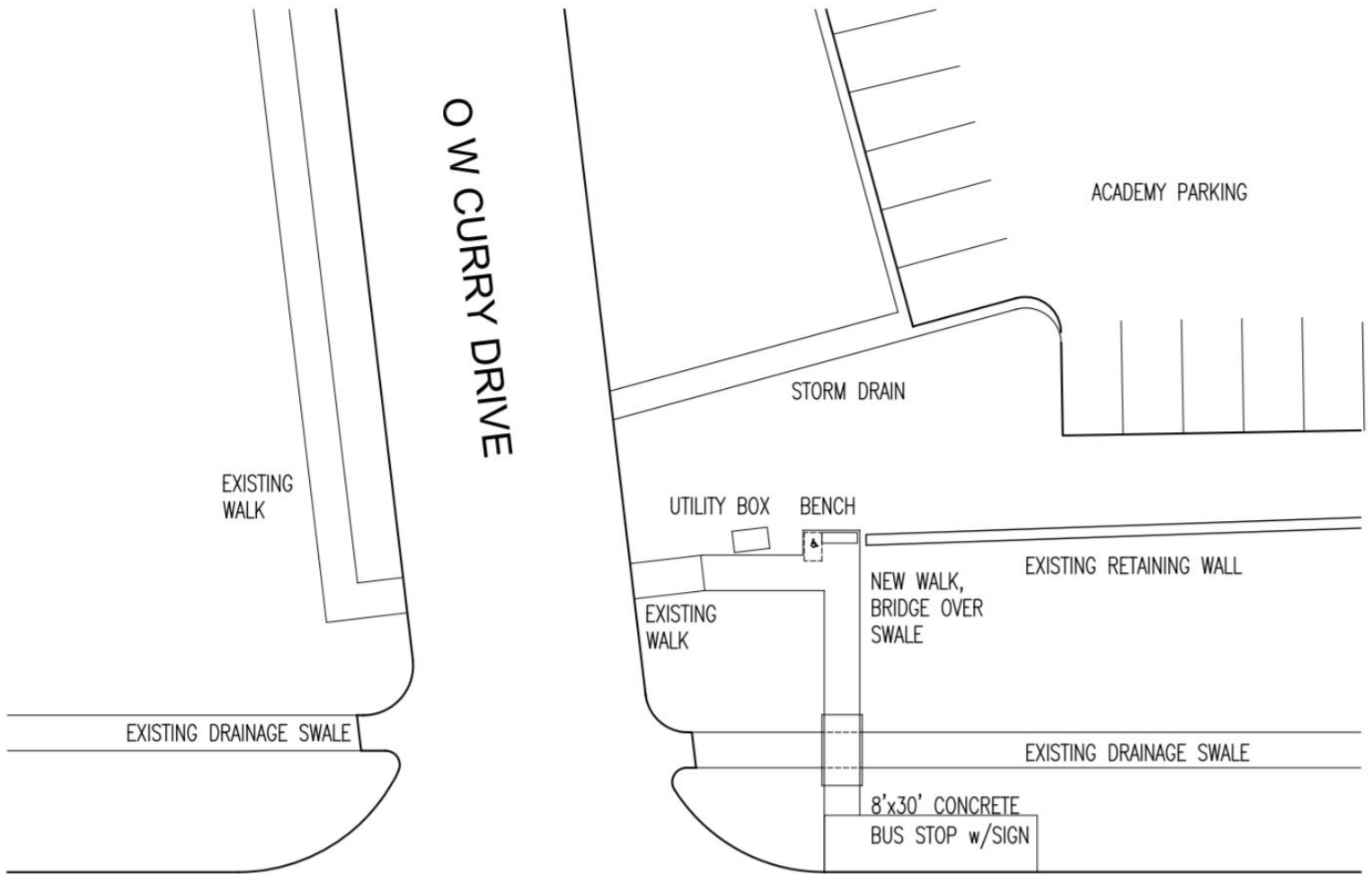
Thank you,

Zachary Krochtengel



# Exhibit C

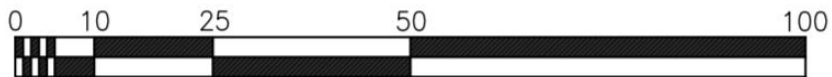




## EAST CENTRAL TEXAS EXPRESSWAY



AA06000913  
2114 NW 40th Terrace B-1 P 353.377.0505  
Columbus, Texas 76801 F 353.377.0505



1"=20'

# Exhibit D





Bus Stop with no platform



Bus Stop with no platform



Side walk ends before connecting to bus stop



Side walk ends before connecting to bus stop

# Exhibit E



# Fort Hood November 5 Memorial

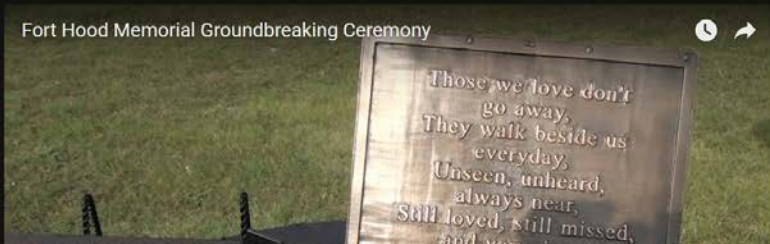
[Home](#) [How To Donate](#) [Business](#) [Timeline](#) [Cost Estimate](#) [Wounded on that tragic day](#) [Sculptures](#) [Donor List](#)

*Please Help Us Build This Memorial For Them.*

## Dedication of the Memorial Ceremony, March 11, 2016 at 3:00 pm

IT IS OUR HOPE THAT PEOPLE VISITING THE MEMORIAL WILL UNDERSTAND THAT EACH COLUMN, IT'S MARKINGS AND ADORNMENTS, REPRESENTS A LIFE, A FAMILY, A HOMETOWN, AND A COUNTRY OF EACH PERSON, WHO GAVE THEIR LIFE FOR ALL OF THOSE THINGS. THEY DESERVE TO BE REMEMBERED AND HONORED BY US ALL.

Fort Hood Memorial Groundbreaking Ceremony



Michael Cahill



Major Caraveo



SSG Justin DeCrow



Captain John Gaffaney



# Exhibit F





CTYSB Services

to me

3:02 PM (38 minutes ago)



Hi Mr. Krochtengel,

You are very welcome. We are willing to openly communicate with anyone who has questions regarding the Bacon Ranch Park. When I inquired about the park remaining a park indefinitely or for a required length of time, I was informed that the minimum requirement would be for 1 year. After that time we could allow it to remain a park or choose to use it for other agency purposes. Please feel free to contact me with any future questions.

**Kami L. Diaz, LCSW**  
*Central Texas Youth Services*  
*Executive Director*



**Contact Information:**

204 N East St. Suite A  
Belton, TX 76513  
Office: [254-939-3466](tel:254-939-3466)  
Cell: [254-217-1982](tel:254-217-1982)  
Fax: [254-939-2103](tel:254-939-2103)

**CONFIDENTIALITY NOTICE:**

This communication contains information intended for the use of the individuals to whom it is addressed and may contain information that is privileged, confidential or exempt from other disclosure under applicable law. If you are not the intended recipient, you are notified that any disclosure, printing, copying, distribution or use of the contents is prohibited. If you have received this in error, please notify the sender immediately by telephone or by returning it by return mail and then permanently delete the communication from your system. Thank you

# Exhibit G



Property Search Results > 77239 CENTRAL TEXAS YOUTH SERVICES BUREAU for Year 2017

[Details](#) | [Map](#) | [Pay Taxes](#)

Click on a title bar to expand or collapse the information.

Property

Account

Property ID:	77239	Legal Description:	COPPER MOUNTAIN ONE PHASE II, BLOCK 003, LOT 0056
Geographic ID:	0162261165	Agent Code:	
Type:	Real		
Property Use Code:			
Property Use Description:			

Location

Address:	2812 BACON RANCH RD KILLEEN, TX	Mapsc0:	
Neighborhood:	COPPER MOUNTAIN	Map ID:	29D04 T62
Neighborhood CD:	COPPERMTN		

Owner

Name:	CENTRAL TEXAS YOUTH SERVICES BUREAU	Owner ID:	525994
Mailing Address:	204 N EAST ST STE A BELTON, TX 76513-3133	% Ownership:	100.0000000000%
		<a href="#">Exemptions:</a>	

Values

Taxing Jurisdiction

Improvement / Building

No improvements exist for this property.

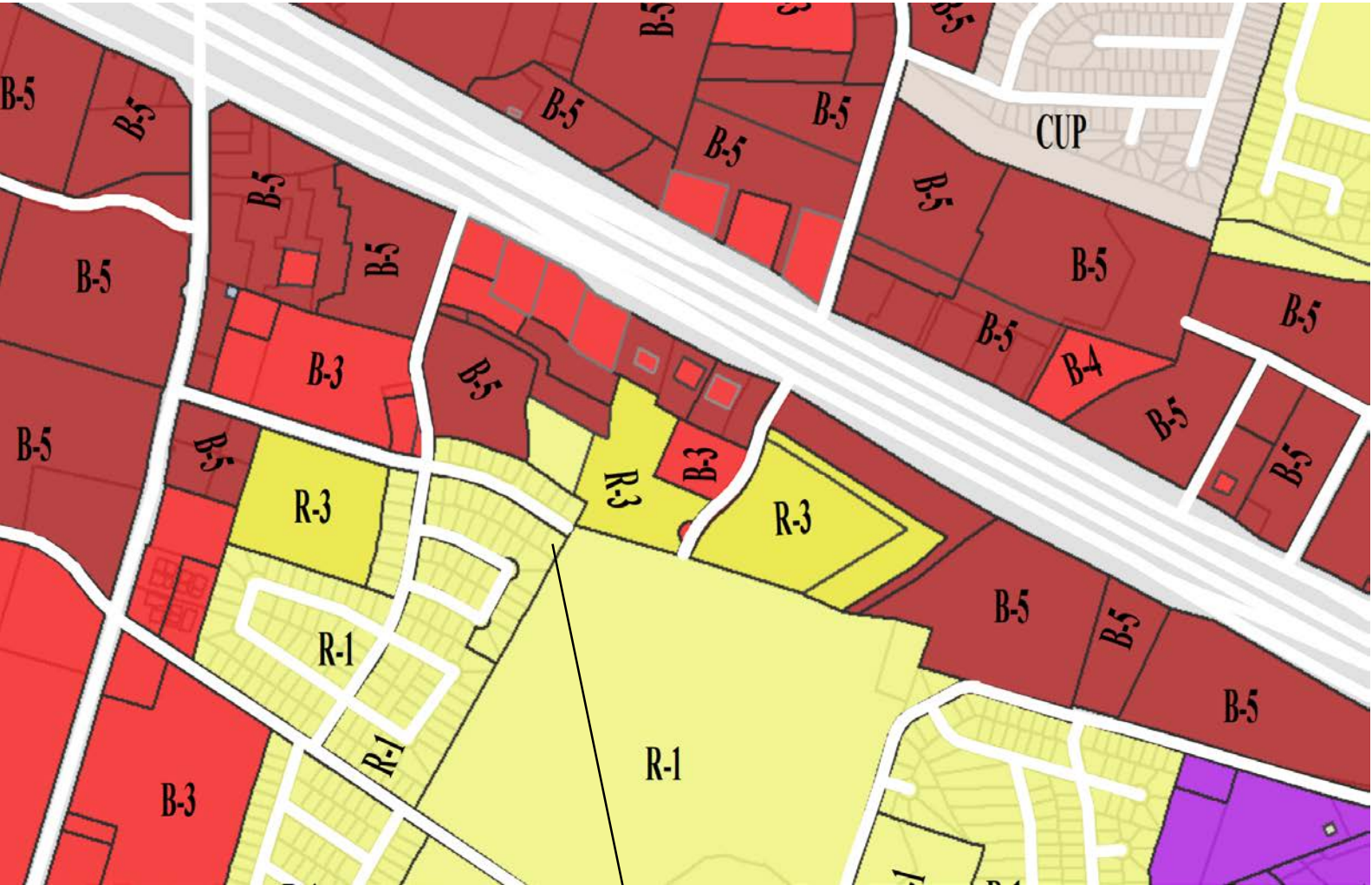
Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	DL	DEVELOPER LOTS	0.0000	0.00	95.00	130.00	\$9,120	\$0

Roll Value History

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	2/28/2017	1	WARRANTY DEED	SAIGEBROOK LAND HOLDING LLC	CENTRAL TEXAS YOUTH SERVICES BUREAU			201700008001
2	2/27/2017	1	WARRANTY DEED	KIELLA FAMILY LTD	SAIGEBROOK LAND HOLDING LLC			201700007994
3	4/13/2006	1	WARRANTY DEED	MOUNTAIN PARTNERS LTD	KIELLA FAMILY LTD	Deed Num	200800010071	200800010071



Bacon Ranch Park- R-1 Zoning



■ DIVISION 4. - DISTRICT "R-1"  
SINGLE-FAMILY RESIDENTIAL  
DISTRICT

Sec. 31-186. - Use regulations.

Sec. 31-187. - Height regulations.

Sec. 31-188. - Area regulations.

Sec. 31-189. - Parking regulations.

Secs. 31-190—31-192. - Reserved.

■ DIVISION 4A. - DISTRICT "SF-2"  
SINGLE-FAMILY RESIDENTIAL  
DISTRICT

■ DIVISION 5. - DISTRICT "RM-1"  
RESIDENTIAL MODULAR HOME  
SINGLE-FAMILY DISTRICT

■ DIVISION 6. - DISTRICT "RT-1"  
RESIDENTIAL TOWNHOUSE SINGLE-  
FAMILY DISTRICT

■ DIVISION 7. - DISTRICT "R-2" TWO-  
FAMILY RESIDENTIAL DISTRICT

■ DIVISION 8. - DISTRICT "R-3"  
MULTIFAMILY RESIDENTIAL DISTRICT

■ DIVISION 8A. - DISTRICT "R-3F"  
MULTIFAMILY RESIDENTIAL DISTRICT

■ DIVISION 8B. - DISTRICT "R-3A"  
MULTIFAMILY APARTMENT  
RESIDENTIAL DISTRICT

■ DIVISION 9. - DISTRICT "R-MP"  
MOBILE HOME AND TRAVEL TRAILER

## DIVISION 4. - DISTRICT "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT



### Sec. 31-186. - Use regulations.



A building or premises in a district "R-1" single-family residential district shall be used only for the following purposes:

- (1) One-family dwellings.
- (2) Churches or other places of worship.
- (3) Colleges, universities or other institutions of higher learning.
- (4) Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
- (5) Farms, nurseries or truck gardens, limited to the proportion and cultivation of plants, provided no retail or wholesale business is conducted on the premises, and provided further that no poultry or livestock other than normal household pets shall be housed within one hundred (100) feet of any property line.
- (6) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency.
- (7) Public buildings, including libraries, museums, police and fire stations.
- (8) Real estate sales offices during the development of residential subdivisions but not to exceed two (2) years. Display residential houses with sales offices, provided that if such display houses are not moved within a period of one (1) year, specific permission must be obtained from the city council for such display houses to remain on their locations.
- (9) Schools, public elementary or high.
- (10) Schools, private with curriculum equivalent to that of a public elementary or high school.
- (11) Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- (12) Water supply reservoirs, pumping plants and towers.
- (13) Accessory buildings and uses, incident to the uses in this section and located on the same lot therewith, not involving the conduct of a retail building.

Application #17322  
Provision at Wilcrest  
Third Party Request for Administrative  
Deficiency



June 1, 2017

Via Electronic Mail

Ms. Sharon Gamble

Ms. Marni Holloway

Texas Department of Housing and Community Affairs

221 East 11th Street

Austin, Texas 78701

Re: Third Party Request for Administrative Deficiency  
TDHCA No. 17322

Dear Ms. Gamble and Ms. Holloway:

We are the applicant for Campanile at Mission Bend (#17737). Please consider this Third Party Request for Administrative Deficiency with regard to Provision at Wilcrest, TDHCA No. 17322 (the "Application"). I believe you received public comments on the Application at the Houston Public Hearing and from other concerned citizens and entities. Pursuant to Subchapter B section 10.101 (a) of the TDHCA Uniform Application Rules (the "Rules"), the issues in question are 1) Non-disclosure of a heavy industrial facility directly across the street; 2) Floodplain; and 3) High Voltage Transmission Lines.

1) Southern Crushed Concrete Plant (the "Plant") – the Plant is located directly across Wilcrest Dr. from the Applicant site. This Plant was **not disclosed by the Applicant (Exhibit A)**. Item 2(F) of the Rules states "Development Sites located within 500 feet of heavy industrial (i.e. facilities that require extensive capital investment in land and machinery, are not easily relocated and produce high levels of external noise such as manufacturing plants...". In fact, the Plant is located less than 100 feet from the Applicant site. Per the attached pictures (Exhibit B), it appears clear that the Plant falls within the definition of heavy industrial and was required to be disclosed.

With 18-wheelers coming and going, cranes moving materials and large machines crushing and manufacturing concrete materials daily (including Saturday), there is clearly "high external noise" throughout each day. The Applicants engineer submitted an addendum to the Phase 1 regarding the noise level. Interestingly, the Plant was not mentioned at all in the addendum while the Westpark Tollway (400 feet away) was mentioned as the basis for the noise level. And, the example in the Rules for heavy

Ms. Sharon Gamble  
Ms. Marni Holloway  
Texas Department of Housing and Community Affairs  
Page 2

industrial states "high" external noise not "excessive". Besides the noise, the Plant activities also create a traffic hazard, general congestion on Wilcrest and emit hazardous materials into the air. Notice the pictures in Exhibit A show very large uncovered piles of various materials that have the potential to produce large amounts of dust depending on daily weather conditions. Exhibit C (from the website of the Plant) lists the hazard potential for one of the materials (crushed concrete) used extensively at the Plant. Most likely, this is why there is no residential housing in the immediate area (Exhibit D).

2) Floodplain – per the attached Exhibit E, the entire site is within the 100-yr floodplain. The Application site plan (Exhibit F) states the site is "outside of flood zone." And, there is no mention of any type of mitigation on site plan or any mention of additional costs on the Application construction cost schedule. Further, the Application operating expenses do not mention annual flood insurance nor does a recent property insurance quote in the Application (Exhibit G). And, most all of Wilcrest Dr. in that area is in the 100-yr floodplain which would add additional risks to residents.

3) Utility Transmission lines – there is a large utility easement on the west side of the Applicant site (Exhibit H). Item 2(D) states that high voltage transmission lines are to be located over 100 feet from site buildings. While the site plan shows buildings just barely outside the 100 feet requirement, it appears that calculation may not be correct. Item 2 of the Rules states "The distances are to be measured from the nearest boundary of the Development Site to the nearest boundary of the property or easement containing the undesirable feature". I believe the easement itself has a bigger footprint than the Transmission Lines Location shown on the site plan.

In conclusion, this is just a bad site for residential development. Mitigation for a single undesirable site feature may be acceptable. But, in this case, there are 3 major issues with this site (with item 1 being grounds for Application termination) that all have implications for the safety of residents (especially children).

Sincerely,



Les Kilday  
Kilday Operating LLC



local government has undertaken and can substantiate sufficient mitigation efforts and such documentation is submitted in the Application.

**Undesirable Site Features** *(select one of the boxes as applicable)*

The Development **is not** located in an area with undesirable site features as further described in §10.101(a)(2) of the Uniform Multifamily Rules. \*\*Applicant does not believe surrounding uses meet Undesirable rule language

The proposed Development is Rehabilitation (excluding Reconstruction) with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs ("VA") and an exemption was requested prior to the filing of an Application or is being requested with the Application in accordance with §10.101(a)(2) of the Uniform Multifamily Rules.

The proposed Development is Historic Preservation pursuant to §11.9(e)(6) of the QAP, is located in an area with an undesirable site feature and an exemption was requested prior to the filing of an Application or is being requested with the Application.

The proposed Development is New Construction, is located in an area with an undesirable site feature and a copy of the local ordinance that regulates the proximity of such feature to a multifamily development is included in the Application.

The proposed Development **is** located in an area with an undesirable site feature and mitigation to be considered by staff and the Board is included in the Application.

**Undesirable Neighborhood Characteristics** *(select one of the main boxes as applicable)*

The Development Owner certifies that the Development **is not** located in an area with any of the undesirable neighborhood characteristics described in §10.101(a)(3) of the Uniform Multifamily Rules and that no disclosure is necessary;

The Development Owner certifies that the Development **is** located in an area with the following undesirable neighborhood characteristic(s) and the Undesirable Neighborhood Characteristics Report is submitted with the Application (select all that apply):

in a census tract with a poverty rate above 40% for individuals (or 55% for Developments in regions 11 and 13);

in a census tract or within 1,000 feet of any census tract in an Urban Area and the rate of Part I violent crimes is greater than 18 per 1,000 persons (annually) as reported on neighborhoodscout.com;





SOUTHERN CRUSHED CONCRETE  
BROKEN CONCRETE WANTED  
281-957-8789



















# Material Safety Data Sheet

## Section 1 – Chemical Product and Company Identification

Trade Name	Recycled Crushed Concrete	In. Case of Emergency 281- 987-8789  Technical Information 281-987-8789 Prepared by: Susan D. Harms, Ph.D., CIH, CSP
Supplier	Southern Crushed Concrete Inc.	
Synonym	Crushed Concrete	
CAS Reg. No.	Not available	
Manufacturer	Southern Crushed Concrete Inc. 14329 Chrisman Road Houston, TX 77039	

## Section 2 – Composition and Information on Ingredients

Name	CAS #	% by Weight	Exposure Limits
Recycled Crushed Concrete		88-92%	None Available
Moisture		8-12%	

## Section 3 – Hazards Identification

Physical State and Appearance	Semi-solid, black to brown with reddish luster, consistency of wet concrete.
Routes of Entry	Inhalation is primary route of entry; may be skin irritant
Potential Acute Health Effects	
<i>Eyes</i>	May be eye irritant
<i>Skin</i>	May be skin irritant
<i>Inhalation</i>	May cause upper respiratory irritation
<i>Ingestion</i>	Should not occur
Potential Chronic Health Effects	Chronic overexposure to airborne particulate may aggravate existing obstructive respiratory system disease(s).
Medical Conditions Aggravated by Overexposure	Pre-existing respiratory disease may be aggravated by exposure
Overexposure Signs/Symptoms	May cause coughing, difficulty breathing, shortness of breath

## Section 4 – First Aid Measures

Eye Contact	Irrigate immediately for at least 15 minutes, seek medical attention
Skin Contact	Wash exposed areas with soap and water
Inhalation	Remove from exposure, support breathing if needed
Ingestion	Seek medical attention

Continued on Next Page

Notes to Physician	No additional notes
--------------------	---------------------

Section 5 – Fire Fighting Measures

Flammability	Not flammable and not combustible
Flash Point	None
Flammable Limits	Not applicable
Fire Fighting Media	Use media appropriate for surrounding fire and fuel source
Protective Clothing (Fire)	Use clothing appropriate for surrounding fire and fuel source

Section 6 – Accidental Release Measures

Small Spill and Leak	No special requirements
Large Spill and Leak	No special requirements

Section 7 – Handling and Storage

Handling	Maintain moisture content at 8-12% prevent airborne dust
Storage	Store to maintain moisture and prevent airborne dust

Section 8 – Exposure Controls/Personal Protection

Engineering Controls	Maintain moisture at 8-12% to prevent airborne particulate
Personal Protective Equipment	
<i>Eyes</i>	Safety Glasses with side shields or full face shield
<i>Body</i>	Appropriate protective clothing
<i>Respiratory</i>	If particulate levels are likely to exceed allowed levels, a NIOSH approved respirator appropriate for particulate exposure and consistent with employer respiratory protection program and 29CFR1910.134, should be used
<i>Hands</i>	Work gloves to prevent abrasion and direct skin contact.
<i>Feet</i>	Safety shoes.

Possible Exposure Hazards	Exposure Limit (PEL or TLV)
Total Dust, PNOC	10 mg/m <sup>3</sup> total dust
	Product as supplied is not a dust hazard

Section 9 – Physical and Chemical Properties

Physical State & Appearance	Sem-Solid
Odor	No appreciable odor
Color	Black to brown, reddish luster
Boiling/Condensation Point	Not applicable
Melting/Freezing Point	Not applicable



Specific Gravity	2.2 – 2.6
Vapor Pressure	Not applicable
Vapor Density	Not available.
Volatility	Not volatile
Solubility in Water	Not available.
Physical-Chemical Comments	No additional remarks.

---

#### Section 10 – Stability and Reactivity

Stability and Reactivity	Stable
Hazardous Decomposition Products	None known
Hazardous Polymerization	Will not occur

---

#### Section 11 – Toxicological Information

Toxicity to Animals	LD50: Not available LC50: Not available
Chronic Effects on Humans	<b>Carcinogenic Effects</b> Product as supplied is not listed.

---

#### Section 12 – Disposal Information

Waste Information	Under 40 CFR 261, this product is not hazardous as a waste
Consult your local or regional authorities.	

---

#### Section 13 – Transport Information

DOT Label Requirements	None
Reportable Quantity	None

---

#### Notice to Reader

*To the best of our knowledge, the information contained herein is accurate. Final determination of suitability of any material is the sole responsibility of the user. All materials may present unknown hazards and should be used with caution.*

---



**NO RESIDENTIAL IN THIS AREA**

**METRO BUS  
OPERATING  
FACILITY**

**SITE**

**SOUTHERN CRUSHED CONCRETE PLANT**







**UNIT TABULATION**

UNIT TYPE	#UNITS	UNIT S.F.	TOTAL S.F.
A1 - ONE BEDROOM, ONE BATH	52	701	36,452
B1 - TWO BEDROOM, TWO BATH	44	955	40,020
C1 - THREE BEDROOM, TWO BATH	4	1,125	4,500
<b>TOTAL</b>	<b>100</b>		<b>89,972</b>

**BUILDING TABULATION**

TYPE	#BLDGS	UNITS/BLDG.	UNIT TYPES.	BLDG. S.F.	TOTAL S.F.
A	1	100	A1-52, B1-44, C1-4	89,972	89,972
<b>TOTAL</b>	<b>1</b>				<b>89,972</b>

**ACCESSIBLE UNITS**

TOTAL UNITS	100
ADA (5%)	5
UNIT A1 (2)	
UNIT B1 (2)	
UNIT C1 (1)	
H+V (2%)	2
UNIT A1 (1)	
UNIT B1 (1)	

**SITE DATA**

TOTAL ACRES	3.46
UNITS/ACRE	28.90

KNOWN EASEMENTS SHOWN  
NO KNOWN DEVENTION  
OUTSIDE OF FLOOD ZONE

**BUILDING KEY**

- BUILDING NUMBER
- BUILDING TYPE

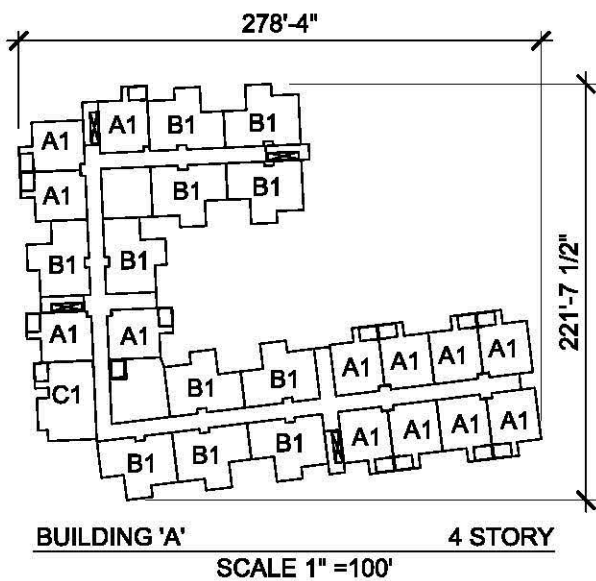
THE SITE IS ENTIRELY WITHIN 100yr FLOOD ZONE

**SITE AMENITIES**

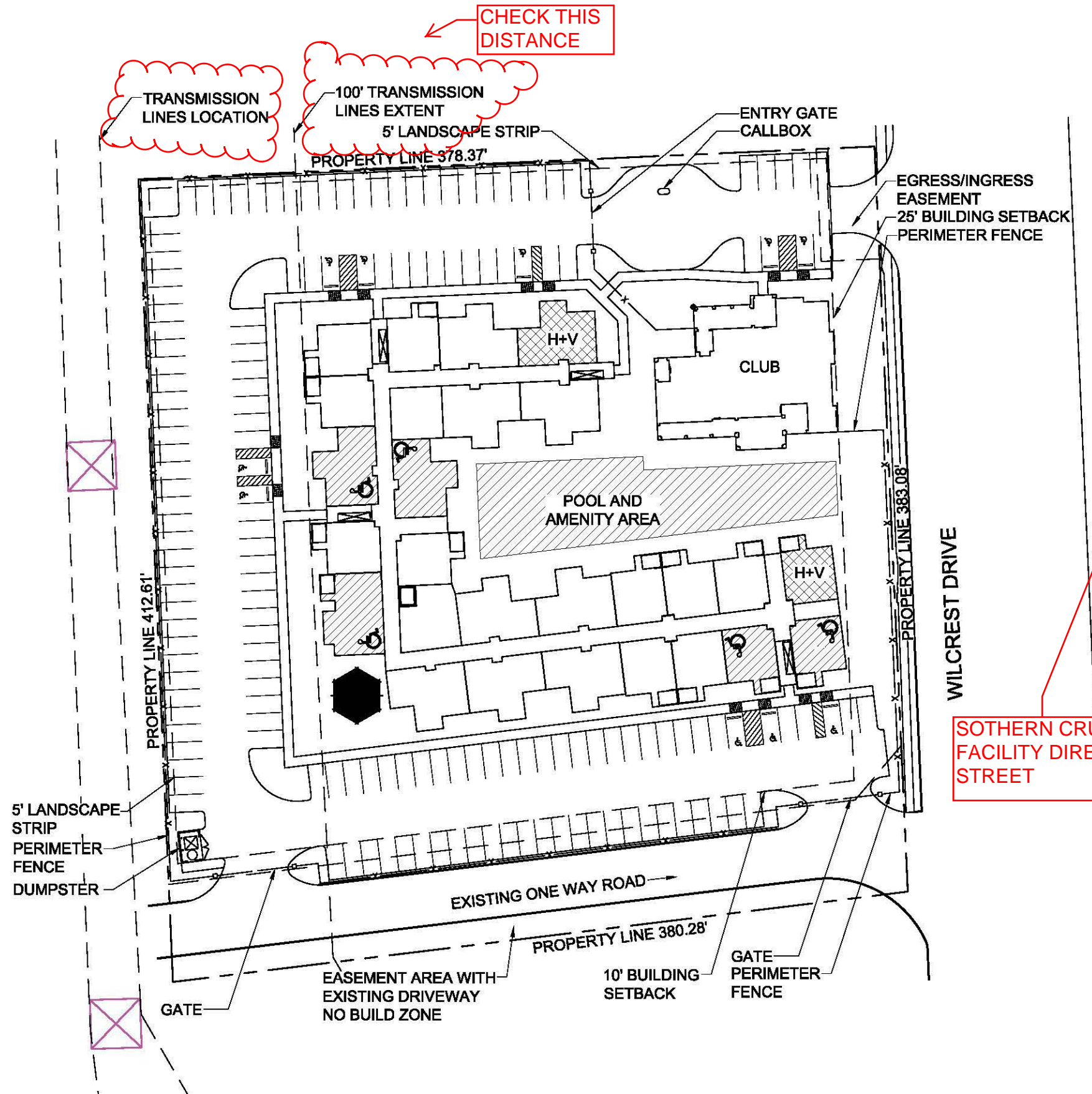
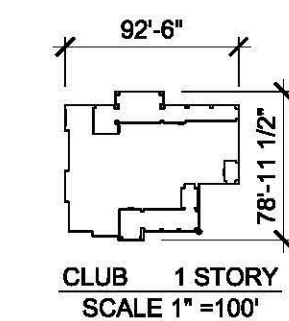
- 4,230 S.F. CLUBHOUSE
- LAUNDRY ROOM
- FURNISHED FITNESS CENTER
- BUSINESS CENTER
- FURNISHED COMMUNITY ROOM
- COVERED COMMUNITY PORCH
- FULL PERIMETER FENCING
- CONTROLLED ACCESS GATES
- POOL
- ACTIVITY ROOM (ARTS & CRAFTS)

**PARKING TABULATION**

<b>PARKING REQUIRED PER ZONING REQUIREMENTS:</b>		
1.33/1 BDR. UNIT		70
1.66/2 BDR. UNIT		74
2.00/3 BDR. UNIT		8
<b>TOTAL REQUIRED</b>		<b>152</b>
<b>PARKING PROVIDED:</b>		
UNITS		153
HANDICAP (4)		
VAN HANDICAP (4)		
CLUBHOUSE		9
HANDICAP (1)		
VAN HANDICAP (1)		
<b>TOTAL PROVIDED</b>		<b>162</b>



FONT SIZE



CHECK THIS DISTANCE

TRANSMISSION LINES LOCATION

100' TRANSMISSION LINES EXTENT  
5' LANDSCAPE STRIP

ENTRY GATE CALLBOX

EGRESS/INGRESS EASEMENT  
25' BUILDING SETBACK PERIMETER FENCE

PROPERTY LINE 412.61'

PROPERTY LINE 378.37'

PROPERTY LINE 383.08'

WILCREST DRIVE

5' LANDSCAPE STRIP  
PERIMETER FENCE  
DUMPSTER

EXISTING ONE WAY ROAD

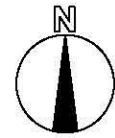
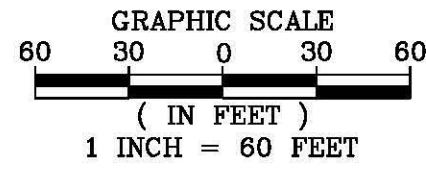
EASEMENT AREA WITH EXISTING DRIVEWAY  
NO BUILD ZONE

PROPERTY LINE 380.28'

10' BUILDING SETBACK

GATE PERIMETER FENCE

SOTHERN CRUSHED CONCRETE FACILITY DIRECTLY ACROSS THE STREET



**SITE PLAN**

SCALE 1" = 60' - 0"





May 17, 2017

Melissa Stav  
Gardner Capital Development, Inc.  
4803 S National, Ste 200  
Springfield MO 65810

RE:      Subject:      Provision at Wilcrest

Dear Melissa:

The estimated annual premiums for permanent coverage, based on current rates, for Provision at Wilcrest located in Houston, TX are as follows:

- \$ 21,795      Property – Based on total insured value of \$9,575,000
- \$ 1,227      General Liability – Based on 100 units
- \$ 600      Umbrella – Based on 100 units
- \$ 23,622      Estimated total annual premiums

Please advise if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Diana Durden".

Diana Durden  
Account Manager

St. Laurent Ln

Westpark Dr

ant-Ridge Ln

UTILITY  
TRANSMISSION  
STRUCTURES

SITE

SOUTHERN CRUSHED CONCRETE PLANT

Wilcrest Dr

Westpark Tollway (Toll road)

400 ft

© 2016 Google

Google





Application #17322  
Provision at Wilcrest  
Third Party Request for Administrative  
Deficiency

Administrative Deficiency issued as result of  
the Request

**From:** Sharon Gamble  
**To:** ["jharris@gardnercapital.com"](mailto:jharris@gardnercapital.com)  
**Cc:** ["resqueda@gardnercapital.com"](mailto:resqueda@gardnercapital.com)  
**Subject:** RE: 17322 - 9% HTC Notice of Request for Application Deficiency - TIME SENSITIVE- Please reply immediately acknowledging receipt.  
**Date:** Monday, June 12, 2017 10:54:00 AM  
**Attachments:** [17322 - Third Party Request for Admin Deficiency.pdf](#)

---

I forgot to attach the request.

Regards,

Sharon D. Gamble MSW, PMP  
Competitive Housing Tax Credit Program Administrator  
Texas Department of Housing and Community Affairs  
(512) 936-7834

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).

About TDHCA

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---

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**Sent:** Monday, June 12, 2017 10:53 AM  
**To:** [jharris@gardnercapital.com](mailto:jharris@gardnercapital.com)  
**Cc:** 'resqueda@gardnercapital.com'  
**Subject:** 17322 - 9% HTC Notice of Request for Application Deficiency - TIME SENSITIVE- Please reply immediately acknowledging receipt.

**\*\*All deficiencies must be corrected or clarified by 5 pm Austin local time on JUNE 19, 2017.\*\***

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1. The requester attests that the Application failed to disclose the presence of a heavy industrial facility. Submit evidence from a third party explaining why the Southern Crushed Concrete Plant should not be considered a heavy industrial facility.
2. The requester attests that the Application does not address the fact that the entire Development Site is within the 100-year floodplain. Please address why the site plan indicates that the site is "outside of flood zone" and does not delineate the



flood plain boundary or describe how flood mitigation or any other required mitigation will be accomplished.

3. Establish how the Application and the Development meet the requirements of §10.302(g)(1) related to Floodplains.
4. Submit evidence that the nearest boundary of the Development Site is 100 feet or more from the nearest boundary of the utility easement; or submit evidence that the distance should not be a consideration.

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**All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.**

Regards,

Sharon D. Gamble MSW, PMP  
Competitive Housing Tax Credit Program Administrator  
Texas Department of Housing and Community Affairs

(512) 936-7834

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Application #17322  
Provision at Wilcrest  
Third Party Request for Administrative  
Deficiency

Applicant Response

1. The Applicant thoroughly reviewed the Development Site and the surrounding uses prior to submission of the Application and determined that none of the surrounding uses met the language found in Section 10.101(a)(2) Undesirable Site Features. With regard to Section 10.101(a)(2)(F) which concerns “heavy industrial,” the Rule specifically states “i.e. facilities that require extensive capital investment in land and machinery, are not easily relocated and produce high levels of external noise such as manufacturing plants, fuel storage facilities (excluding gas stations) etc.” The abbreviation of “i.e.” means “that is” and therefore the Rule states that an undesirable “heavy industrial” facility is one that (a) requires extensive capital investment, (b) is not easily relocated and (c) produces high levels of noise. The nearby concrete recycling facility does not meet any of these criteria. Please find the attached letter from a Third Party engineer regarding this conclusion. Please also find a letter from the ESA provider that confirms that there are no health or safety hazards associated with the facility that would affect the Development Site. Finally, we had an on-site noise monitor study completed, which has confirmed that the noise at the Development Site is primarily traffic and not related to the concrete facility. Because the concrete facility (a) does not require extensive capital investment in land and machinery, (b) is easily relocated, and (c) does not produce high levels of external noise, it does not meet the TDHCA definition of “heavy industrial.”

2. Please note that the REA division has reviewed this Application and the flood zone has been discussed. As found in our response to REA, the Development Site will require fill to bring it out of the flood zone and this is included in Site Work costs. The architectural site plan is an inconsistency in the Application as the other documentation in the Application confirms that the site is located within the flood zone. Please see the revised site plan that states the correct flood zone.

3. The REA division has reviewed this Application and the flood zone has been discussed. As found in our response to REA, the Development Site will require fill to bring it out of the flood zone and this is included in Site Work costs. As stated in the REA RFI, the Underwriting Report will be conditioned on final build at appropriate elevations above the flood plain. The Development will meet all requirements regarding the flood zone.

4. Section 10.101(a)(2)(D) Undesirable Site Features states that the following may be considered ineligible: “Development Sites in which the buildings are located within 100 feet of the nearest line or structural element of any overhead high voltage transmission line, support structures for high voltage transmission lines, or other similar structures.” This distance was measured prior to submission of the Application and the buildings are positioned such that they are not within 100 feet of the nearest line or structural element of the transmission lines. This measurement is shown on the site plan.





7401B Highway 71 West, Suite 160  
Austin, TX 78735  
Office: 512.583.2600  
Fax: 512.583.2601

[Doucetengineers.com](http://Doucetengineers.com)

TDHCA  
221 E. 11th Street  
Austin, TX 78701  
Attn: Sharon Gamble

Re: 17322 – Provision at Wilcrest

Dear Ms. Gamble:

We have reviewed the Provision at Wilcrest development site and the surrounding uses and determined that there are not “heavy industrial” uses per TDHCA’s definition. The City of Houston does not have a zoning ordinance and therefore we relied on the TDHCA definition of “heavy industrial.” There is a concrete facility near the development site; however, it does not meet the TDHCA definition. A concrete recycling facility does not require “extensive capital investment in land and machinery” because there are no permanent buildings or fixtures on the site. Additionally, a concrete facility may be easily relocated or removed because there are no permanent structures. Finally, while there is occasional truck traffic, there is not a high level of external noise produced by the facility. Furthermore, a noise analysis prepared by AEI (environmental consultant) in accordance with HUD Noise Guidebook concluded that noise levels were within a “normally acceptable” range.

Sincerely,

A handwritten signature in black ink, appearing to read 'Grady Prestage', is written over the word 'Sincerely,'.

Grady Prestage, P.E.

Doucet & Associates, Inc.

TBPE Firm # 3937

State of Texas Surveying Firm Certification # 10105800

COMMITMENT YOU EXPECT.  
EXPERIENCE YOU NEED.  
PEOPLE YOU TRUST.



# AEI Consultants

Environmental & Engineering Services

---

June 14, 2017

Mr. Ruben Esqueda  
Provision at Wilcrest, LP  
2501 North Harwood, Suite 200  
Dallas, Texas 75201

Re: **FOLLOW-UP LETTER: PHASE I ENVIRONMENTAL SITE ASSESSMENT**  
Northwest Corner of Westpark Tollway and Wilcrest Drive  
Houston, Texas 77082  
AEI Project No. 368084  
Client Reference: Provision at Wilcrest, LP

Dear Mr. Esqueda:

On February 15, 2017, AEI issued a *Phase I Environmental Site Assessment* for the above-referenced property. On June 14, 2017, AEI was contacted by Provision at Wilcrest, LP (client) for additional information regarding the operations being conducted by the east adjacent property, Wilcrest Yard, which is further discussed below.

As discussed in the initial *Phase I Environmental Site Assessment*, the adjacent property to the east is listed as "Wilcrest Yard" and "Southern Crushed Concrete". This is a concrete recycling facility, in which operations and activities on site include collecting and recycling concrete into aggregate materials, as well as the sale of aggregate materials, with no concrete manufacturing or mining on site.

Based on the adjacent facility's operations, as previously discussed in AEI's Phase I ESA prepared on February 15, 2017, the east adjacent property located at 3601 Wilcrest Drive is not expected to represent any significant environmental concern at this time. After a review of the regulatory database and based on observations made during the original site reconnaissance in February 2017, there appear to be no immediate health or safety hazards associated with the activities being performed at this facility that would affect the subject property.



Project No. 368084  
Page 2  
June 14, 2017



Please contact me at (214) 393-5810 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Raul Kubicki".

Rachel Kirkpatrick  
Senior Author

16 June 2017

**MEMORANDUM No. M-1023-0**

**CSTI Job No. 6553**

To: Provision at Wilcrest, LP

From: Arno Bommer & Edgar Olvera, CSTI acoustics

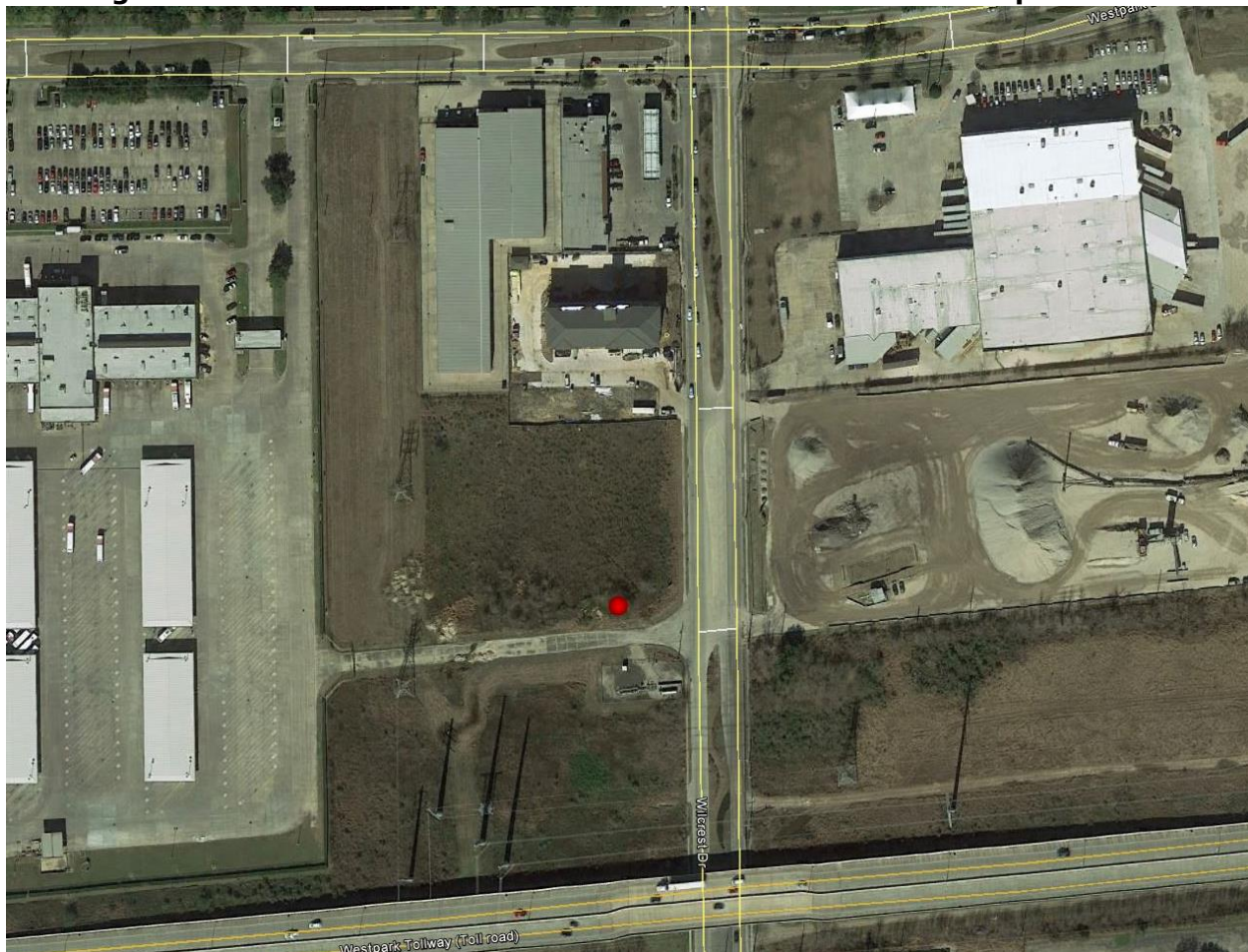
Subject: Noise Monitoring for Provision at Wilcrest HUD Study

**Monitor Info**

CSTI placed a noise monitor at the proposed site of the Provision at Wilcrest multifamily housing project. This monitor measured the sound levels from 3:30 pm on Tuesday, June 13<sup>th</sup> 2017 until 1:50 pm on Thursday, June 15<sup>th</sup> 2017. The purpose of the sound monitoring was to assess sound levels at the site. Although traffic noise can be modeled using the HUD noise model, noise from the concrete processing facility on the east side of Wilcrest across from the site can be assessed only with direct sound measurements.

Figure 1 shows the location of the noise monitor as a red dot on the aerial view of the proposed residential site. The sound monitor was chained to a tree with the microphone attached to a tree branch at approximate ear level above the ground.

**Figure 1. Noise Monitor Location near Southeast Corner of Proposed Site**

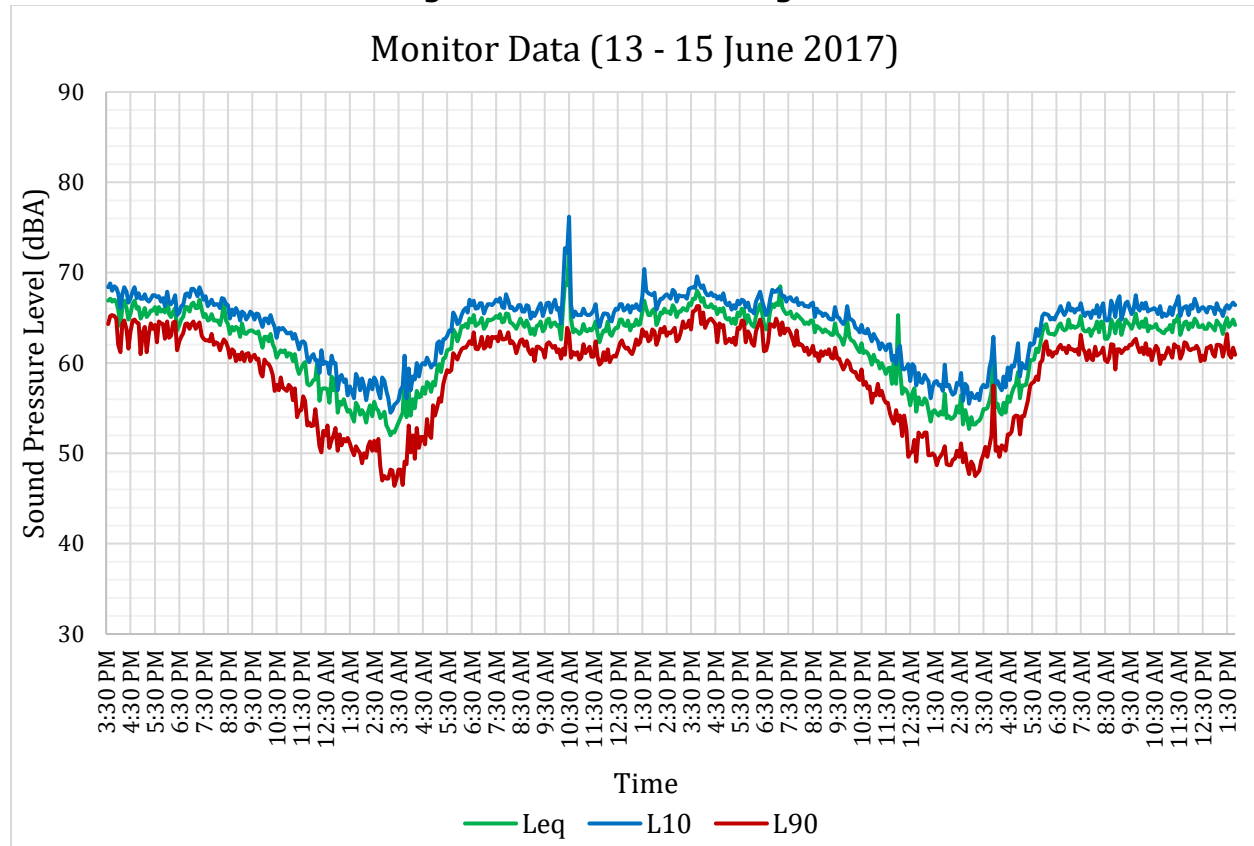




### Summary of Noise Monitoring Data

The noise monitor measured A-weighted sound levels continuously with 5-minute samples. Figure 2 presents the noise data measured over the entire time period. The data is presented as Leq, L10, and L90 sound pressure levels.

**Figure 2. Noise Monitoring Data**



Leq is the equivalent sound level, a type of average. It is used by HUD when calculating the 24-hour DNL and averages the sound energy over the entire 5-minute sampling period.

The L10 is the sound level that is exceeded for 10% of the time during the sampling period. The sound level will be higher than this value for a total of 30 seconds out of each 5-minute sample

The L90 is the sound level that is exceeded for 90% of the time during the sampling period. The sound level will be lower than this value for a total of 30 seconds out of each 5-minute sample.

The DNL used by HUD is calculated by energy averaging the Leqs over an entire 24-hour period with a 10-dBA penalty added to sound levels between 10 pm and 7 am to address most people’s increased sensitivity to noise at night. For our sound measurements, the DNL was 67.5.

As shown, the sound levels follow a pattern that corresponds primarily with traffic on the adjacent roads, picking up in the morning and falling off in the evening. This pattern is common whenever traffic is the primary sound source in an area.

There are several spikes in the graph that represent brief loud sounds. When we listened to audio recordings of these events, they were primarily from unusually loud traffic such as trucks or motorcycles, possibly with deficient mufflers. One of the spikes was caused by a bird calling near the microphone.

We did not notice any particular sounds on the recordings that were directly related to the operations at the concrete processing facility across the street. The site is quite deep, east to west, and some operations take place behind tall piles on the site.

While we were at the site setting up and picking up the sound monitor, we did not hear any loud sounds from the concrete processing facility. We did notice one truck exiting the facility, and we would expect slightly more truck traffic on Wilcrest due to the facility. We also noticed medium trucks going to and from the Bel Furniture Distribution Center just north of the concrete processing facility.

The measured sound levels show that the noise at the site is primarily traffic related. The measured DNL is very close to the sound levels that we modeled at about the same location using the HUD noise model. This indicates that the noise modeling data is sufficient for assessing noise impacts at the site.



**UNIT TABULATION**

UNIT TYPE	# UNITS	UNIT S.F.	TOTAL S.F.
A1 - ONE BEDROOM, ONE BATH	52	701	36,452
B1 - TWO BEDROOM, TWO BATH	44	955	42,020
C1 - THREE BEDROOM, TWO BATH	4	1,125	4,500
<b>TOTAL</b>	<b>100</b>		<b>82,972</b>

**BUILDING TABULATION**

TYPE	#BLDGS	UNITS/BLDG.	UNIT TYPES.	BLDG. S.F.	TOTAL S.F.
A	1	100	A1-52, B1-44, C1-4	82,972	82,972
<b>TOTAL</b>	<b>1</b>				<b>82,972</b>

**ACCESSIBLE UNITS**

TOTAL UNITS	100
ADA (5%)	5
UNIT A1 (2)	
UNIT B1 (2)	
UNIT C1 (1)	
H+V (2%)	2
UNIT A1 (1)	
UNIT B1 (1)	

**SITE AMENITIES**

- 4,230 S.F. CLUBHOUSE
- LAUNDRY ROOM
- FURNISHED FITNESS CENTER
- BUSINESS CENTER
- FURNISHED COMMUNITY ROOM
- COVERED COMMUNITY PORCH
- FULL PERIMETER FENCING
- CONTROLLED ACCESS GATES
- POOL
- ACTIVITY ROOM (ARTS & CRAFTS)

**SITE DATA**

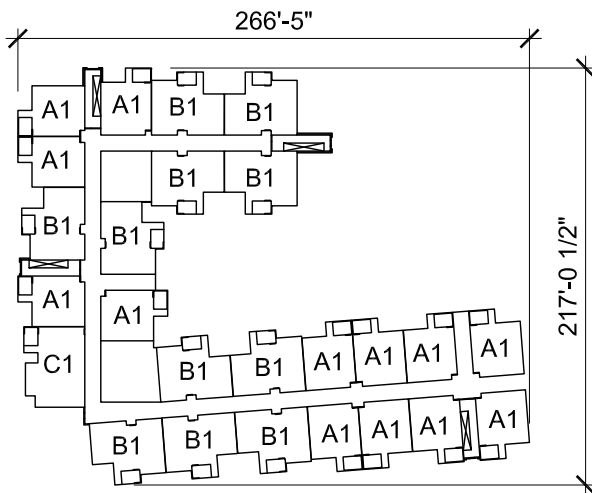
TOTAL ACRES	
UNITS/ACRE	3.459
KNOWN EASEMENTS SHOWN	28.91
NO KNOWN DETENTION	
FLOOD ZONE AE	

**PARKING TABULATION**

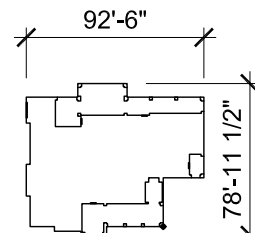
PARKING REQUIRED PER ZONING REQUIREMENTS:		
1.33/1 BDR. UNIT		70
1.66/2 BDR. UNIT		74
2.00/3 BDR. UNIT		8
<b>TOTAL REQUIRED</b>		<b>152</b>
PARKING PROVIDED:		
UNITS		153
HANDICAP (4)		
VAN HANDICAP (4)		
CLUBHOUSE		9
HANDICAP (1)		
VAN HANDICAP (1)		
<b>TOTAL PROVIDED</b>		<b>162</b>

**BUILDING KEY**

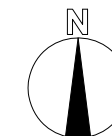
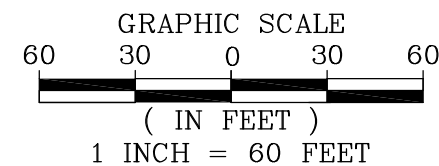
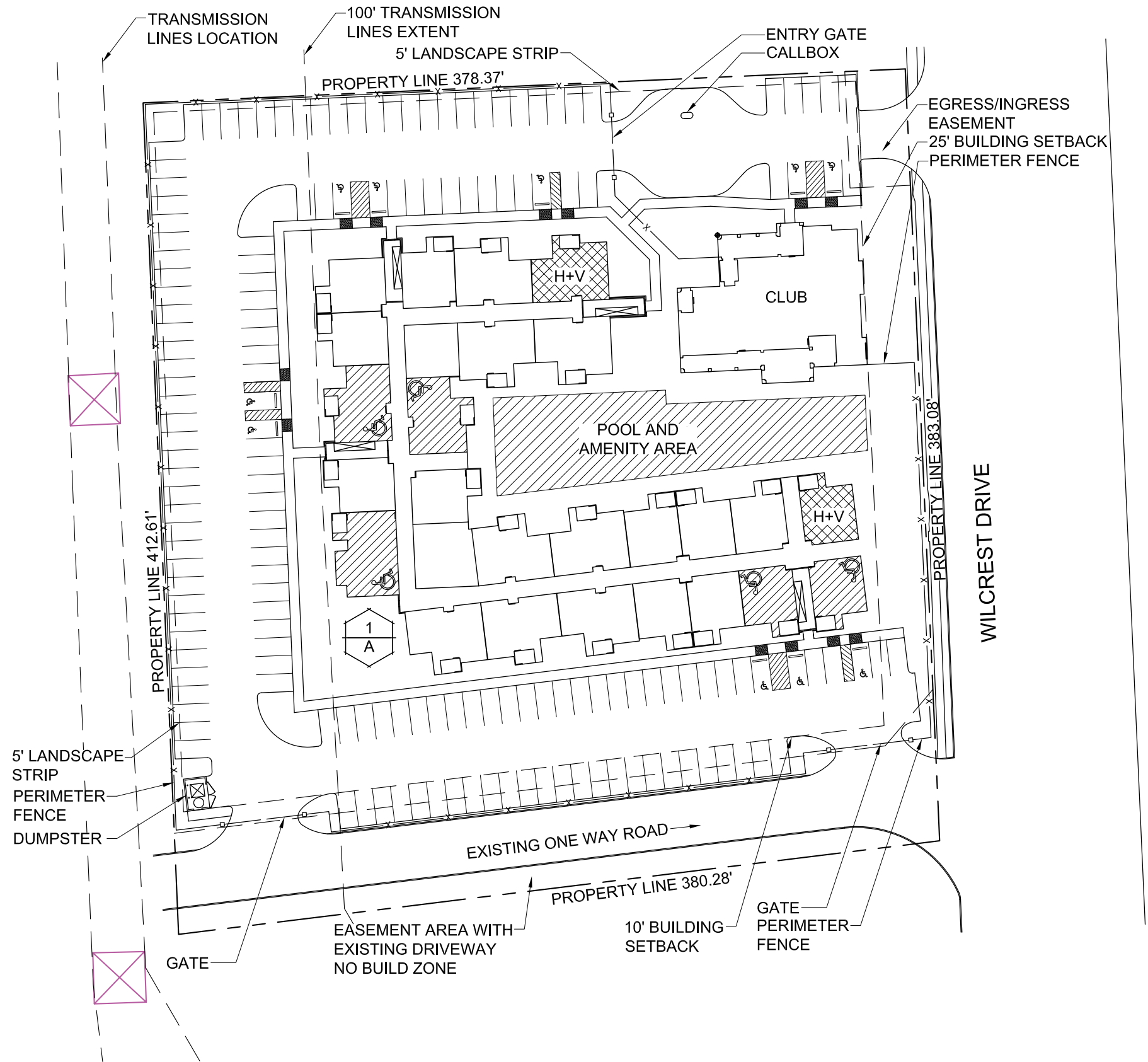
- BUILDING NUMBER
- BUILDING TYPE



**BUILDING 'A'** 4 STORY  
SCALE 1" = 100'



**CLUB** 1 STORY  
SCALE 1" = 100'



**SITE PLAN**

SCALE 1" = 60' - 0"

**PROVISION AT WILCREST  
HOUSTON, TEXAS**

**A1.0**

SITE PLAN  
Copyright © 2017



ajcarpen . <ajcarpen@gmail.com>

---

**Fwd: 17322 - 9% HTC Notice of Request for Application Deficiency - TIME SENSITIVE- Please reply immediately acknowledging receipt.**

---

Jervon Harris <jharris@gardnercapital.com>

Mon, Jun 12, 2017 at 4:51 PM

To: Alyssa Carpenter <ajcarpen@gmail.com>, Sarah Anderson <sarah@sarahandersonconsulting.com>

Cc: Kit Sarai <kit@sarahandersonconsulting.com>, Ruben Esqueda <resqueda@gardnercapital.com>

Please see below.

Jervon Harris

Begin forwarded message:

**From:** "Sharon Gamble" <sharon.gamble@tdhca.state.tx.us>

**To:** "Jervon Harris" <jharris@gardnercapital.com>

**Cc:** "Ruben Esqueda" <resqueda@gardnercapital.com>

**Subject:** RE: 17322 - 9% HTC Notice of Request for Application Deficiency - TIME SENSITIVE- Please reply immediately acknowledging receipt.

I forgot to attach the request.

Regards,

Sharon D. Gamble MSW, PMP

Competitive Housing Tax Credit Program Administrator

Texas Department of Housing and Community Affairs

(512) 936-7834

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Regards,

Sharon D. Gamble MSW, PMP

Competitive Housing Tax Credit Program Administrator

Texas Department of Housing and Community Affairs

(512) 936-7834

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#### 2 attachments

 **17322 - Third Party Request for Admin Deficiency.pdf**  
7474K

 **ATT00001.htm**  
1K



Application #17322  
Provision at Wilcrest  
Third Party Request for Administrative  
Deficiency

Department Determination



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

BOARD MEMBERS

J.B. Goodwin, *Chair*  
Leslie Bingham-Escareño, *Vice Chair*  
Paul A. Braden, *Member*  
Asusena Reséndiz, *Member*  
Sharon Thomason, *Member*  
Leo Vasquez, *Member*

July 5, 2017

*Writer's direct phone # (512) 475-1676*  
*Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)*

Mr. Jervon D. Harris  
Provision at Wilcrest, LP  
4803 National Ave, Ste 200  
Springfield, MO 65810

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17322 PROVISION AT WILCREST

Dear Mr. Harris:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of a Third Party Request for Administrative Deficiency ("RFAD") requesting that the Department review the application above to determine whether it properly disclosed the presence of a heavy industrial facility, in reference to Southern Crushed Concrete plant, and whether the Application appropriately addressed the 100-year floodplain. The response stated that the Applicant has been contacted by the underwriters regarding the floodplain issues, and staff will allow any outstanding floodplain issues to be resolved by that division.

Regarding the concrete recycling plant, it was discovered during review that the Texas Commission on Environmental Quality ("TCEQ") considers this company a municipal solid waste processing plant. Pursuant to 10 TAC §10.101(a)(2)(B):

**(2) Undesirable Site Features.** Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s). ...

... (B) Development Sites located within 300 feet of a solid waste or sanitary landfills;

Because the Application did not disclose the presence of the solid waste facility, staff will request a determination from the Department's Governing Board that the Development Site be found ineligible.

The assessment of the Development Site and neighborhood will be presented to the Board with a recommendation with respect to the eligibility of the Development Site. Factors to be considered by the Board, despite the existence of the undesirable site characteristics, are identified in 10 TAC §10.101(a)(3)(E). Please note under this rule that the new construction of high quality affordable housing units, alone, does not present a compelling reason to support a conclusion of eligibility. Should





REQUEST FOR ADMINISTRATIVE DEFICIENCY

July 5, 2017

Page 2

the Board make a determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is not subject to appeal.

If you have any questions or concerns, please contact me at (512) 475-1676 or by email at [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', with a long horizontal flourish extending to the right.

Marni Holloway  
Multifamily Division Director

Cc: Les Kilday

Application #17356  
The Acacia  
Third Party Request for Administrative  
Deficiency



# SA THE BRISTOL, L.P.

May 31, 2017

Mr. Tim Irvine  
Executive Director  
Texas Department of Housing  
& Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

RE: Challenge - Application No. 17356, The Acacia

Dear Mr. Irvine:

This challenge is made on behalf of SA The Bristol, L.P., pursuant to Section 11.10 of the 2017 Qualified Action Plan (“QAP”) with respect to The Acacia, having Application No. 17356. Enclosed please find a check payable to the Texas Department of Housing and Community Affairs (“TDHCA”) in the amount of \$500.00 for the required fee. My contact information is:

Henry Flores, Vice President  
Madhouse Development Services, Inc.  
8500 Shoal Creek Blvd., Bldg. 4, Ste. 208  
Austin, TX 78757  
Email: [hflores@madhousedevlopment.net](mailto:hflores@madhousedevlopment.net)

## **OPPORTUNITY INDEX – Item #1**

The Acacia claimed one (1) point for being located within two (2) miles of a museum pursuant to Section 11.9(c)(4)(B)(i)(X) of the QAP pertaining to Opportunity Index. The Acacia application includes documentation (Attachment A) for the following City of San Antonio Public Art displays located within the required radius:

- Nani Falcone Skate Park Mural and Falcone Park Benches, both located within Nani Falcone Park
- Butterfly (a sculpture) located in the Howard W. Peak Greenway Trails - Leon Creek

Pursuant to Section 11.9(c)(4)(B) of the QAP, **neither the Nani Falcone Skate Park Mural nor the Falcone Park Benches (both located within Nani Falcone Park) should count towards the museum Opportunity Index point because the Applicant has already used the Nani Falcone Park for the public park with an accessible playground point item.** Section 11.9(c)(4)(B) of the QAP states:

“Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits.”

**Additionally, while the public artworks may be permanent and have artistic value, they are ancillary to the public parks and therefore do not meet the definition provided in the QAP of a museum.** Please see the photographs of the provided in Attachment B. Section 11.9(c)(4)(B)(i)(X) states:

“(X) Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value. (1 point)”

Both the Nani Falcone Park and Howard W. Peak Greenway Trails are part of the San Antonio Parks and Recreation Department. Their mission does not relate to acquisition, conservation, study, exhibition, or educational interpretation of objects. As stated on their website, “The mission of the San Antonio Parks and Recreation Department is to provide exceptional parks, facilities, programs and services to improve the quality of life for all.” (Attachment C)

Per the Parks and Recreation Department website, the Nani Falcone Park specifically provides opportunities to enjoy the outdoors:

“Nani Falcone Park offers residents the opportunity to enjoy quality time with their family and friends in the great outdoors. Pack a picnic lunch and head out to the park to enjoy the fresh air and sunshine today.” (Attachment D)

Furthermore, in an email to Jimmy LeFlore, Public Art Manager for the City of San Antonio, the question was asked if the Butterfly sculpture located at Prue Rd. and Howard W. Peak Greenway Trails is part of an outdoor museum, or is it a stand-alone artwork? His reply was: “It is a stand-alone artwork.” (Attachment E)

According to the Parks and Recreation Department website, the Howard W. Peak Greenway Trails are for riding, walking and running:

“Hiking and biking along the Howard W. Peak Greenway trails is a great way to get fit and enjoy the outdoors. The ever growing network of multi-use trails wind through natural landscapes along San Antonio creeks. Currently 52.6 miles of developed greenway trails are now open for your riding, walking and running pleasure.” (Attachment F)

Finally, the FAQ issued by the TDHCA further clarifies:

*Q: The rule states that the museum cannot be “an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value”. Please explain this carve-out and if possible specific examples of museums that would not qualify based on this provision.*



A: The carve-out is simply “it has to be a museum”. If you tour a bakery, and at some point in the tour there is a room that has all of the bread-making equipment since 1943 on display, that does not make the bakery a museum. It is a bakery that has a room where they display things. However, a free-standing “The Museum of 20th Century Baking” that operates as an independent organization would qualify as a museum for this point item.

TDHCA’s common sense clarification can also logically be applied to a park by substituting a couple of words:

The carve-out is simply “it has to be a museum”. If you tour a *park*, and at some point in the tour there is a *sculpture* on display, that does not make the *park* a museum. It is a *park* that has a *sculpture*.

For the above reasons, The Acacia should not earn one point for being located within two miles of a museum.

## **OPPORTUNITY INDEX – Item #2**

The Acacia claimed one (1) point for being located less than one half (1/2) mile on an accessible route from a public park with an accessible playground pursuant to Section 11.9(c)(4)(B)(i)(I) of the QAP pertaining to Opportunity Index. The Acacia application includes documentation (Attachment G) for the Nani Falcone Park and playground as evidence they should receive a point for this Opportunity Index item.

The QAP language makes the accessible route a salient feature of the Opportunity Index Section 11.9(c)(4)(B)(i)(I) regarding the public park and playground:

“The Development site is located less than 1/2 mile **on an accessible route** from a public park with an accessible playground, both of which meet 2010 ADA standards.”

In addition, the accessible route was emphasized in the FAQ issued by the TDHCA:

Q: Do the playground and public transit stop need to be within 1/2 mile of the site, or must the accessible route be no more than 1/2 mile long?

A: The playground has to be within 1/2 mile of the site, **and the entire route must be accessible** (including transit as applicable). (Emphasis added)

The Acacia’s route to the public park does not meet accessibility requirements, it does not have a continuous accessible route to the park; it does not have a continuous sidewalk to the arrival point of the park; and the curb approach does not meet ADA requirements. A third-party Accessibility Consultant, Stephen Meyer, a Registered Accessibility Specialist, performed an inspection of the route from The Acacia’s site to the Nani Falcone playground and prepared a report included as Attachment H. Per the consultant’s findings (with citations from the ADA 2010 Standards for Accessible Design in italics below), **there is not an accessible route from The Acacia’s site to the Nani Falcone playground**, specifically:

- The west side of Mystic Road, which is the side of the street the playground is located on, does not have a continuous, accessible pathway. There is undeveloped land, outside the developer’s control, that is unimproved with no sidewalks. The unimproved area has an uneven grass surface.

*302 Floor or Ground Surfaces. 302.1 General. Floor and **ground surfaces shall be stable, firm, and slip resistant and shall comply with 302.***

While the east side of Mystic Road does have a continuous sidewalk, there are gaps in the sidewalk that are greater than 1/2" and deeper than 1/2", as well as broken asphalt.

- There is not a crosswalk across Mystic Road at the park for people to cross the road to the park. The only crosswalk that is provided is located a quarter mile away at the intersection of Mystic and Bandera Road.

*206.2.1 Site Arrival Points. At least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; **public streets and sidewalks;** and public transportation stops to the accessible building or facility entrance they serve.*

- In addition, the curb approach closest to the playground at the park is greater than 1/4" and therefore not accessible.

*303.2 Vertical. Changes in level **of 1/4 inch (6.4 mm) high maximum** shall be permitted to be vertical.*

The Acacia should not earn one point for an accessible route from a public park with an accessible playground. There is not an accessible route from the site to the playground indicated in The Acacia's application nor is there an accessible route available pursuant to the report provided by Accessibility Consultant, Stephen Meyer.

In summary The Acacia, Application No. 17356, should not earn a total of two points for the two Opportunity Index items discussed above, the museum (2 miles) and accessible public park with playground (.5 mile).

Very truly yours,



Henry Flores

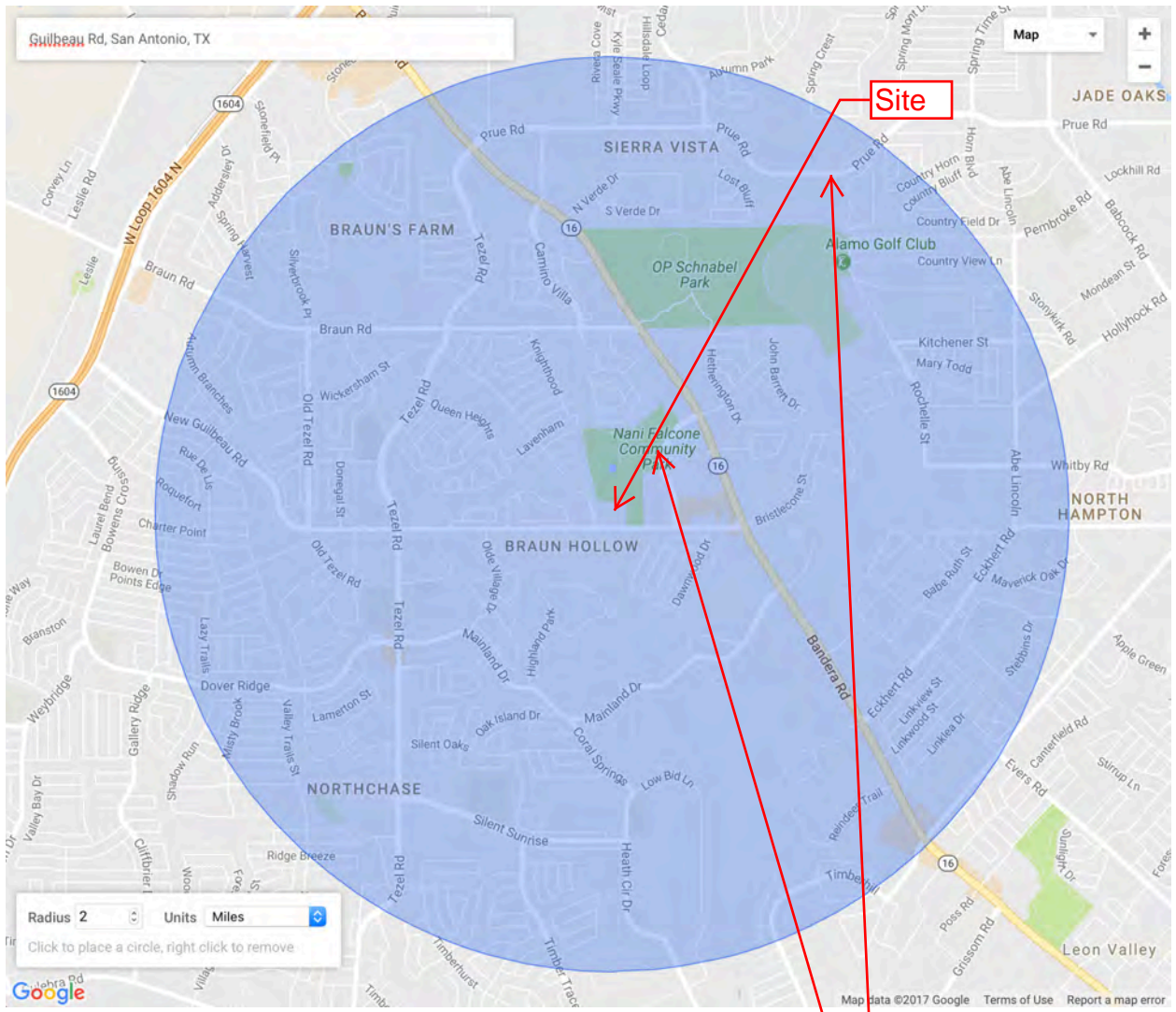
Authorized Representative

*Attachments*

cc: Manish Verma, VDC Guilbeau Bandera, LP (via email - [manishv@versadevco.com](mailto:manishv@versadevco.com))



# Attachment A



(X) City of San Antonio Public Art displays that are permanent and are for the exhibition of objects having artistic value





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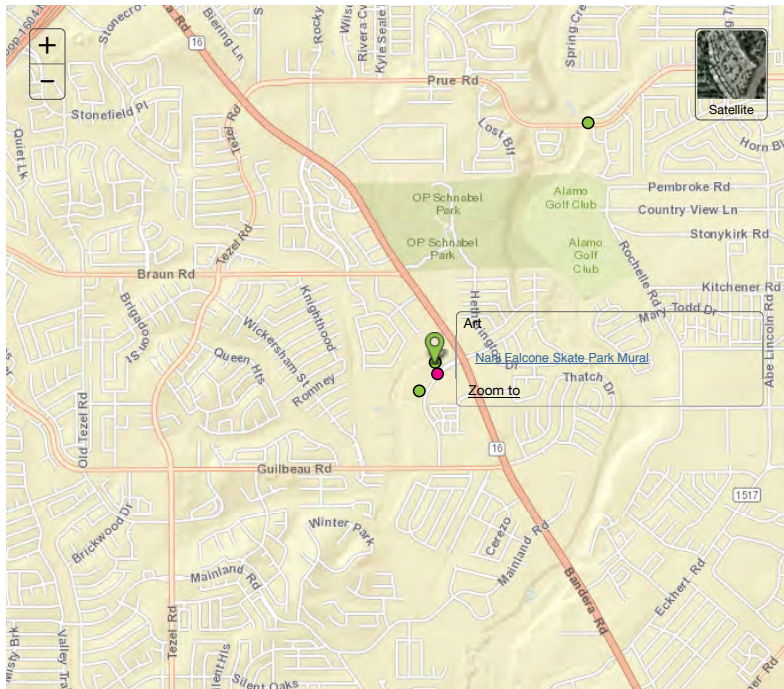
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### NANI FALCONE SKATE PARK MURAL

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Artist: Katie Pell

Category: Parks

(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Parks?Category=78)

Details: mural paintings (visual works), concrete, paint on stone/concrete

Year completed: 2011

#### Description:

Concrete skateboarding installation with painted design of a green snake.

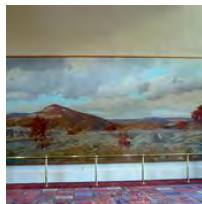
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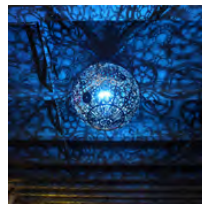
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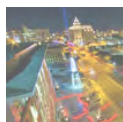
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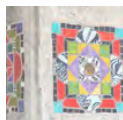
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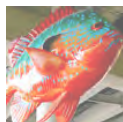
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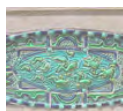
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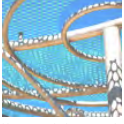




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Limestone benches with carved native tree foliage and descriptive text: pecan, live oak, cedar elm and mesquite.



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Accession#: 2007.HUE.1  
 Artist First Name: Leticia  
 Artist Last Name: Huerta  
 More About Artist URL: <http://leticiahuerta.com/>  
 Related Site URL:  
 Type: bench  
 Media 1: limestone  
 Media 2: None  
 Dimensions: 2' x 2' x 4'  
 Completion Year: 2007  
 Additional Information URL:  
 Location Name: Nani Falcone Park  
 Artwork Address: 7625 Mystic Park  
 Zip Code: 78254  
 Point X: -98.6436303329999  
 Point Y: 29.5240483330001  
 Additional Directions:  
 Council District: 7  
 Map Point Color: Green

## FALCONE PARK BENCHES

**Artist:** Leticia Huerta

**Category:**  Parks

(<http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Parks?Category=78>)

**Details:** bench, limestone, None

**Dimensions:** 2' x 2' x 4'

**Date completed:** 2007

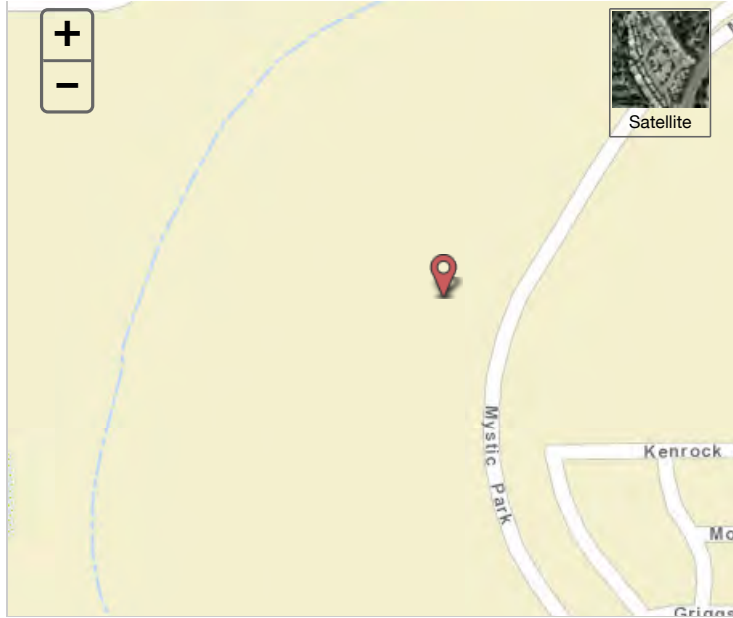
**Description:**

Limestone benches with carved native tree foliage and descriptive text: pecan, live oak, cedar elm and mesquite.

More About the Artist

(<http://leticiahuerta.com/>)





**Location**

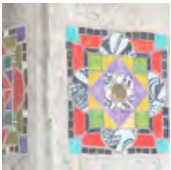
7625 Mystic Park

**Additional Directions:** Nani Falcone Park

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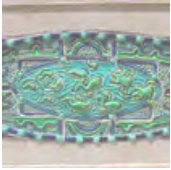
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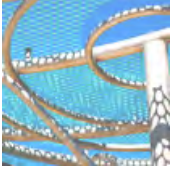
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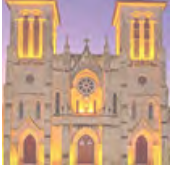
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# Butterfly (http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Public-Artwork/Article/115/Butterfly)

Galvanized steel sculpture with multiple snout-nosed butterfly silhouettes surrounding a central column. Located at Prue Rd. and Howard W. Peak Greenway Trails at Leon Creek in northwest San Antonio.



(/DesktopModules/DigArticle/MediaHandler.ashx?portalid=3&moduleid=12016&mediaid=49&width=600&height=600)

Created 2 years 283 days ago  
by Lauren Faske (Arts)  
(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Author/107/Lauren-Faske-Arts)

Butterfly  
(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Tag/34/Butterfly) Jack Robbins  
(http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Tag/35/Jack-Robbins) leon creek trail



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**Views:** 3507



(<http://www.getcreativesanantonio.com/DesktopModules/PortalId=3&ModuleId=20231&Article=115>)

Accession#: 2012.ROB.1  
 Artist First Name: Jack  
 Artist Last Name: Robbins  
 More About Artist URL:  
 Related Site URL:  
 Type: sculpture in the round  
 Media 1: steel  
 Media 2: None  
 Dimensions:  
 Completion Year: 2012  
 Additional Information URL:  
 Location Name: Howard W. Peak Greenway Trails - Leon Creek  
 Artwork Address:  
 Zip Code:  
 Point X: -98.63086733  
 Point Y: 29.54159133  
 Additional Directions:  
 Council District: 8  
 Map Point Color: Green

**Related Articles**

- Brook in the Hollow (<http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Public-Artwork/Article/292/Brook-in-the-Hollow>)
- Rainbow Hills Mosaics (<http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Public-Artworks-List/Public-Artwork/Article/128/Rainbow-Hills-Mosaics>)

**BUTTERFLY**

**Artist:** Jack Robbins

**Category:** Parks  
 (<http://www.getcreativesanantonio.com/Public-Art/Public-Artworks-Map/Parks?Category=78>)

**Details:** sculpture in the round, steel, None

**Date completed:** 2012

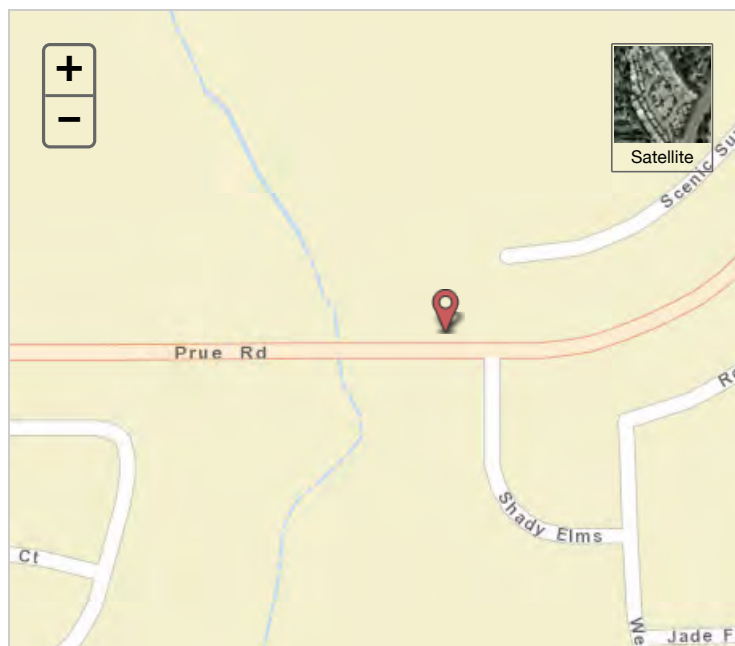
**Description:**  
 Galvanized steel sculpture with multiple snout-nosed butterfly silhouettes surrounding a central column. Located at



Prue Rd. and Howard W. Peak Greenway Trails at Leon Creek in northwest San Antonio.



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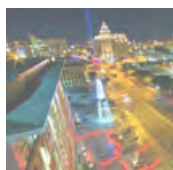


**Location**

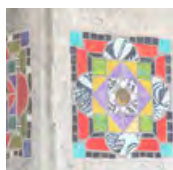
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**Additional Directions:** Howard W. Peak Greenway Trails - Leon Creek

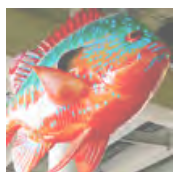
## Gallery



(/portals/3/images/Public%20Art%20SA/SkylineNight



(/portals/3/images/Public%20Art%20SA/trolley.jpg)



(/portals/3/images/Public%20Art%20SA/fish.jpg)



(/portals/3/images/Public%20Art%20SA/GoldenAge.j



(/portals/3/images/Public%20Art%20SA/HighwayEml



(/portals/3/images/Public%20Art%20SA/pebbles.jpg)



## Latest Post


Public Art San Antonio

 Like Page
 4.8K likes


Public Art San Antonio added 2 new photos.  
 February 23 at 10:07am

#TBT On July 2, 2015 San Antonio artist Cakky Brawley, pictured here with Councilman Alan Everett Warrick II, unveiled renderings of her public art piece at the Schaefer Branch Library groundbreaking ceremony. Join the City on March 25 for the grand opening and see the finished artwork!

#getcreativesa #publicartsanantonio [Join EC&D Newsletter!](#) <http://visitor.r20.constantcontact.com/d.jsp?llr=vyx1hhcab&p=oi&m=1101901716533&sit=48acew9cb&f=b42b619f-b4a4-48e2-887d-ccb78aab5b6c>

[Public Library](#)

## Contact Us

City of San Antonio Department for Culture & Creative Development  
 Phone: 210.206.ARTS / Fax: 210.207.4526  
 Email Address: [pasa@sanantonio.gov](mailto:pasa@sanantonio.gov)

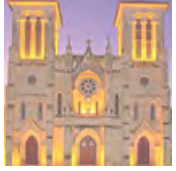
- Mailing Address: PO Box 839966 San Antonio, TX 78283-3966
- Physical Address: 115 Plaza de Armas, Suite 102, San Antonio, TX 78205

## Get Connected

San Antonio ARTmosphere Newsletter  
<https://www.facebook.com/pages/Public-Art-San-Antonio/265827486367>  
<http://publicartsanantonio.com/public-art>



(/portals/3/images/Public%20Art%20SA/water.jpg)



(/Portals/3/Images/home/SanFernando.png)



(/Portals/3/Images/home/Valedora.png)



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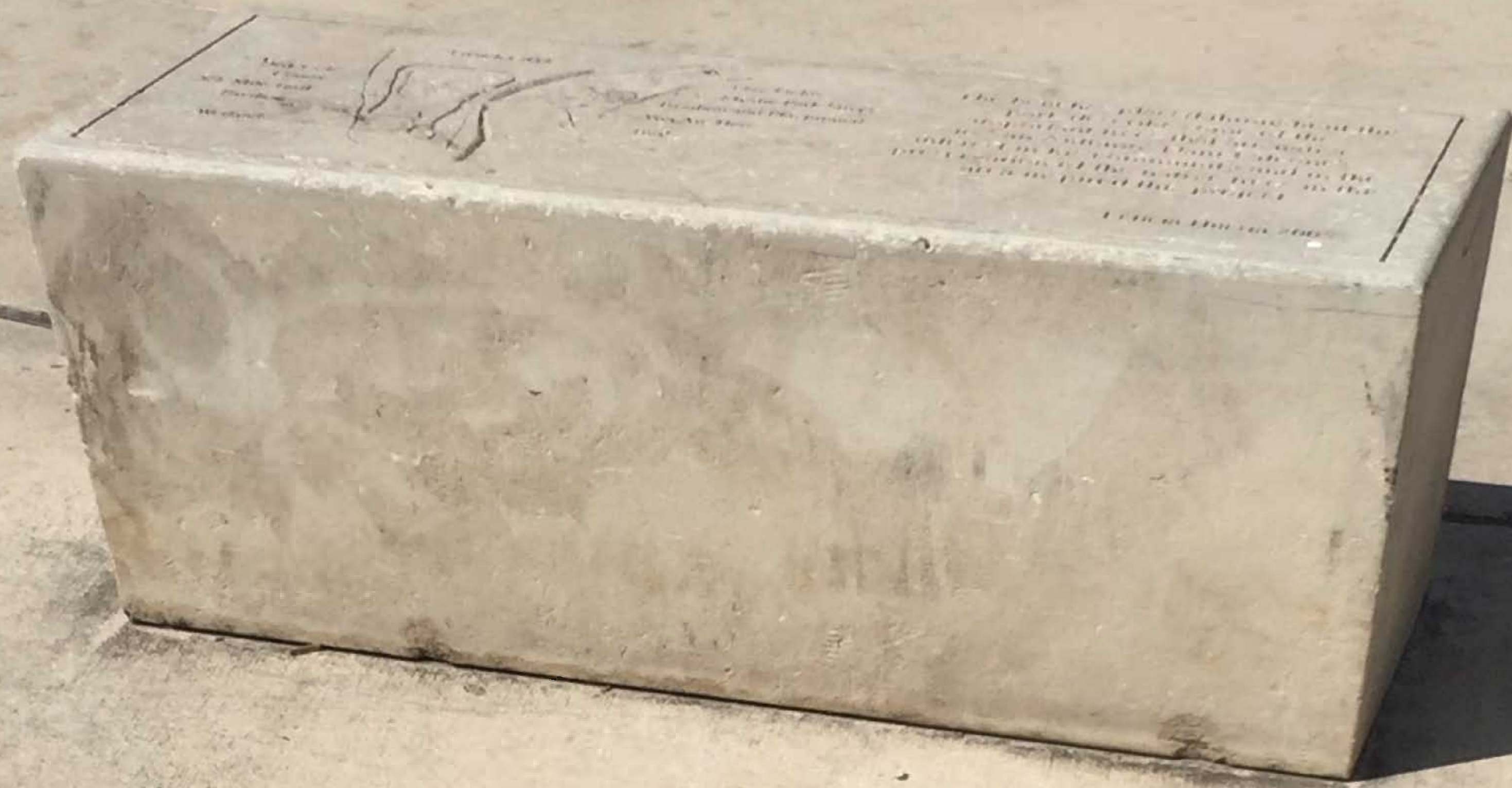


(<http://www.san>)



# **Attachment B**





Nani Falcone Park Bench





Butterfly Sculpture





Butterfly Sculpture





# Attachment C

(source: <https://www.sanantonio.gov/ParksAndRec/About-Mission/About-Us>)



## ABOUT OUR PARKS

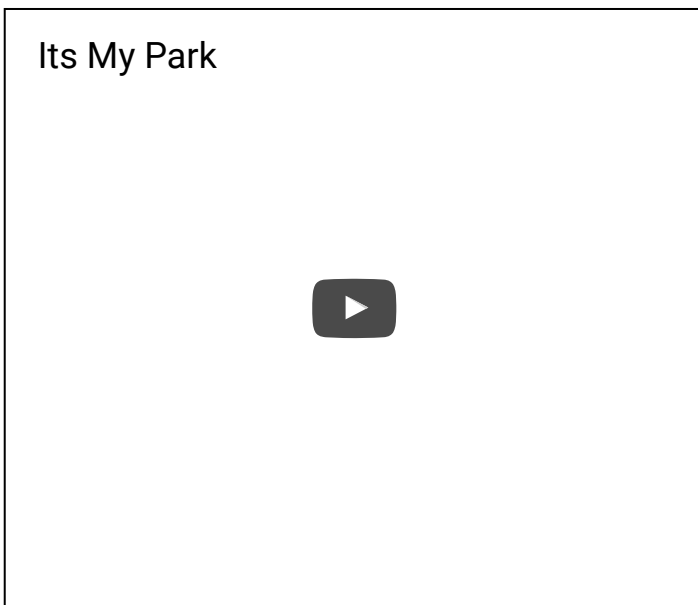
The San Antonio Parks and Recreation Department operates the City's recreational and cultural programs and maintains more than 240 City-owned parks including swimming pools, gymnasiums, historic cemeteries, sports facilities, recreation centers and the Botanical Garden and Conservatory. The department is responsible for the maintenance of 15,337.5950 acres of park land, including more than 150 miles of walking, hiking, and biking trails.

## MISSION STATEMENT

The mission of the San Antonio Parks and Recreation Department is to provide exceptional parks, facilities, programs and services to improve the quality of life for all.

## CITY MANAGER'S

## IT'S OUR PARK VIDEO



## Contact Us

- San Antonio Parks & Recreation Department  
Phone: [Phone Directory](#)
- Email:
- Mailing Address: PO Box 839966  
San Antonio, TX 78283-3966
- Physical Address: 5800 Enrique M. Barrera Parkway (formerly 5800 Old Highway 90 West)
- San Antonio, TX 78227
- Ron Darner Parks and Recreation Operations Headquarters
- Reservations: 210.207.7275 / [Reservation How To](#)



# Attachment D

(source: <http://www.sanantonio.gov/ParksAndRec/Parks-Facilities/All-Parks-Facilities/Parks-Facilities-Details/ArtMID/14820/ArticleID/2657/Park/68>)

## PARKS & FACILITIES DETAILS

### Falcone Park



#### Trails

Type: Concrete, Pugmill / Length (Miles): 1.10

#### Disc Golf

9-hole Course

Nani Falcone Park offers residents the opportunity to enjoy quality time with their family and friends in the great outdoors. Pack a picnic lunch and head out to the park to enjoy the fresh air and sunshine today.

#### Programs & Classes

Use the button below to view and register for classes **at this location**. If there are **no results** for classes at this location, a list of classes, programs, and activities **at alternate locations** will be provided.



## View & Register for Classes

Si necesita asistencia en español para inscribirse en clases o necesita información sobre nuestros programas llame al 210-207-3047.

Alcohol is prohibited; amenities are first come, first serve with the exception of the ones listed below.

### Amenities Available for Rental

The following amenities are available for rental. Use the links below to view facility details or calendar availability. Learn how to make a [reservation](#).

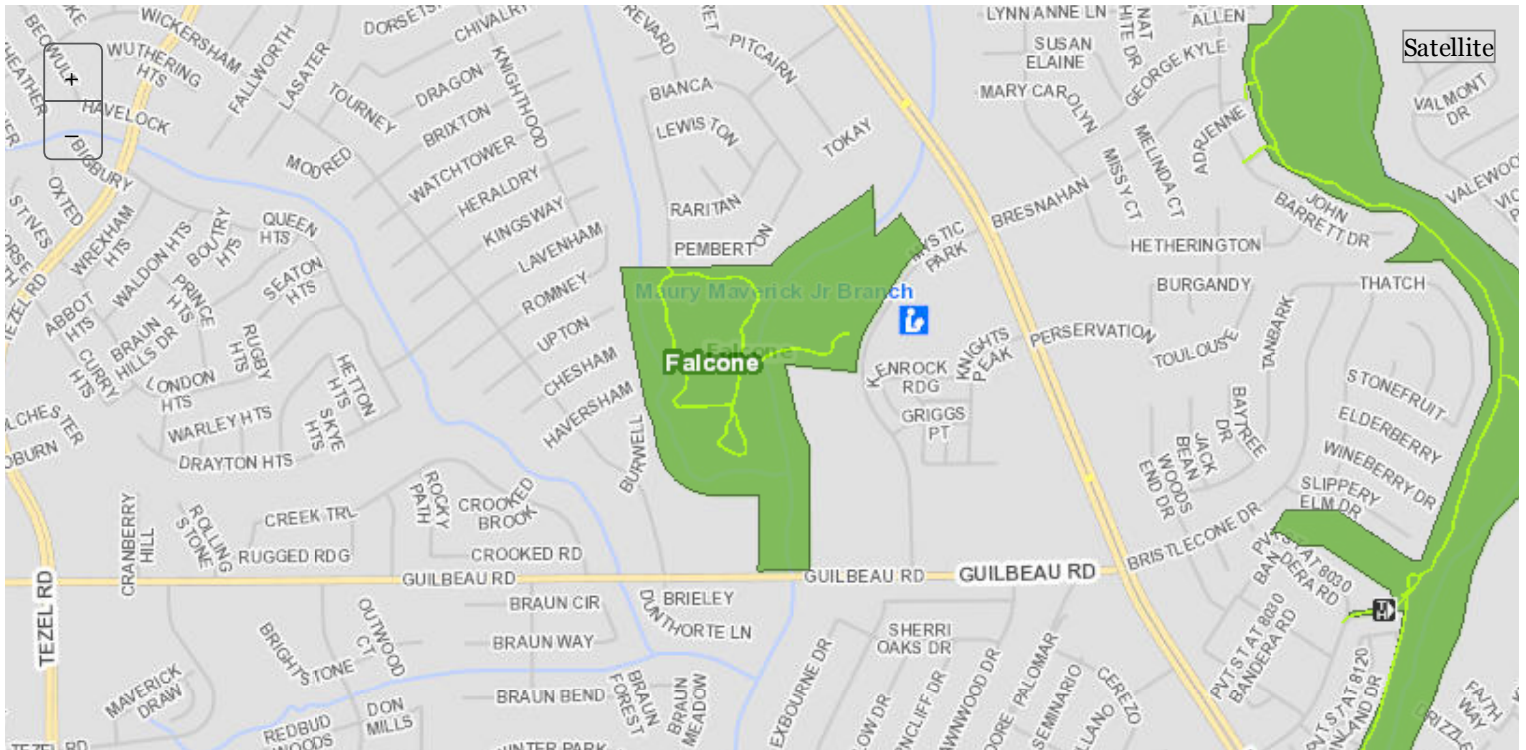
Amenity	Details	Availability
Pavilion #1	<a href="#">View Details</a>	<a href="#">View Availability</a>

The cost to rent the pavilion Monday through Thursday is \$15 an hour with a 4-hour minimum. The cost for Friday through Sunday and holidays is \$30 an hour with a 4-hour minimum.

### Special Amenities

- [Disc Golf](#) - 9-hole course
- [Skate Plaza](#)

**Park Location:** 7625 Mystic Park San Antonio, Texas



#### Details

##### Falcone

7625 Mystic Park

##### Hours of Operation:

Sunday-Saturday: 5 a.m. – 11 p.m.

#### Facility Info

## Amenities

- Bike Rack
- Disc Golf Course
- Dog Park
- Grill
- Multipurpose Field
- Pavilion / Gazebo
- Picnic Table
- Playgrounds
- Portable Toilet
- Public Art Display
- Skate Park
- Walking Trail
- Trail Length 1.1 mi.
- Water Fountain

## Reservations

To reserve a facility call 210.207.7275

Reservation Fees Vary

 [Reservations](#)

## More Info

 [Park Safety & Rules](#)

 [Trail Safety & Etiquette](#)

## Programs & Classes



 [Find Programs & Classes](#)

## Contact Us

- San Antonio Parks & Recreation Department  
Phone: [Phone Directory](#)
- Email:
- Mailing Address: PO Box 839966  
San Antonio, TX 78283-3966
- Physical Address: 5800 Enrique M. Barrera Parkway (formerly 5800 Old Highway 90 West)  
San Antonio, TX 78227
- Ron Darner Parks and Recreation Operations Headquarters
- Reservations: 210.207.7275 / [Reservation How To](#)



# Attachment E



Ian Wach &lt;ianw171@gmail.com&gt;

---

**PASA - park information request**

2 messages

---

**Ian Wach** <ianw171@gmail.com>  
To: James.LeFlore@sanantonio.gov

Mon, Apr 17, 2017 at 9:36 PM

Mr. LeFlore,

I am planning to visit some local San Antonio parks for ideas to be applied back in my hometown. Is the Butterfly sculpture located at Prue Rd. and Howard W. Peak Greenway Trails at Leon Creek in northwest San Antonio part of an outdoor museum, or is it a just a stand-alone artwork?

Thank you,

Ian Wach

---

**James LeFlore (Arts)** <James.LeFlore@sanantonio.gov>  
To: Ian Wach <ianw171@gmail.com>

Tue, Apr 18, 2017 at 12:04 PM

It is a stand-alone artwork. Let me know if you have any additional questions on San Antonio's public art in local parks and along our trails.

Thank you,

Jimmy LeFlore,

Public Art Manager

Public Art San Antonio (PASA)

Department of Arts &amp; Culture

City of San Antonio

PO Box 839966-3966

San Antonio, TX 78283-3966

210-207-4433 work

210-508-1793 cell

[www.getcreativesanantonio.com/publicart](http://www.getcreativesanantonio.com/publicart)



**From:** Ian Wach [mailto:[ianw171@gmail.com](mailto:ianw171@gmail.com)]  
**Sent:** Monday, April 17, 2017 8:36 PM  
**To:** James LeFlore (Arts)  
**Subject:** [EXTERNAL] PASA - park information request

[Quoted text hidden]

# Attachment F

(source: <http://www.sanantonio.gov/ParksAndRec/Parks-Facilities/Trails/Greenway-Trails>)





## GREENWAY TRAILS

### HOWARD W. PEAK GREENWAY TRAILS SYSTEM



Hiking and biking along the Howard W. Peak Greenway trails is a great way to get fit and enjoy the outdoors. The ever growing network of multi-use trails wind through natural landscapes along San Antonio creeks. **Currently 52.6 miles of developed greenway trails are now open for your riding, walking and running pleasure.** San Antonio residents are flocking to the greenways for their beauty, the opportunity for family fun, and for fitness.

These linear parks consist of approximately 1,400 acres of creek-side open space.

The Linear Creekway Parks Development Program, which provides sales tax funding for the land purchases and trails development, was approved by voters in 2000, 2005, 2010 and 2015.

Trails are now either built or planned for many of San Antonio's creeks, including the Salado, Leon, Huebner, Huesta, Culebra, Alazan, Apache, Martinez, San Pedro and the Medina River.

*" I love roller skating Leon Creek Greenway while my husband bikes alongside me. The trails are paved and kept in good condition, the animal and plant life is amazingly beautiful and the people we meet out there are super friendly! One day I wanted to see how many people on that trail would give a high five to a stranger. The answer was everybody!" --Trail enthusiast Celeste Frausto*

*"We love Hardberger and Walker (trail) and now almost connected to McAllister and beyond so much that our current home search criteria has living close to the parks as a top priority! Best benefit to living in this beautiful city! "* --Trail lover Tina Morgan Flores

#### BEGINNINGS:

Former Mayor Peak began formulating the idea of a "ring" of hike and bike trails in flood zones along city-owned creeks while working in the Planning Department and while serving on the Zoning Commission. As a City Councilman representing District 9 from 1993 to 1997, he partnered with Councilman Lyle Larson to purchase the land which began the Salado Creek trail system in Walker Ranch Historic Landmark Park.

As mayor from 1997 to 2001, he solidified his vision of hike and bike trails along Leon and Salado Creeks and won citizen support to dedicate one-eighth of a cent of the sales tax to begin development of the trail system in partnership with the Edwards Aquifer Program.

[Greenway Map](#)

[Trail Closures](#)

#### PROJECTS CURRENTLY UNDER CONSTRUCTION (5/19/2016):

Project Name	Miles	Anticipated Completion Date
Huesta Creek (Leon Creek to Hausman Rd.)	1.0	Completed

<b>Project Name</b>	<b>Miles</b>	<b>Anticipated Completion Date</b>
Leon Creek ( <i>Valero Trailhead to I-10</i> )	0.6	Completed
Medina River ( <i>Medina River Crossing to Pleasanton Rd.</i> )	3.1	2017
Apache Creek ( <i>19th Street to Cassiano Park</i> )	1.0	2018
Alazan Creek ( <i>Woodlawn Lake to Lombrano</i> )	0.5	Completed
Apache Creek ( <i>Cassiano Park to SA River Confluence</i> )	3.5	Completed
Huebner Creek ( <i>Leon Creek to Shadow Mist</i> )	1.2	Completed
Martinez Creek ( <i>Fredericksburg Rd. to Cincinnati</i> )	0.6	Completed
Medina River ( <i>Pleasanton Rd. to Mattox Park</i> )	3.4	Completed

Culebra - Helotes  
Creek Greenway  
Trail

Huebner Creek  
(Crystal Hills to  
Leon Creek)

Leon Creek (1604  
to Military Dr.)

Leon Creek (Loop  
Trail at Levi's  
Strauss Park)

Leon Creek  
(Pearsall Park to  
near Quintana  
Rd.)

Medina River  
(Natural Area to  
River Crossing)

Medina River  
(Pleasanton Rd to  
Mattox Park)

Olmos Basin Trail

Salado Creek (Jack  
White Park to  
Southside Lions  
Park)

Salado Creek  
(Hardberger Park  
to McAllister Park)

## CULEBRA - HELOTES CREEK GREENWAY TRAIL



The newest portion of the Howard W. Peak Greenway Trail System runs 2.6 miles down Helotes Creek until the confluence of where it meets Culebra Creek and then goes outside 1604 and ties in nicely with the trails in Culebra Creek Park. The trailhead is located across from Burke Elementary at 10104 Terra Oak.

### RELATED LINKS

- [Map with parking \(PDF\)](#) 







Salado Creek -  
Huebner to Blanco

Salado Creek  
(McAllister Park to  
Rittiman Rd.)

Westside Creek  
Greenways

## Related Links

- [Trail Watch Volunteer Program](#)
- [Park Trail Inventory](#)  (Excel)
- [Park Trail Inventory](#) 
- [Play It Safe San Antonio \(trail safety video - English\)](#)
- [Play It Safe San Antonio \(trail safety video - Spanish\)](#)

## Greener Side Of Life







Here's a video clip to give you a sneak peak at what you'll find:

Salado Creek Greenway (Howard W. Peak Greenway Trail System)










## Popular Routes

### RUNNING ROUTES

- [Downtown Southtown Route](#) 
- [River Walk Museum Reach](#) 
- [Metro Health to Lexington](#) 
- [Brackenridge Alamo Loop](#) 
- [San Antonio Highlights Route](#) 
- [All Run DT Routes](#) 

### BIKING

- [Alamo HemisFair](#) 
- [Brackenridge](#) 
- [Pearl Brewery](#) 
- [King William](#) 
- [Mission Trail](#) 
- [East Side](#) 
- [All Biking Routes](#) 

- San Antonio Parks & Recreation Department  
Phone: [Phone Directory](#)
- Email:
- Mailing Address: PO Box 839966  
San Antonio, TX 78283-3966
- Physical Address: 5800 Enrique M. Barrera Parkway (formerly 5800 Old Highway 90 West)
- San Antonio, TX 78227
- Ron Darner Parks and Recreation Operations Headquarters
- Reservations: 210.207.7275 / [Reservation How To](#)



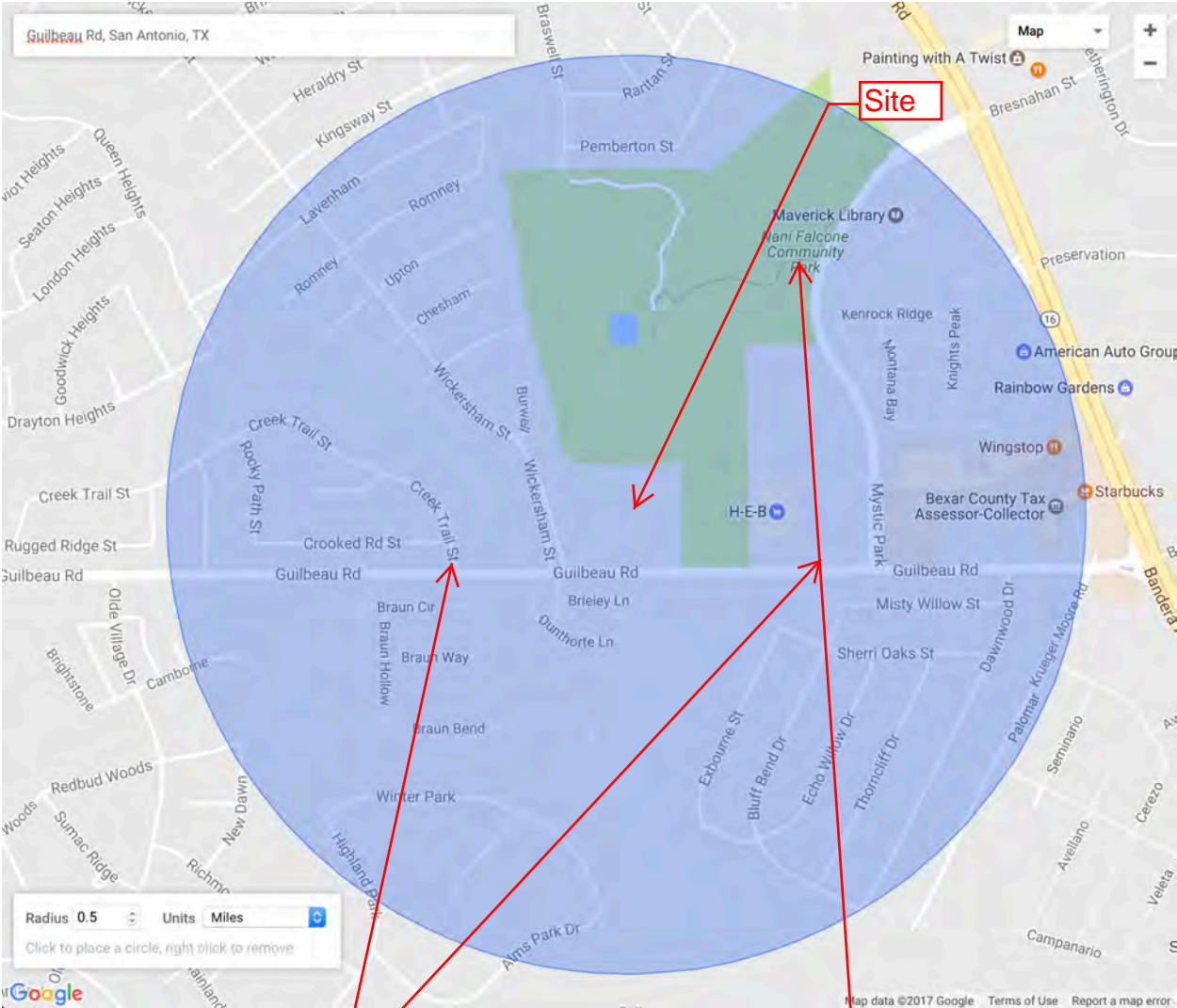
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# Attachment G

# The Acacia Opportunity Index



(II) Site is located less than 1/2 mile on accessible route from Via Metro Transit Rte 606 Bus Stop

(I) Site is located less than 1/2 mile on accessible route from Nani Falcone accessible playground that meets 2010 ADA standards



# Attachment H



Ian Wach  
Atlantic Pacific  
2950 SW 27<sup>th</sup>  
Miami, Florida 33133  
05/22/17

Dear Mr. Wach.

I have completed the assessment of the route of Mystic Park that is to service Falcone Park. The assessment is based upon the ADA 2010 Standards for Accessible Design and any improvements comply with TAS 2012.

This portion of the survey encompasses Chapter 2 (206 Accessible Route) and Chapter 4, Accessible Routes and the subsections within that chapter.

- Public parks must have a site arrival point.

Each site arrival point must be connected by an accessible route to the accessible entrances and where two or more similar site arrival points, such as bus stops, serve the same accessible entrance or entrances, both bus stops must be on accessible routes. In addition, the accessible routes must serve all of the accessible entrances on the site.

#### **402 Accessible Routes**

402.1 General. Accessible routes shall comply with 402.

402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4

An Accessible Route has several components that are required of this project:

- 403 Walking Surface
- 404 Doors and Gates
- 405 Ramps
- 406 Curb Ramps

Any additional information beyond the scope of the survey can be found at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards>

#### **Falcone Park:**

The intersection of Guilbeau and Mystic Park, (Mystic Park being the roadway adjacent to Falcone) does not have an accessible route to the entrance of the park. Each side of the street (Mystic Park) has issues that prevents the route from being accessible.

East side of street is as follows: The east side route does not have a crosswalk to exit to the west at the park entrance. The route does continue further north to Bandera, however I did not assess that portion of the route. It would require the user to travel to another major intersection, turn around and then return to



the park. Since the east side of the street is not provided with a controlled crosswalk, the user must cross the street at the park curb cut and sidewalks.

At this point and other curb cuts into the park, the change of elevation of the curb gutter/street and the sidewalk approach is greater than the 1/4" allowed without edge treatment.

The City of San Antonio did provide curb ramps on the east side of the street toward the Bandera intersection, but again, there is no crosswalk and there exists the change of elevation that would require a ramp or changes to the curb/gutter by the City of San Antonio.

The change of elevations is found in **Chapter 3, Building Blocks**

**Section 303 Change of level:**

**303.2 Vertical.** Changes in level of 1/4 inch (6.4 mm) high maximum shall be permitted to be vertical.

**303.3 Beveled.** Changes in level between 1/4 inch (6.4 mm) high minimum and 1/2 inch (13 mm) high maximum shall be beveled with a slope not steeper than 1:2.

Advisory 303.3 Beveled. A change in level of 1/2 inch (13 mm) is permitted to be 1/4 inch (6.4 mm) vertical plus 1/4 inch (6.4 mm) beveled. However, in no case may the combined change in level exceed **1/2 inch** (13 mm). Changes in level exceeding 1/2 inch (13 mm) must comply with 405 (Ramps) or 406 (Curb Ramps).

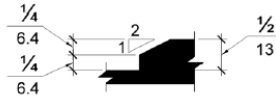


Figure 303.3 Beveled Change in Level

**303.4 Ramps.** Changes in level greater than 1/2 inch (13 mm) high shall be ramped, and shall comply with 405 or 406.

**West Side of Street:** The west side of the street route is not accessible due to the unimproved area between the park and the HEB located at the corner.

Cordially Yours,

Stephen Meyer

Texas Department of Licensing and Regulations  
Registered Accessibility Specialist 1078  
Accessibility Consultant

The west side of Mystic Park is not accessible from Guilbeau to Falcone Park. There are undeveloped sections of land lacking sidewalks. This is the area adjacent to the HEB facility at the corner of Guilbeau and Mystic Park.

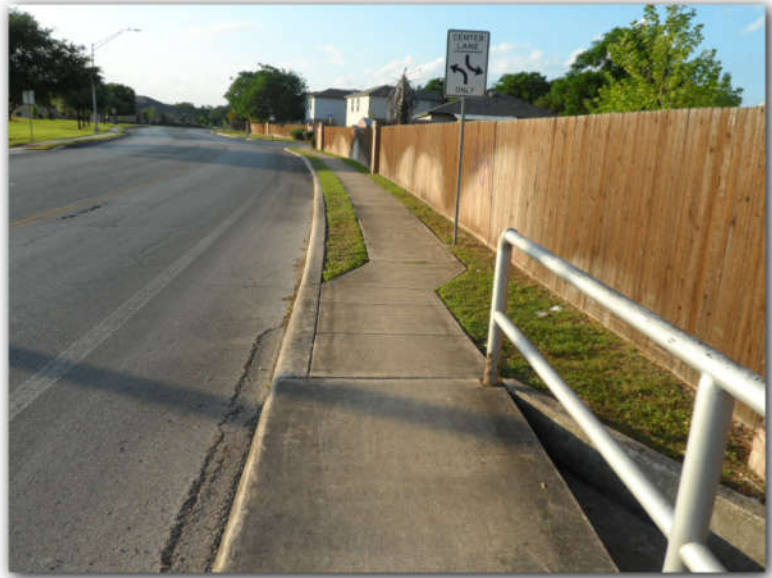






The east side of Mystic Park is provided with an accessible route to the area east of Falcone Park.





There are gaps in the sidewalk that are greater than 1/2" and deeper than 1/2".

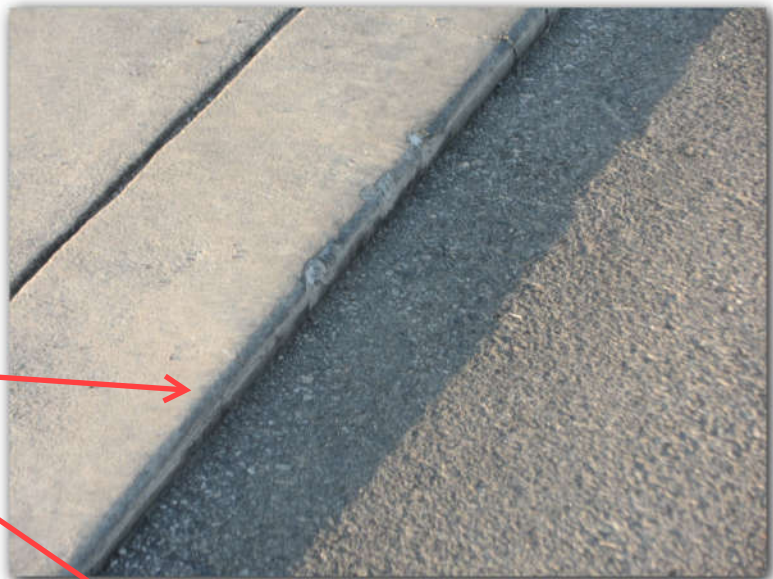




The sidewalk over the drainage canal is less than 5% slope. Is not considered a ramp



The east side of the route will require the crossing of the street to access the park entry.



The curb approach at the park is greater than 1/4" and is not accessible







Falcone Park

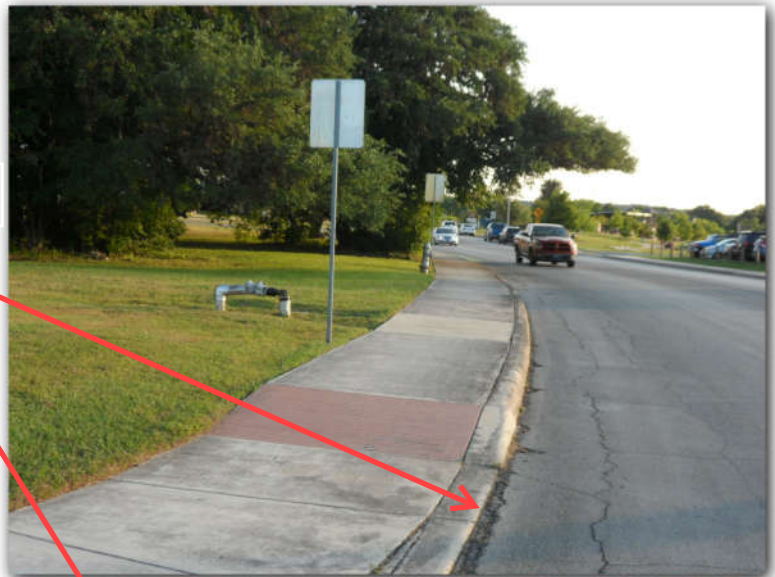


Broken asphalt and the combination of the approach curb is not accessible.

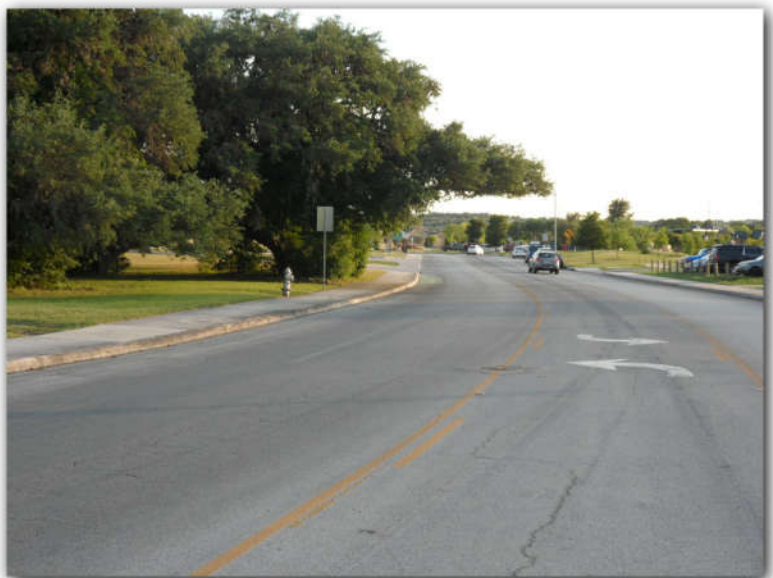




The east side of Mystic Park has the same conditions that makes the route un-accessible









Approach of Falcone Park







Falcone Park



The west sidewalk is not continuous beyond this point to the south



# STEPHEN MEYER

323 W. AGARITA SAN ANTONIO, TX. 78212  
PHONE (210) 251-1651 • E-MAIL MEYERINSPECTIONSERVICES@GMAIL.COM

## CERTIFICATIONS

---

- Registered Accessibility Specialist
- Plans Examiner ICC
- AWC Eifs Certification (inactive)
- Certified Playground Safety Inspector
- Home Inspector (Inactive)
- Fair Housing First Certificate

## EDUCATION

---

- Texas Accessibility Academy 2005
- National Playground Safety Institute Certification 2005-Cuurent
- 8 Hours annually Accessibility training for license
- ICC Plans Examiner Course
- Accessibility First Fair Housing Course
- Military: US Army 1970-1972
- Various colleges throughout career, online and on site
- Texas Real Estate Commission Professional Real Estate Inspector

## WORK EXPERIENCE

---

Accessibility Consulting/Meyer Inspection Services 2006 to present

- *Alamo Ranch Site Retail-Plan Review and Inspection*  
\$100 million dollar development with 90 plus store
- *Over 500 plan review and inspections for state registered projects*
- *Frio County Site Development, survey for county park*
- *Frio County Title II survey and development*
- *City of Floresville Title II Survey*
- *Bexar County Housing Authority accessibility consulting and surveys*
- *Hannah High School Brownsville Texas Title II Survey*
- *Accessibility Review for Castroville Historical Building Projects*
- *Lake Travis ISD elementary school playground accessibility surveys*
- *Accessibility Surveys for Richard Hunt, Hunt -Huey law offices*
- *Accessibility Survey for Log Cabin Law Firm*
- *City of San Antonio Apartment complex accessibility survey*
- *Pasadena ISD 260 playground Surveys-*
- *Cancer Therapy and Research Center- Various renovation projects as Property Manager*
- *Metropolitan Methodist and NE Methodist renovation projects as Facility Director*

## PROFESSIONAL ORGANIZATIONS

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- Accessibility Professionals Association
- International Code Council



# SA THE BRISTOL, L.P.

May 31, 2017

*Via Hand Delivery*

Mr. Tim Irvine  
Executive Director  
Texas Department of Housing  
& Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701-2410

RE: Challenge - Application No. 17356, The Acacia

Dear Mr. Irvine:

This Third Party Request for Administrative Deficiency is made on behalf of SA The Bristol, L.P., pursuant to Section 11.10 of the 2017 Qualified Action Plan (“QAP”) with respect to The Acacia, having Application No. 17356. Enclosed please find a check payable to the Texas Department of Housing and Community Affairs (“TDHCA”) in the amount of \$500.00 for the required fee. My contact information is:

Henry Flores, Vice President  
Madhouse Development Services, Inc.  
8500 Shoal Creek Blvd., Bldg. 4, Ste. 208  
Austin, TX 78757  
Email: [hflores@madhousedevlopment.net](mailto:hflores@madhousedevlopment.net)

The issues raised herein are summarized as follows, and discussed in more detail below:

1. The Development Site requires a rezoning, as the Applicant itself acknowledged, both in their Site Control Agreement and the City of San Antonio Application for Resolution of Support; yet the Applicant did not submit the re-zoning application and indemnity information (Hold Harmless Letter) required by the Multifamily Rules.
2. The Applicant’s proposed development in the 100-year floodplain cannot be built in accordance with the more stringent local flood Code requirements found in the City of San Antonio’s Unified Development Code.

**ZONING – A PORTION OF THE SITE IS NOT ZONED FOR MULTIFAMILY USE, AND APPLICANT DID NOT INCLUDE THE REQUIRED EVIDENCE OF APPLICATION FOR ZONING CHANGE**

The Applicant stated in its Application that the Development Site is appropriately zoned (Attachment A). Yet the Applicant has acknowledged in at least two separate instances that rezoning is required. In its Application for Resolution of Support filed with the City of San Antonio on January 4, 2017, the Applicant certified that the Project did NOT meet the City of San Antonio zoning requirements at the time of the application. (See Attachment B, Paragraph 7b). Moreover, Applicant acknowledged the need for rezoning in several instances in the Site Control Agreement (See Attachment C, Paragraph 4a: “ Buyer and Seller acknowledge that Buyer’s intended use of the Property is multifamily housing, **which is not a permitted use under the current zoning for the Property.**”: “Due Diligence Period” is the earlier of August 31, 2017 or “**rezoning of the Property as needed to allow for multifamily development, etc.**”; “Seller agrees to assist Buyer with rezoning of the Property as needed . . .”; “within 90 days . . . **Buyer will have made application to the City of San Antonio staff for rezone.**” (emphasis supplied). As will be shown below, the Applicant was indeed correct in its initial assessment that the Property was required to be rezoned, and the failure to disclose the need for rezoning and to provide the threshold documentation reflecting an application for change of zoning had been submitted and an indemnity provided to the City as of the application date, constitutes an incurable Material Deficiency.

Section 10.201 of the 2017 Uniform Multifamily Rules describes the Procedural Requirements for Application Submission. Specifically Section 10.201(1)(A) states:

“An Applicant requesting funding from the Department must submit an Application in order to be considered for an award. An Application **must be complete (including all required exhibits and supporting materials) and submitted by the required program deadline** [emphasis supplied]. If an Application, including the corresponding Application fee as described in §10.901 of this chapter, is not submitted to the Department on or before the applicable deadline, **the Applicant will be deemed not to have made an Application; provided**, however, that errors in the calculation of applicable fees may be cured via an Administrative Deficiency.”

Section 10.201(1)(D) further states:

“Applications **must** include materials addressing each and all of the items enumerated in this chapter and other chapters as applicable.”

Section 10.204 (Required Documentation for Application Submission) describes the documents that are required at the time of Application submission, unless specifically or otherwise required by Department rule. Section 10.204(11) – (Zoning) states:



“Acceptable evidence of zoning for Developments **must** include one of subparagraphs (A)-(D) of this paragraph.”

The Acacia Applicant affirmatively stated in its application that the Development Site was appropriately zoned. As required by Section 10.204(11), The Acacia provided a zoning verification letter from the City of San Antonio Development Services Department which states that a portion of the development site is zoned “C-2” and another portion is zoned “R-6” (Attachment D). The zoning verification letter specifically states, **“Multi-family uses are not permitted in the portion of the property zoned R-6.”**

An overlay of The Acacia’s site plan with the zoning map shows that a portion of the multifamily development - a parking lot and dumpster enclosure - is located on the portion of the site zoned R-6 (See Attachment E). Two of the Senior Planners in the City of San Antonio’s Development Services Department, John Osten and Zenon Solis, independently reviewed the site plan and confirmed that a parking lot and dumpster enclosure that is used by a multifamily development are a multifamily use and therefore not permitted in an R-6 zoning designation. The Senior Planners also provided confirmation that The Acacia would require a rezoning of the R-6 portion of the site in order to be developed as the Applicant had previously acknowledged in their Site Control Agreement and represented to the City of San Antonio in their Application for Resolution of Support. (See Attachment F)

Section 10.204(11)(C) states for Applicants Requesting a Zoning Change:

“The Application **must** include evidence in the form of a letter from a local government official with jurisdiction over zoning matters that the Applicant or Affiliate has made formal application for a required zoning change and that the jurisdiction has received a release whereby the applicant for the zoning change has agreed to hold the political subdivision and all other parties harmless in the event the appropriate zoning is not granted.”

The Acacia did not provide the above described letter from the local government official in their application. This required letter is a “threshold” item, the omission of which constitutes a Material Deficiency. Additionally, the Applicant falsely stated on the Site Information Form Part 1 (Tab 7), Section 4, that the Development Site is appropriately zoned.

In summary, the incorrect statement of the zoning status of The Acacia and the failure to submit the required information with Tab 7 at Application submission, especially in view of circumstances described above, should be considered a Material Deficiency. Accordingly, the Application should be terminated, and the Applicant should not be allowed to resolve, clarify, or correct a “threshold item” item that was not provided at the time of submission.

**FLOODPLAIN - THE APPLICANT'S PROPOSED DEVELOPMENT IN THE 100-YEAR FLOODPLAIN CANNOT BE BUILT IN ACCORDANCE WITH THE MORE STRINGENT LOCAL FLOOD CODE REQUIREMENTS FOUND IN THE CITY OF SAN ANTONIO'S UNIFIED DEVELOPMENT CODE**

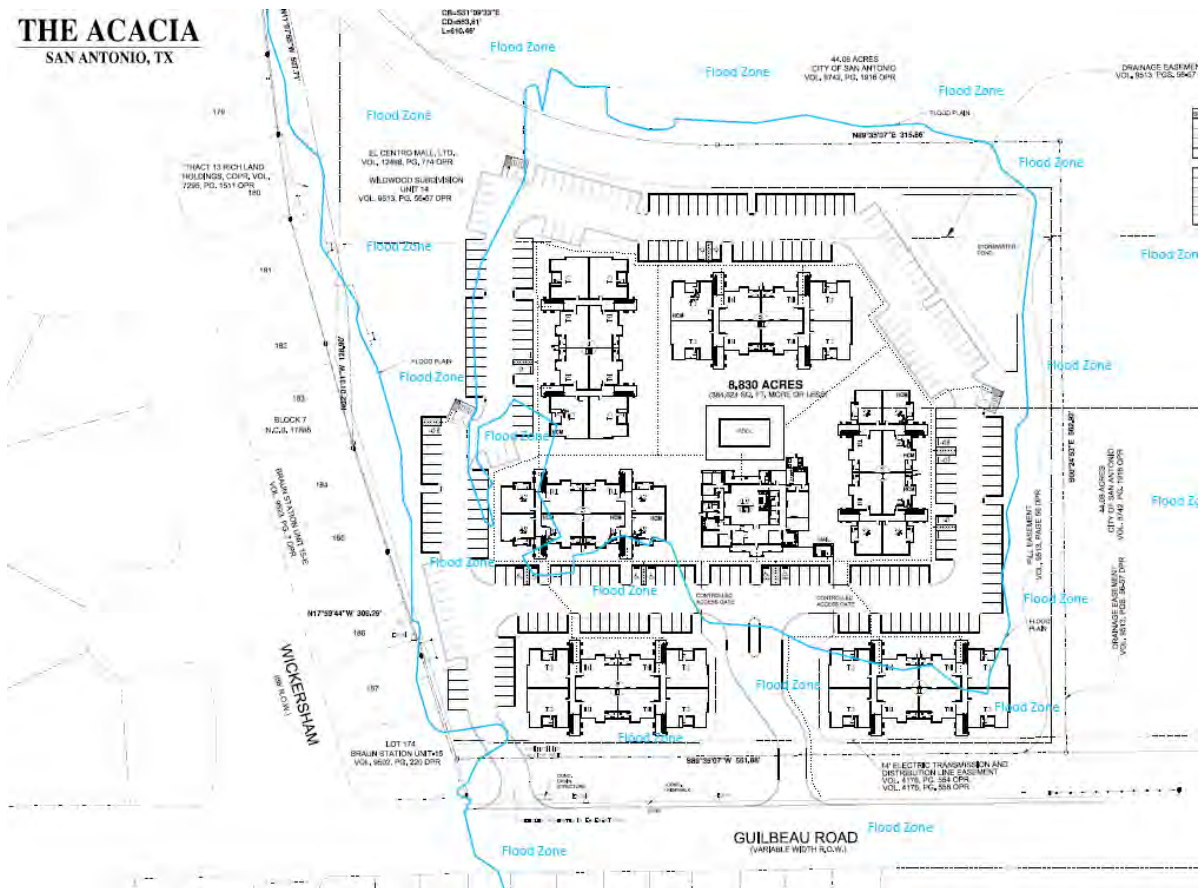
The Applicant stated on the Site Information Form Part 1 (Tab 7 of the Application), Section 4 (Flood Zone Designation) that the Development Site for The Acacia is located in Flood Zone Designation A, AE and X, and that the entire Development Site is not outside the 100-year floodplain (Attachment A).

Section 10.101(a) (1) of Subchapter B (Site and Development Requirements and Restrictions, Floodplain), provides:

“New Construction or Reconstruction Developments located within a one-hundred (100) year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements. The Applicant will have to use floodplain maps and comply with regulation as they exist at the time of commencement of construction. Even if not required by such provisions, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain. **If there are more stringent local requirements they must also be met.**”

The Acacia's site plan places four of the seven residential buildings in the floodplain, and does not adhere to all of the local requirements for a development within the floodplain. The following image from the application depicts the extent of the proposed development site's encroachment on the 100-year floodplain:





The applicable local requirements for this development would include San Antonio's Unified Development Code, which states:

- (a) *The following development will not be allowed in the regulatory floodplain:*
- (2) *Habitable structures.*

See:

[https://www.municode.com/library/tx/san\\_antonio/codes/unified\\_development\\_code?nodeId=APXFFLRESPFL\\_SDCFLDEPE\\_S35-F125PRDEWIREFL](https://www.municode.com/library/tx/san_antonio/codes/unified_development_code?nodeId=APXFFLRESPFL_SDCFLDEPE_S35-F125PRDEWIREFL) (Attachment G)

The City of San Antonio's Unified Development Code strictly prohibits developing habitable structures in the floodplain. The more stringent local Code applies to The Acacia and therefore it does not comply with Section 10.101(a)(1) Subchapter B Site and Development Requirements and Restrictions. Furthermore, the Development Site does not have unflooded access from an existing dedicated street, which is required per the City of San Antonio's Unified Development Code:

- (b) *Proposed subdivisions that do not involve the platting of streets shall have access to an existing dedicated street that is not subject to flood depths of over one (1) foot.*

See:

[https://www.municode.com/library/tx/san\\_antonio/codes/unified\\_development\\_code?nodeId=APXFFLRESPFL\\_SDDSTFLHA\\_S35-F144SUPR](https://www.municode.com/library/tx/san_antonio/codes/unified_development_code?nodeId=APXFFLRESPFL_SDDSTFLHA_S35-F144SUPR)

(Attachment H)

The Development Site does not include the platting of streets - presumably because the only roadways are private drives and no streets are being dedicated to the City of San Antonio as part of The Acacia's site plan. The only public access to the site is from a thoroughfare that is located in the 100-year floodplain. Additionally, the entire frontage of the site on Guilbeau Road is in the 100-year floodplain; thus it is not feasible for The Acacia to provide access to an existing dedicated street not subject to flood depths of over one foot. Since this is expressly prohibited per the City of San Antonio's Unified Development Code, the site plan provided in the Application does not meet the local requirements of the City of San Antonio and therefore is in violation of section 10.101(a)(1) of the Uniform Multifamily Rules.

As demonstrated above, the Acacia's proposed development cannot be built per the clear language of the local flood Code requirements. For this reason the Application should be terminated and the Applicant should not be allowed to resolve, clarify, or correct an item that was not provided at the time of submission.

On its face, The Acacia Application violates multiple local and TDHCA requirements. A public records request was submitted seeking the release of the Applicant's Engineering Feasibility Study to understand whether the Applicant was attempting to address these violations in any way. For example, the Engineering Study may indicate certain engineering considerations which compelled the Applicant to lay out a site plan which was in violation of local zoning codes. It may well be that locating the improvements solely within the borders of the properly-zoned portion of the tract would have exacerbated the floodplain issues described above, or would have created other issues.<sup>1</sup>

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<sup>1</sup>The Applicant objected to our request for the release of the Study, arguing that the release of the Study would create an unfair advantage to competitors in case the Applicant were awarded the tax credits and is nevertheless "unable to move forward with the development of the Project". Additionally, the Applicant essentially argued that the very fact of a competitor seeking disclosure of documents demonstrates that the competitor believes it will obtain a competitive advantage and should be denied on that basis (a standard which, if adopted, would require *all* requests for disclosure to be denied). (See Attachment I). The questionable rationale and strenuous efforts of the Applicant in resisting the release of the report runs directly afoul of the avowed purpose of QAP Section 11.10: to allow interested third parties to bring material information about an Application to the staff's attention.



**CONCLUSION**

All of the above described issues with The Acacia application should be deemed a Material Deficiency. Section 10.3(a)(79) defines a Material Deficiency as follows:

“Any deficiency in an Application or other documentation that exceeds the scope of an Administrative Deficiency. May include a group of Administrative Deficiencies that, taken together, **create the need for a substantial re-assessment or reevaluation of the Application.**”

The undersigned respectfully submits that all of the above items, taken together, create the need for a substantial re-assessment of the Application and should be deemed a Material Deficiency which would result in termination of the Application.

Very truly yours,



Henry Flores  
Authorized Representative

*Attachments*

cc: Manish Verma, VDC Guilbeau Bandera, LP (via email - [manishv@versadevco.com](mailto:manishv@versadevco.com))

# Attachment A



# Site Information Form Part I

Self Score Total:

## 1. Development Address (All Programs)

Address

City

Region

Zip

County

Rural/Urban

## 2. Census Tract Information (All Programs)

Census Tract Number  
(11 digits)

Median Household Income:

Quartile:

Poverty Rate:

QCT?

## 3. Resolutions (All Programs, if applicable) - §11.3

Check the boxes of true statements below. Resolutions must be provided to demonstrate eligibility for any **unchecked** item.

**Twice the State Average Per Capita.** The proposed Development is **NOT** located in a municipality or a county that has more than twice the state average of units per capita supported by Tax Credits or Private activity Bonds. (QAP §11.3(b))

**One Mile Three Year Rule.** The proposed Development is located outside an MSA or in a county with a population of less than one million **OR** is **NOT** a New Construction or Adaptive Reuse development that will be located one mile or less from a new construction or terminated/withdrawn HTC or Bond development serving the same type of household. (QAP §11.3(c))

**Limitations on Developments in Certain Census Tracts.** The proposed Development is **NOT** a New Construction or Adaptive Reuse development that will be located in a census tract that has more than 20% HTC units per total households. (QAP §11.3(d))

## 4. Zoning [§10.204(11)] and Flood Zone Designation [§10.101(a)(1)] (All Programs)

Development Site is appropriately zoned?

Zoning Designation:

Flood Zone Designation:

Entire Development Site is outside the 100 year floodplain.

# **Attachment B**



# Multi-Family Rental Housing Development Resolutions of Support or No Objection - APPLICATION



<b>Respondent Information</b>	<b>Cumulative Score: 97</b>
Applicant is to complete ALL pink shaded areas. Fields marked "Select" contain a pull down menu that holds all possible responses. Point awards will be automatically generated and totaled based on the response in these fields. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.	

<b>Project Name:</b>	The Acacia
<b>Organization:</b>	VDC Guilbeau Bandera, LP
Street Address	4733 College Park
Address 2	Ste. 200
City, State Zip	San Antonio, TX 78249
<b>Responsible Officer:</b>	Manish Verma
Title:	President of General Partner (VDC Guilbeau Bandera, LP)
Phone:	210-530-0090
E-Mail:	<a href="mailto:manishv@versadevco.com">manishv@versadevco.com</a>
<b>Application Contact:</b>	Manish Verma (c/o Versa Development, LLC)
Title:	President
Phone:	210-530-0090 x202
E-Mail:	<a href="mailto:manishv@versadevcoc.om">manishv@versadevcoc.om</a>

Project Information	
Project Address:	Guilbeau Road, approx. 1/2 Mile West of Bandera Rd
City, State Zip:	San Antonio, Texas 78254
Census Tract:	48029181703
Council District:	7
Type of project:	New Construction
Multi-family rental housing:	Select
Total Development Cost:	\$ 22,000,000.00
Total Tax Credit Value (10 year):	\$ 15,000,000.00
TDHCA LIHTC application number:	TBD
<b>Proposed Schedule:</b>	
TDHCA Governing Board meeting date when app is to be considered:	July 27, 2017
Project design completion date:	February 1, 2017
Financial closing date:	February 1, 2018
Construction start date:	February 1, 2018
Construction completion date:	May 1, 2019
Project completion date:	May 1, 2019

# Multi-Family Rental Housing Development Resolutions of Support or No Objection - APPLICATION



<b>Respondent Information</b>	<b>Cumulative Score: 97</b>
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Applicant is to complete ALL pink shaded areas. Fields marked "Select" contain a pull down menu that holds all possible responses. Point awards will be automatically generated and totaled based on the response in these fields. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.

**Project Name:** The Acacia

## Submission Checklist

	<input checked="" type="checkbox"/>	Signed application.
	<input checked="" type="checkbox"/>	Template of Local Government Resolution including language required for project.
	<input type="checkbox"/>	Statement of Confirmation of Coordination with Respective City Council Member
Provide only if points are awarded	<input checked="" type="checkbox"/>	Map illustrating distance from project to a public park.
	<input checked="" type="checkbox"/>	Map illustrating distance from project to a bus station or stop.
	<input checked="" type="checkbox"/>	Map illustrating distance from project to a full scale grocery store.
	<input type="checkbox"/>	Map illustrating distance from project to a community, senior or other similar facility.
	<input type="checkbox"/>	Map illustrating Distance from project to an Aging & Disability Resource Center.
	<input checked="" type="checkbox"/>	Map illustrating distance from project to a hospital or a qualifying medical clinic.
	<input checked="" type="checkbox"/>	Map illustrating length of bus commute to a major employment center.
	<input type="checkbox"/>	Map of RenewSA area with project location clearly marked.
	<input type="checkbox"/>	Map of ICRIP area with project location clearly marked.

## Unit Count

Total Low Income (LI) units (at or below 60% MFI):	160
Total Other Units:	0
Total Unit Count:	160





# Multi-Family Rental Housing Development Resolutions of Support or No Objection - APPLICATION



<b>Respondent Information</b>	<b>Cumulative Score: 97</b>
-------------------------------	-----------------------------

Applicant is to complete ALL pink shaded areas. Fields marked "Select" contain a pull down menu that holds all possible responses. Point awards will be automatically generated and totaled based on the response in these fields. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.

**Project Name:** The Acacia

<b>2 Nonprofit Organization Participation – 10 points</b>	No	0
<p>Does the nonprofit organization have controlling interest (e.g., greater than 50 percent ownership in the General Partner) in the project</p> <p>or, If ownership is a limited partnership, the Qualified Nonprofit Organization must be the Managing General Partner,</p> <p>or, If ownership is a limited liability company, the nonprofit organization must be the controlling Managing Member</p>		

<b>3 REnewSA Target Area – 20 points</b>	Not In REnewSA Target Area	0
<p>Is the Project located in one of the 5 REnewSA Target Areas?</p> <p>Avenida Guadalupe</p> <p>Edgewood</p> <p>Five Points</p> <p>Harlandale</p> <p>Las Palmas</p> <p>South San/Kindred</p> <p>Wheatley/Eastpointe</p> <p>Not In REnewSA Target Area</p> <p>Follow link for interactive map of REnewSA Target Areas. Attach map with project location clearly marked on the map.</p> <p><a href="http://www.renewsa.com/ProgramsServices/TargetAreas.aspx">http://www.renewsa.com/ProgramsServices/TargetAreas.aspx</a></p>		

<b>4 ICRIP – Inner City Reinvestment Infill Area – 16 points</b>	No	0
<p>Project is located within the City of San Antonio Inner City Reinvestment Infill zone</p> <p>Follow link for interactive map of ICRIP Target Areas. Attach map with project location clearly marked on the map.</p> <p><a href="https://gis.sanantonio.gov/ICRIP/basicviewer/index.html">https://gis.sanantonio.gov/ICRIP/basicviewer/index.html</a></p>		



# Multi-Family Rental Housing Development Resolutions of Support or No Objection - APPLICATION



<b>Respondent Information</b>	<b>Cumulative Score: 97</b>
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**Project Name:** The Acacia

<b>5 TDHCA Housing Opportunity Area (HOA) – Up to 16 points</b>	<b>A</b>	<b>16</b>
<p>Census Tract Poverty Rate &lt;15% for all individuals</p> <p>A and, Census Tract Quartile MSA Median Income: Top Quartile and Elementary School TEA Rating: Met standard rating and ≥ 77 on index 1 or,</p>		
<p>Census Tract Poverty Rate &lt;15% for all individuals and, Census Tract Quartile MSA Median Income: Second Quartile and</p> <p>B Elementary School TEA Rating: Met standard rating and ≥ 77 on index 1 or,</p>		
<p>Census Tract Poverty Rate &lt;15% for all individuals,</p> <p>C and, Census Tract Quartile MSA Median Income: Top Quartile and Elementary School TEA Rating: N/A or,</p>		
<p>D Census Tract Poverty Rate &lt;15% for all individuals and, Census Tract Quartile MSA Median Income: Top Two Quartiles and</p> <p>Elementary School TEA Rating: N/A</p>		

<b>6 Project Feasibility - No more than 20 points can be awarded in this category</b>	<b>Points Awarded: 20</b>
<p>a Proposed rent schedule consistent with program rent limits on rent restricted units.</p>	Yes
<p>b Appropriate vacancy and collection loss assumptions in the project pro forma are consistent with TDHCA HTC requirements.</p>	Yes
<p>c Reserves in the pro forma are consistent with TDHCA HTC requirements.</p>	Yes
<p>d Completed Market Feasibility Report with conclusions supporting the applicable project pro forma assumptions completed or underway.</p>	Yes

# Multi-Family Rental Housing Development Resolutions of Support or No Objection - APPLICATION



<b>Respondent Information</b>	<b>Cumulative Score: 97</b>
Applicant is to complete ALL pink shaded areas. Fields marked "Select" contain a pull down menu that holds all possible responses. Point awards will be automatically generated and totaled based on the response in these fields. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.	

**Project Name:** The Acacia

<b>7 Project Site Characteristics - up to 5 points each, no more than 10 points can be awarded in this category</b>	<b>Points Awarded: 0</b>
a Project meets land use density requirements at time of application.	No
b Project meets City of San Antonio zoning requirements at time of application.	No

<b>8 Project Transit Amenities - up to 4 points each, no more than 28 points can be awarded in this category</b>	<b>Points Awarded: 16</b>
For each amenity chosen, provide a map (i.e. Google Earth) showing the actual distance between the nearest point of the project and the nearest point of the amenity.	
a Distance from project to a public park	Under 0.25 Mile
b Distance from project to a bus station or stop	Under 0.25 Mile
c Distance from project to a full scale grocery store of 25,000 square feet or more where staples, fresh produce and fresh meats are sold	Under 0.25 Mile
d Distance from project to a community, senior or other similar center, or facility that serves populations similar to those residing in the project	Greater than one mile
e Distance from project to an Aging & Disability Resource Center	Greater than one mile
f Distance from project to a hospital or a qualifying medical clinic (a qualifying medical clinic must have a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week and accept Medicare and Medicaid payments)	From 0.5 to 1 mile
g Length of bus commute to a major employment center*	20 to 40 Minutes
* To determine the distance to Major Employment Centers, follow the link below. Major employment centers are defined as areas where employee density exceeds 4200 per square mile. <a href="#">Link to: Employee 2012 Density Map</a>	

<b>9 Project Readiness - 5 points each; no more than 10 points can be awarded in this category</b>	<b>Points Awarded: 10</b>
a Applicant has secured site control per TDHCA HTC definition of site control.	Yes
b Environmental Report (s) have been completed.	Yes



# Multi-Family Rental Housing Development Resolutions of Support or No Objection - APPLICATION



<b>Respondent Information</b>	<b>Cumulative Score: 97</b>
Applicant is to complete ALL pink shaded areas. Fields marked "Select" contain a pull down menu that holds all possible responses. Point awards will be automatically generated and totaled based on the response in these fields. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.	

**Project Name:** The Acacia

<b>10 Resident Services - 5 points each; no more than 15 points can be awarded in this category</b>	<b>Points Awarded: 15</b>
a The equivalent of one (1) FTE resident service coordinator for every 600 project bedrooms.	Yes
b Project provides or has agreements with third party service providers to provide on-site educational, wellness and/or skill building classes.	Yes
c Project provides on-site, licensed child care or after school program that operates 20 hours per week.	Yes

<b>Certification</b>	<b>Final Score: 97</b>
BY SELECTING "AGREE", I (WE) HEREBY CERTIFY THAT I (WE) UNDERSTAND THAT FALSE STATEMENTS OR INFORMATION ARE FRAUD AND ARE IMMEDIATE GROUNDS FOR DENIAL OF THIS APPLICATION.	Agree
BY SELECTING "AGREE", I (WE) UNDERSTAND THAT THE INFORMATION I (WE) PROVIDED, INCLUDING ALL FINANCIAL INFORMATION, IS SUBJECT TO VERIFICATION BY THE CITY OF SAN ANTONIO AND/OR THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Agree
BY SELECTING "AGREE", I (WE) HEREBY CERTIFY THAT THE STATEMENTS MADE ON THIS APPLICATION ARE TRUE AND CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE.	Agree

PENALTY FOR FALSE OR FRAUDULENT STATEMENT: U. S. C. Title 18, Sec. 1001, Provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willingly falsifies...or makes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

Signature of Certifying Officer:		Upon completion of this application: Print, sign, scan and return this document as a pdf file.
Certifying Officer Print:		
Certifying Officer Title:		
Date of Certification:		

NOTE: Certifying Officer must have documented authority to enter into a contract or to execute an instrument in the name of and on behalf of the organization.

# Multi-Family Rental Housing Development Resolutions of Support or No Objection - APPLICATION



<b>Respondent Information</b>	<b>Cumulative Score: 97</b>
Applicant is to complete ALL pink shaded areas. Fields marked "Select" contain a pull down menu that holds all possible responses. Point awards will be automatically generated and totaled based on the response in these fields. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.	

**Project Name:** The Acacia

<b>10 Resident Services - 5 points each; no more than 15 points can be awarded in this category</b>  a The equivalent of one (1) FTE resident service coordinator for every 600 project bedrooms. b Project provides or has agreements with third party service providers to provide on-site educational, wellness and/or skill building classes. c Project provides on-site, licensed child care or after school program that operates 20 hours per week.	<b>Points Awarded: 15</b>	
	Yes	
	Yes	
	Yes	

<b>Certification</b>	<b>Final Score: 97</b>
BY SELECTING "AGREE", I (WE) HEREBY CERTIFY THAT I (WE) UNDERSTAND THAT FALSE STATEMENTS OR INFORMATION ARE FRAUD AND ARE IMMEDIATE GROUNDS FOR DENIAL OF THIS APPLICATION.	Agree
BY SELECTING "AGREE", I (WE) UNDERSTAND THAT THE INFORMATION I (WE) PROVIDED, INCLUDING ALL FINANCIAL INFORMATION, IS SUBJECT TO VERIFICATION BY THE CITY OF SAN ANTONIO AND/OR THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Agree
BY SELECTING "AGREE", I (WE) HEREBY CERTIFY THAT THE STATEMENTS MADE ON THIS APPLICATION ARE TRUE AND CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE.	Agree

PENALTY FOR FALSE OR FRAUDULENT STATEMENT: U. S. C. Title 18, Sec. 1001, Provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willingly falsifies...or makes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

Signature of Certifying Officer:	
Certifying Officer Print:	Manish Verma
Certifying Officer Title:	Authorized Representative of General Partner
Date of Certification:	January 4, 2017

Upon completion of this application: Print, sign, scan and return this document as a pdf file.

NOTE: Certifying Officer must have documented authority to enter into a contract or to execute an instrument in the name of and on behalf of the organization.



## Narrative: Project Summary

Applicant is to complete ALL pink shaded areas. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.

<b>Project Name:</b>	The Acacia	
<b>Organization:</b>	VDC Guilbeau Bandera, LP	
Street Address	4733 College Park	
Address 2	Ste. 200	
City, State Zip	San Antonio, TX 78249	

Provide an executive summary of the project. The response must include the following: a brief history, goals, objectives, project beneficiaries, number of persons/families being served, and community impact or need/problem being addressed. Also describe community support, neighborhood coordination efforts and local partnerships.

In the space below, please provide brief history of the organization (2000 characters maximum).

Versa Development, LLC is the manager of the general partner. Established in 2008, Versa was created around one main ideology: Everyone deserves clean, safe, and affordable housing. Versa Development, LLC is a highly experienced firm offering comprehensive Development, Consulting and Management Services and related technical and support services to its diverse clients. Versa has a successful track record in providing professional Development Services on many large-scale projects.

Versa has completed the development of 17 apartment communities throughout the State, creating nearly 4000 units, totaling in excess of well over 2 million square feet of new market rate and affordable housing development. In addition, Versa is currently developing five projects that are under Construction or near closing, totaling over 1100 units.

During its history, Versa has proven itself particularly adept at building a company capable of performing quality professional services and delivering these services in a timely and responsible manner.

The Acacia will provide high-quality, service enriched housing to promote the dignity and wellbeing of its residents. The proposed development will be two and three story garden style buildings, a full service clubhouse and office facility, and swimming pool. The construction of the buildings includes concrete slab foundations, 100% masonry exteriors of stucco and siding, and pitched composite shingle roofs. The exterior doors will be painted metal. The interior finish will be of good quality, including vinyl plank flooring in select locations, textured and painted sheet rock walls and the kitchens will have laminate countertops. All of the units will include a full size washer/dryer connection, and all units will have a minimum of one energy efficient ceiling fan. There will be TV/Telephone outlets in the living rooms and bedrooms. All of the apartment units will include provisions for internet access. Each unit will contain individual HVAC units. The clubhouse will be of similar construction and will contain the leasing/management offices, a business center, a learning center and a fitness/recreation center. There is also room within the clubhouse for community events.

## Narrative: Project Summary

Applicant is to complete ALL pink shaded areas. INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.

**Project Name:**

The Acacia

In the space below, please describe the project beneficiaries, and the number of persons and/or families being served. (500 characters maximum)

At this time, the proposed development is 160 units, of which all the units will be affordable. The development is, at this time, planned to have 40 One Bedroom Units, 80 Two Bedroom Units, and 40 Three Bedrooms. The affordability set-asides will be approximately 16 units at 30% AMFI, 64 units at 50% AMFI, and 80 units at 60% AMFI. The qualified residents will be earning between around \$15,000 per household up to approximately \$36,000 per family household.



**Resolution of the City Council of the City of San Antonio to support the proposed affordable housing project to be known as The Acacia and to authorize a commitment of development funding for such development.**

Whereas VDC Guilbeau Bandera, LP has proposed a development for affordable rental housing at Guilbeau Road, approximately west of Bandera Road named The Acacia in the City of San Antonio; and

Whereas, there is a need for affordable housing for the City of San Antonio citizens of modest means; and

Whereas, VDC Guilbeau Bandera, LP intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2017 Competitive 9% Low Income Housing Tax Credit Program funds for The Acacia.

Whereas, pursuant to TDHCA's qualified allocation plan, VDC Guilbeau Bandera, LP has requested that the City of San Antonio provide a commitment of development funding for the proposed development.

Be it resolved that the City of San Antonio, acting through the City Council as its governing body:

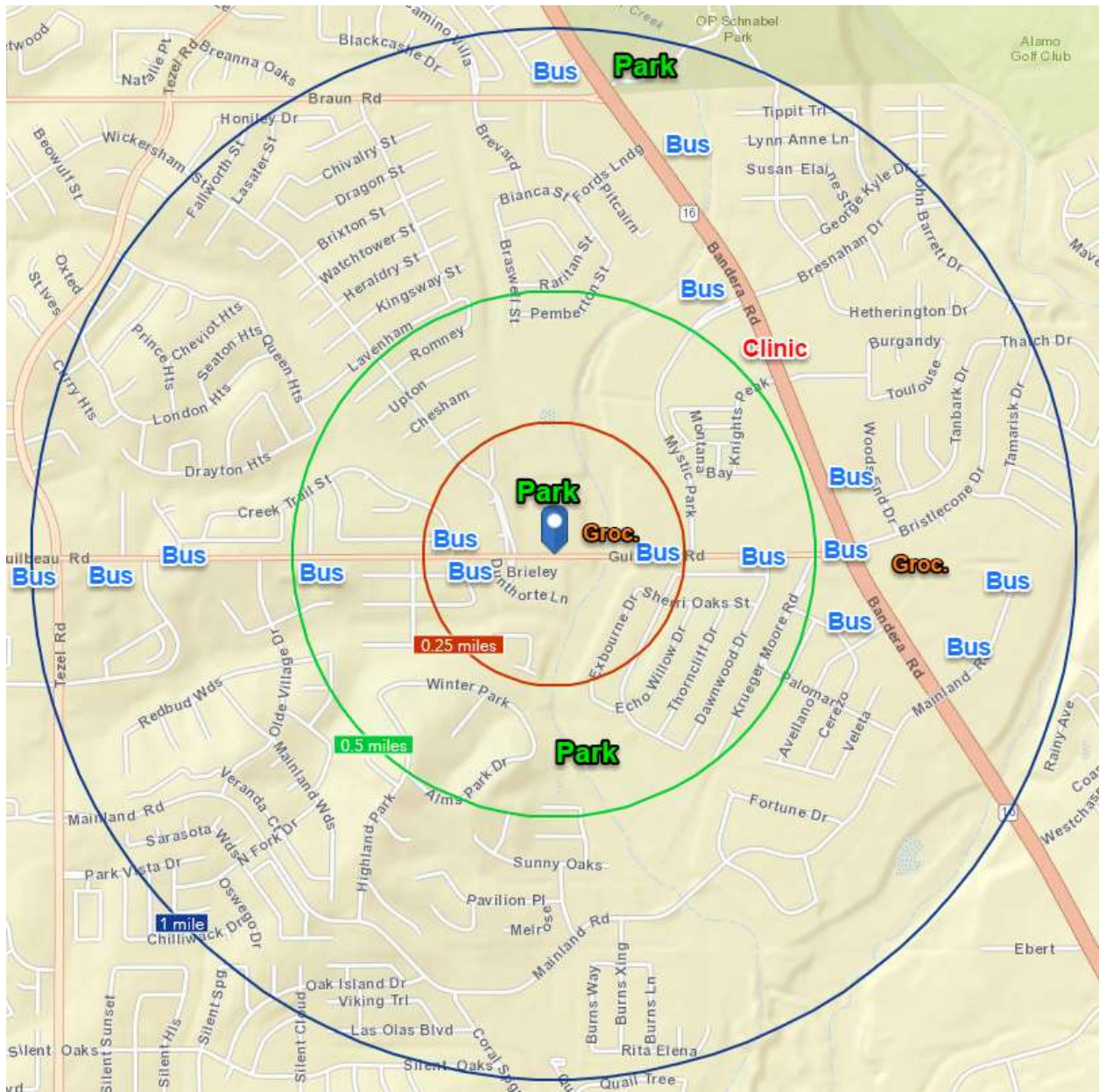
Affirms that the City of San Antonio supports the above named development and takes this formal action to put on record such opinion of support;

Confirms the City of San Antonio will, and is authorized to, provide a loan, grant, reduced fee or contribution of other value for the benefit of the development in the amount of \$10; and

Authorizes, empowers, and directs **[name, position of authorized person]**, for and on behalf of the City Council, to certify these resolutions to the Texas Department of Housing and Community Affairs.

Resolved this date....[city/county to use its format for resolutions].

# Bandera and Guilbeau Scoring Map





Bandera and Guilbeau VIA Rider tool

### Trip Planning

<b>Option 1</b> Leaving at 1:25p 30 min	<b>Option 2</b> Leaving at 1:25p 37 min	<b>Option 3</b> Leaving at 1:25p 41 min
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Your trip for Today, January 4, 2017

0 transfer

**From:** Guilbeau @ Mistic Park, GUILBEAU RD, San Antonio

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**606 - MEDICAL CENTER/ALAMO RANCH (Stay on the same vehicle)**

Leaving at 1:25p  
Stop Name: GUILBEAU RD. OPPOSITE 7951 (H.E.B.)

---

**On 606 - MEDICAL CENTER/ALAMO RANCH**

Arriving at 1:55p  
Stop Name: SOUTH TEXAS MEDICAL CENTER TC (Stay on the same vehicle)

[Email It](#) [Edit Trip](#)

- Route Schedules
- Next Departures
- Landmarks
- Stop Finder

The map displays a route starting at Guilbeau Rd, passing through Leon Valley, and ending at South Texas Medical Center TC. Key landmarks include OP Schnabel Park and various roads like Prue Rd, Hollyhook Rd, and Wurzbach Rd. The route is highlighted in blue with arrows indicating direction. The map includes a Google logo, a scale bar (1 km), and buttons for Recenter, Help, and Print.

# Attachment C



**PURCHASE AND SALE AGREEMENT  
(UNIMPROVED LAND)**

THIS PURCHASE AND SALE AGREEMENT (this "**Agreement**") is executed to be effective as of the latest date that Buyer or Seller executed this Agreement as set forth on the Buyer's and Seller's signature page of this Agreement (the "**Effective Date**"), by and between Versa Development, LLC a Texas Limited Liability Company (4733 College Park, Ste. 200, San Antonio, TX 78249, Attn: Manish Verma; Telephone: 210-530-0090 x202; Fax: 210-530-5060; e.mail: [manishv@versadevco.com](mailto:manishv@versadevco.com)) (together with its successors and/or assigns, "**Buyer**"); and El Centro Mall, Ltd, a Texas Limited Partnership ( 70 NE Loop 410, Ste 185, San Antonio, TX 78216, Attn: Stanley Spigel; Telephone: (210) 349-3636; Fax: (210) 366-9422; e.mail: [stanley@spigelproperties.com](mailto:stanley@spigelproperties.com)) (together with its successors and/or assigns, "**Seller**") (Buyer and Seller are collectively referred to as the "**Parties**", and each a "**Party**").

1. **Property.** On the terms herein set forth, Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, that approximate 8.76 acre tract of land located at Guilbeau Rd and Bandera, San Antonio, Texas in Bexar County, Texas, as more particularly described on Exhibit A, attached hereto and made a part hereof (as may be updated pursuant to the last sentence of this Section 1, the "**Land**"), together with all of Seller's right, title, and interest in and to any and all of the following related to the Land (a) rights of way, streets, roads, alleys, streets, and/or avenues, open or proposed, abutting the Land, (b) riparian and water rights, (c) air rights, (d) uses, servitudes, licenses, easements, tenements, hereditaments and appurtenances now or hereafter belonging to or benefiting the Land, (e) oil, gas and other minerals lying on or under the Land, (f) buildings, improvements and fixtures located on or under the; and (g) licenses, warranties, and permits. (collectively, the "**Property**"). The exact legal description and acreage of the Land will be determined by the Survey (hereinafter defined) and will replace the Exhibit A attached to this Agreement.

2. **Purchase Price.** The purchase price of the Property shall be One Million Three Hundred Thirty Five Thousand Five Hundred Fifty and 00/100 Dollars (\$1,335,550.00), provided, however, if the Survey reflects a size less than 8.76 acres the purchase price shall be adjusted based on the number of square feet multiplied by \$3.50 (the "**Purchase Price**"), payable at Closing by Buyer.

3. **Title Company and Earnest Money.**

a. **Name and Amount.** Chicago Title of Texas, LLC (270 N. Loop 1604 E., Suite 120, San Antonio, Texas 78232, Attn: Robert Jordan; Telephone: 210-482-3500; Fax: 210-482-3717; e.mail: [robert.jordan@ctt.com](mailto:robert.jordan@ctt.com)) (the "**Title Company**") will serve as the title company. Within five (5) business days of the date Buyer receives a copy of this Agreement executed by both Parties, Buyer shall deposit the sum of \$10,000.00 with the Title Company as earnest money to be applied to the Purchase Price (the "**Original Earnest Money**"), subject to the terms and provisions of this Agreement.

b. **Reserved.**

c. **Account.** Until all or a part of the Earnest Money, if any, is released to Seller pursuant to the terms of this Agreement, the Earnest Money shall be held by the Title Company as escrow agent in an interest bearing account, separate from other accounts, to be handled in accordance with the terms and conditions of this Agreement. All interest earned on the Earnest Money shall be added to and become part of the Earnest Money.

d. **Reserved.**

e. INDEPENDENT CONSIDERATION. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, ONE HUNDRED AND 00/100 DOLLARS (\$100.00) OF THE DEPOSITED EARNEST MONEY SHALL BE DEEMED INDEPENDENT CONSIDERATION AND NON-REFUNDABLE AND RETAINED BY SELLER UNDER ALL CIRCUMSTANCES, FOR AND IN CONSIDERATION OF SELLER'S EXECUTION OF THIS AGREEMENT.

4. Conditions Precedent.

a. Due Diligence Period. Buyer shall have until 6:00 p.m. (CST) on or before the earlier of a) August 31, 2017, or b) rezoning of the Property as needed to allow for multifamily development within a minimum of 33 units/acre (as may be extended, the "**Due Diligence Period**") to conduct inspections of the Property (the "**Due Diligence Investigations**") and its suitability, as determined by Buyer in its sole and absolute discretion, for Buyer's intended development of the Property (the "**intended purpose**" or "**proposed development**"). The right to conduct Due Diligence Investigations includes, without limitation, the right of Buyer and Buyer's employees, agents, affiliates and contractors to enter upon any portion of the Property to conduct market studies, appraisals, and needs assessments, and to take measurements, inspect, conduct test borings, make boundary and topographical survey maps and to conduct geotechnical, soil, environmental, groundwater, wetland and other studies required by Buyer in its sole discretion, and to, without limitation, determine the existence and adequacy of utilities serving the Property, zoning and compliance with laws. Buyer and Seller acknowledge that Buyer's intended use of the Property is for multifamily housing, which is not a permitted use under the current zoning for the Property. Seller agrees to assist Buyer with re-zoning the Property as needed to allow for multifamily housing, with a minimum density of 33 units/acre. Notwithstanding anything to the contrary set forth in this Agreement, the final day of the Due Diligence Period shall be the earlier of (i) August 31, 2017, or (ii) fifteen (15) days following the completion of the rezoning of the Property, which includes final approval by the San Antonio City Council and expiration of any applicable appeal period, provided that within ninety (90) days of the Effective Date of this Agreement, Buyer will have made application to City of San Antonio staff for rezone. Upon extension of the Due Diligence Period past August 31, 2017, the Buyer shall pay directly to Seller, an additional deposit of \$2,000.00 of Earnest Money for each 30 day extension (the "Additional Earnest Money") to Seller, which shall be non-refundable except as upon Seller's default provided herein, but applied to the Purchase Price at Closing.

b. Due Diligence Materials. Within three (3) days of the Effective Date (the "**Delivery Date**"), Seller shall deliver to Buyer, at no cost to Buyer, each of the following items that are in the possession of or available to Seller (collectively, the "**Due Diligence Materials**"):

- (i) Current year and immediately prior year tax bills and evidence of payment of same through the Effective Date;
- (ii) Existing soil and groundwater tests;
- (iii) Title commitments, title policies and surveys;
- (iv) Environmental reports;
- (v) Underground storage tank test results;
- (vi) Waste disposal records; permit records;



- (vii) Code violation notices and records;
- (viii) Traffic studies; and
- (ix) All other engineering tests and other studies, reports, records and notices pertaining to the Property.

In the event the Property is not satisfactory to Buyer for any reason in Buyer's sole and absolute discretion, Buyer shall have the right to terminate this Agreement by delivering written notice thereof to Seller prior to the expiration of the Due Diligence Period, and Buyer shall receive a full and prompt refund of the Earnest Money, together with accrued interest thereon without the need for Seller's signature or consent for its release. Notwithstanding anything to the contrary set forth in this Agreement, including without limitation the expiration of the Buyer's right to terminate this Agreement prior to the expiration of the Due Diligence Period as set forth in this Section 4.b, Buyer's right to continue to conduct inspections shall continue while this Agreement remains in effect.

c. Title and Survey.

(i) Within ten (10) days of the Effective Date, Buyer shall obtain from the Title Company a current title commitment (the "**Commitment**") for an Owner's Policy of Title Insurance (the "**Title Policy**"), in an amount equal to the Purchase Price, together with full and legible copies of all of the exceptions to title listed on Schedule B of the Title Commitment, and any documents listed on Schedule C of the Title Commitment (the "**Title Exceptions**").

(ii) Buyer may at its option also obtain a survey of the Property (the "**Survey**") at Buyer's expense. If a Survey is obtained, the field note description set forth on the Survey that is acceptable to the Title Company will replace the depiction of the Land provided in this Agreement and shall be used in the Deed (hereinafter defined), unless a plat of the Land is filed of record prior to Closing, in which event the lot and block description of the Land contained in that recorded plat shall be used in the Deed.

(iii) If any of the Commitment, the Title Exceptions or the Survey are not satisfactory to Buyer, then Buyer may give Seller written notice of the items that Buyer finds unacceptable (the "**Title Objections**") before the later of (A) fifteen (15) days after receipt of the Commitment and full and legible copies of the Title Exceptions, or (B) the expiration of the Due Diligence Period (as may be extended). Seller shall have fifteen (15) days after such notice from Buyer to deliver written notice to Buyer that it either agrees to cure the Title Objections within thirty (30) days (or such longer period of time agreeable to the Parties) or to advise Buyer that it will not so cure the Title Objections. All Title Exceptions to which Buyer does not object or which are deemed waived and accepted by Buyer, as herein provided, are collectively referred to as the "**Permitted Exceptions**".

(iv) If Seller does not agree to so cure one or more of the Title Objections (and Seller's failure to respond in writing shall be deemed to be a refusal to cure the Title Objections), Buyer may either (A) accept title to the Property subject to the Permitted Exceptions without a reduction in the Purchase Price, or (B) terminate this Agreement by delivering written notice to Seller and receive a full

and prompt refund of the Earnest Money, together with accrued interest thereon, without the need for Seller's signature or consent for its release.

(v) Notwithstanding any other provision of this Agreement to the contrary, including without limitation whether or not Buyer includes such items in its schedule of Title Objections, Seller shall have the unconditional obligation to remove, discharge, pay or cure, at no cost to Buyer, any title matters that are a lien for the payment of money, that can be removed by the payment of a definite sum of money, and any title matter that arose after the Effective Date not approved by Buyer in writing, and none of such items shall be deemed Permitted Exceptions or appear in the Title Policy.

d. Reserved.

e. Governmental Approvals. Buyer may, at its option and expense, prepare and submit applications for, and seek to obtain approval by the applicable governmental authorities and/or third parties of, approvals, permits, licenses, easements and agreements required for Buyer's intended development and use of the Property, including without limitation, those for utilities, zoning, special uses, building construction, access, platting, easements, ingress/egress easements, site construction and off-site improvements (collectively, the "**Governmental Approvals**"), including without limitation, appropriate re-zoning if necessary. Seller shall cooperate with Buyer in connection with the preparation of the applications and seeking the Governmental Approvals, including without limitation, the timely execution and delivery of all applications, documents, plats and instruments required by the applicable governmental authorities and/or third parties, provided that Seller shall not be obligated to incur any expense in connection therewith.

f. Other Conditions. It shall be a condition precedent to Buyer's obligation to close this transaction and purchase the Property that all of the following are timely satisfied:

(i) Title Policy. At Closing, the Title Company shall be prepared to issue the Title Policy to Buyer with all standard or pre-printed exceptions deleted (to the extent such can be deleted), evidencing Buyer owns good and indefeasible fee simple title in and to the Property subject only to the Permitted Exceptions.

(ii) Representations and Warranties. At Closing, as determined by the Buyer all of the representations and warranties of Seller shall be true in all material respects.

(iii) No Liens. At Closing, there shall be no unpaid charges, debts, liabilities, claims or obligations of Seller related to the Property, or any portion thereof, which could give rise to any mechanics', materialmen or other statutory lien against any portion of the Property other than those that will be paid or otherwise satisfied by Seller at Closing, and possession of the Property, free of all tenancies, leases and occupants, shall be delivered to Buyer at Closing.

(iv) Subdivided. At or prior to Closing, if the Property is part of a larger parcel belonging to Seller, the Property shall be subdivided from the larger parcel and/or platted.

(v) Reserved.



(vi) Governmental Approvals. Prior to Closing, Buyer shall have received all necessary and customary Governmental Approvals in order for Buyer to develop and operate the Property for its intended purpose, including without limitation, those for utilities, zoning, special uses, building construction, site construction and off-site improvements (such as road widening easements and permits from applicable departments of transportation, and ingress/egress easements).

(vii) Zoning. At Closing the Property shall be zoned to permit the development of the Property for its intended purpose.

g. Termination. In the event that any condition precedent in Section 4.f is not satisfied by August 31, 2017, Buyer shall have the right to terminate this Agreement, by delivering written notice thereof to Seller, at which time Buyer shall receive a full and prompt refund of the Earnest Money (with the exception of Extension Fees, if any which are non-refundable), without the need for Seller's consent or signature for its release. Should the Buyer fail to timely terminate this agreement, the initial earnest money shall become non-refundable, other than for Seller's refusal to close in accordance with the terms hereof, and shall be released to the Seller, provided the earnest money and extension fees shall apply to the purchase price upon closing.

Notwithstanding the foregoing, within 10 days of Buyer's receipt of the determination by the Texas Department of Housing and Community Affairs that the property is or is not eligible for available tax credits, Buyer shall provide Seller with a copy of such notification. Should the property fail to qualify for such tax credits, this contract shall terminate and the earnest money shall be refunded to the Buyer.

## 5. Closing.

a. Delivery of Documents. The conveyance of the Property and the closing of the transaction herein described (the "**Closing**") shall occur on or before November 30, 2017 (as may be extended, the "**Closing Deadline**"), in escrow at the offices of the Title Company (or such other manner and/or location mutually acceptable to Buyer and Seller); provided, however, Buyer may elect to close at any time upon ten (10) days' prior written notice to Seller.

(i) Seller shall deliver at Closing: (A) a special warranty deed conveying good, marketable and indefeasible fee simple title in and to the Property to Buyer (or its designee) subject only to the Permitted Exceptions (the "**Deed**"); (B) all easements necessary for the development and operation of the Property for its intended purpose; (C) a lien affidavit acceptable to the Title Company; (D) an affidavit of non-foreign status; (E) any other affidavit or document required by the Title Company to delete the so-called standard exceptions to the Title Policy; and (F) such other customary documents, instruments, certifications and confirmations as may be reasonably required to fully effect and consummate the transactions contemplated hereby and for the Title Company to issue the Title Policy in the form required by this Agreement.

(ii) Buyer shall deliver at Closing: (A) the remaining balance of the Purchase Price as provided by this Agreement; and (B) such other documents, instruments, certifications and confirmations as may be reasonably required to fully effect and consummate the transaction contemplated hereby.

b. Extensions. Buyer shall have the right to extend the Closing Deadline five (5) times for thirty (30) days each by delivering to Seller written notice thereof to Seller

prior to the end of the then applicable Closing Deadline, and delivering to the Seller an extension fee in the amount of \$2,000.00 (each, an "Extension Fee") for each extension. Each Extension Fee shall be (i) non-refundable to Buyer except upon Seller's default and (ii) applied to the Purchase Price at Closing. In the event any of the Earnest Money, including without limitation the Extension Fees, is released to Seller and this Agreement is subsequently terminated pursuant to this Agreement, Seller shall deliver to Buyer an amount equal to the sum of the refundable Earnest Money, including without limitation any refundable Extension Fees, within five (5) days of such termination.

c. Prorations. Subject to the terms of Section 5.f below, Buyer and Seller shall prorate all real estate taxes, personal property taxes and all other assessments related to the Property (collectively, the "Taxes") as of the date of Closing, with the date of Closing being treated as a day of ownership by Buyer. If the final tax bill is not available at Closing, the Taxes shall be prorated based upon the latest available tax assessment(s) for the Property, which proration will be re-prorated outside of escrow when the actual Taxes are determined. If the Property is a part of a larger tax parcel or was recently subdivided from a larger tax parcel and a separate tax bill for the Property is unavailable at Closing, then the proration of the Taxes will be based upon the latest available tax bill based upon the percentage of the larger tax parcel being purchased by Buyer. If there are any improvements on the larger tax parcel that are separately valued or assessed, the value of such improvements shall be assigned to the Buyer only if such improvements are located on the Property. If any of the amounts set forth in the final bill for the Taxes are different than the amounts prorated at Closing, the Taxes shall be re-prorated and the difference shall either be proportionately refunded to Seller or paid by Seller to Buyer, as applicable. Notwithstanding anything to the contrary set forth in this Agreement, Seller shall pay on or before the date of Closing all Taxes for previous tax years and all other preceding periods for which any Taxes are due or payable. Seller shall be solely responsible for any recoupment of any agricultural credit for the Property. This Section 5.c shall not apply to any Rollback Taxes (hereinafter defined) described in Section 5.f below. This Section 5.c shall survive the Closing and delivery of the Deed.

d. Costs. Seller shall pay the taxes and assessments for which Seller is responsible hereunder, the cost for the preparation of the Deed, any conveyance fee or transfer tax, the cost of curing any title or survey defect that Seller agreed to cure or is obligated to cure pursuant to the terms of this Agreement, the premium for the Title Policy and 100% of any broker's commission or fee in accordance with Section 8.f hereof. Except as may otherwise be stated herein, each Party shall bear its own expenses, including without limitation its own attorneys' fees.

e. Seller's Obligations Prior to Closing. At all times until Closing, Seller shall maintain indefeasible fee simple legal title to the Property free and clear of any and all defects, liens, and encumbrances of every kind and nature (other than the Permitted Exceptions and liens and encumbrances that will be released at Closing).

f. Rollback Taxes. If (i) the sale contemplated hereby, (ii) a change in the use of the Property, or (iii) a denial of any special use valuation of the Property, would result in the assessment after the Closing of additional taxes and interest applicable to the period of time before the Closing ("Rollback Taxes"), then Buyer shall receive a credit against the Purchase Price at the Closing for the amount of the Rollback Taxes (including interest and penalties) that may be assessed after the Closing as reasonably estimated by the Title Company (the "Estimated Rollback Taxes") not to exceed the sum of \$10,000. Buyer shall then be responsible for the payment of the Rollback Taxes



(including interest and penalties) if and when assessed after the Closing; provided, however, if after Closing the amount of Rollback Taxes that are actually assessed (the "**Assessed Rollback Taxes**") exceeds the Estimated Rollback Taxes, upon written notice delivered by Buyer to Seller with the appropriate back-up material, Seller shall promptly pay to Buyer the difference between the Assessed Rollback Taxes and the Estimated Rollback Taxes. Notwithstanding anything to the contrary set forth in this Agreement, if any Rollback Taxes are due before the Closing due to Seller's change in use of the Property or a denial of a special use valuation of the Property, then Seller shall pay those Rollback Taxes (including any interest and penalties) at or before the Closing. This Section 5.f shall survive the Closing and delivery of the Deed.]

g. Condemnation. If, prior to Closing, condemnation proceedings are commenced against any portion of the Property, Buyer shall have the right to either (i) terminate this Agreement by delivering written notice to Seller within fifteen (15) days of Buyer's receipt of written notice from Seller of such condemnation proceedings, receive a full and prompt refund of the Earnest Money (including without limitation, the Additional Earnest Money), together with accrued interest thereon without the need for Seller's signature or consent for its release, and Seller shall reimburse Buyer for Buyer's reasonable out-of-pocket expenses incurred in connection with its due diligence inspection of the Property; or (ii) elect not to terminate the Agreement and appear and defend in the condemnation proceedings and any award will, at Buyer's election, belong to (A) Seller and the Purchase Price will be reduced by the same amount at Closing, or (B) Buyer and the Purchase Price will not be reduced. If Buyer elects to terminate this Agreement pursuant to the terms of this Section 5.g, Buyer shall be permitted to seek damages from the condemning authority.

6. Defaults and Remedies.

a. SELLER DEFAULT. IF SELLER FAILS OR REFUSES TO CLOSE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT THEN (I) BUYER MAY TERMINATE THIS AGREEMENT BY DELIVERING WRITTEN NOTICE THEREOF TO SELLER, WHEREUPON THE EARNEST MONEY (INCLUDING WITHOUT LIMITATION THE ADDITIONAL EARNEST MONEY) SHALL BE IMMEDIATELY REFUNDED AND RETURNED TO BUYER, WITHOUT THE NEED FOR SELLER'S CONSENT; OR (II) BUYER MAY SEEK SPECIFIC PERFORMANCE OF THIS AGREEMENT, PROVIDED SUCH PROCEEDINGS ARE COMMENCED WITHIN THIRTY (30) DAYS OF SELLER'S FAILURE TO CLOSE.

b. BUYER DEFAULT. IF BUYER FAILS TO PERFORM IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, OR OTHERWISE BREACHES ANY OF THE TERMS, COVENANTS OR AGREEMENTS CONTAINED IN THIS AGREEMENT, THEN, AS SELLER'S SOLE AND EXCLUSIVE REMEDY, SELLER MAY TERMINATE THIS AGREEMENT BY DELIVERING WRITTEN NOTICE THEREOF TO BUYER, THE EARNEST MONEY AND EXTENSION FEES SHALL BE FORFEITED BY BUYER AND DELIVERED TO SELLER, TOGETHER WITH ACCRUED INTEREST THEREON, AS LIQUIDATED DAMAGES, AND NOT AS A PENALTY. SELLER ACKNOWLEDGES AND AGREES THAT THE EARNEST MONEY IS A FAIR AND EQUITABLE AMOUNT FOR SELLER TO RECEIVE SINCE SELLER WILL HAVE CHANGED ITS POSITION IN RELIANCE ON BUYER COMPLETING THE TRANSACTION HEREIN DESCRIBED, WILL HAVE HELD THE PROPERTY OFF THE MARKET FOR AN EXTENDED PERIOD OF TIME IN RELIANCE UPON BUYER'S ABILITY TO CLOSE THIS TRANSACTION AND THE DAMAGES SUSTAINED BY SELLER IN SUCH CASE WOULD NOT OTHERWISE BE REASONABLY ASCERTAINABLE. SELLER WAIVES THE RIGHT TO EXERCISE ANY OTHER RIGHTS AND REMEDIES AVAILABLE TO SELLER BECAUSE OF A DEFAULT BY BUYER, WHETHER AT LAW AND/OR IN EQUITY, INCLUDING WITHOUT

LIMITATION, THE RIGHT TO SUE BUYER FOR ADDITIONAL DAMAGES OR SEEK SPECIFIC PERFORMANCE.

7. **Seller's Representations and Warranties.** Seller represents and warrants to Buyer that to the best of Seller's knowledge (unless otherwise disclosed to the Buyer in the due diligence materials provided to Buyer):

a. **Title.** Seller is the owner of good and indefeasible fee simple title in and to the Property, and Seller has been the sole owner of the Property during the 36-month period preceding the Effective Date.

b. **Authority; Enforceability.** Seller has the capacity and authority to execute this Agreement and perform its obligations under this Agreement. This Agreement constitutes a legal and valid binding obligation of Seller, enforceable against Seller in accordance with its terms. All action necessary to authorize Seller's execution (and execution by the individual executing this Agreement on behalf of Seller), delivery and performance of this Agreement has been taken and such action has not been rescinded or modified.

c. **Hazardous Substances.** To the best of Seller's knowledge, there are no and there have been no wetlands, oil or gas wells (capped or uncapped) or underground storage tanks (in use or abandoned) on or about the Property and/or land adjacent to the Property. Neither Seller nor any prior owner or occupant of the Property has: (i) caused or permitted, and Seller has received no notice and has no knowledge of, the generation, manufacture, refinement, transportation, treatment, storage, deposit, release, salvage, installation, removal, disposal, transfer, production, burning or processing of Hazardous Substances (as hereinafter defined) on, under or about the Property or any adjacent properties; (ii) caused or permitted, and Seller has received no notice and has no knowledge of, the Release (as hereinafter defined) or existence of any Hazardous Substance on, under or affecting the Property or any adjacent properties; or (iii) caused or permitted, and Seller has received no notice and has no knowledge of, any substances or conditions on, under or affecting the Property or any adjacent properties which may support any claim or cause of action, whether by a governmental agency or any other person or entity, under any applicable federal, state or local law, rule, ordinance or regulation, including without limitation, those related to Hazardous Substances. For the purpose of this Agreement, the terms "**Hazardous Substances**" and "**Release**" shall have the same meaning as set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 *et seq.*; provided, however, that the definition of Hazardous Substances shall also include petroleum and related by-products, hydrocarbons, radon, asbestos, urea formaldehyde, polychlorinated biphenyl compounds and any other substance considered hazardous to humans or the environment.

d. **Leases; Options.** To the best of Seller's knowledge, (i) There are no outstanding written or oral leases, easements and/or other types of agreement in any way affecting the Property that are not recorded in the Real Property Records of Bexar, Texas, (ii) no person or entity has any right with respect to all or any portion of the Property (whether by option to purchase, easement, right of first refusal, contract or otherwise) that may prevent or interfere with Buyer taking title to, and exclusive possession of, all of the Property at Closing, and (iii) Seller shall not enter into any new lease, easement or other contract with respect to the Property during the pendency of this Agreement that is not terminable upon demand without Buyer's prior written consent, which may be given or withheld by Buyer in Buyer's sole and absolute discretion.



e. No Notices. To the best of Seller's knowledge, there are no (i) proposed special assessments, condemnation or changes in the roads adjacent to the Property; (ii) pending public improvements that will result in any charge being levied or assessed against, or a lien being created upon, the Property; or (iii) pending or threatened eminent domain or condemnation proceedings against or involving any portion of the Property or any adjacent parcel.

f. Access. Seller has not received any notice of any existing or proposed plans to widen, modify or realign any street adjoining the Property, and to the best of Seller's knowledge the Property has full and free access to and from public highways, streets and roads. Seller has no knowledge of any pending or threatened proceeding by any governmental authority, or any other fact or condition, which would limit or result in the termination of the Property's access to and from such public highways, streets and roads except as disclosed in Seller's due diligence materials provided to Buyer.

g. Utility Availability. To the best of Seller's knowledge, Public water, sanitary and storm sewer, electricity, gas, and other required utilities (i) are available to the Property in quantities sufficient for the successful operation of the Property for its Intended purpose; (ii) enter the Property through adjoining public streets or, if passing through adjoining private land, do so in accordance with recorded public or private easements; and (iii) are serviced and maintained by the appropriate public or quasi-public entity.

h. Utility District. To the best of Seller's knowledge, the Property is not situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, except as otherwise disclosed to in Seller's due diligence materials provided to Buyer.

i. Pipelines. To the best of Seller's knowledge, there are no transportation pipelines, including without limitation, pipelines for the transportation of natural gas, natural gas liquids, synthetic gas, liquefied petroleum gas, petroleum or a petroleum product or hazardous substance, located on, under or within the Property.

j. Owners' Association. The Property is not subject to mandatory membership in a property owners' association.

k. Litigation. There is no pending or threatened litigation, arbitration, administrative action or examination, claim or demand whatsoever relating to the Property; and no attachments, execution proceedings, liens, assignments or insolvency proceedings are pending or threatened against Seller of the Property or contemplated by Seller.

l. Performance under Leases and Service Contracts. During the pendency of this Agreement, Seller will perform its material obligations under all agreements that affect the Property.

m. Insurance. During the pendency of this Agreement, Seller shall maintain all insurance Seller was carrying on the Effective Date.

n. Exclusive Rights. In consideration of Buyer's efforts and expenses required to perform its review of the Property, Seller agrees that it will not, either directly or indirectly, offer to sell or solicit any offers to purchase or negotiate for the sale or disposition of the Property during the pendency of this Agreement.

- o. Foreign Person. Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended.

Seller shall fully disclose to Buyer, immediately upon its occurrence, any change in facts, assumptions or circumstances of which Seller becomes aware prior to the date of Closing that may affect the representations and warranties set forth above. The representations and warranties of Seller contained herein shall not survive the Closing.

BUYER UPON CLOSING ACKNOWLEDGES THAT BUYER HAS INDEPENDENTLY AND PERSONALLY INSPECTED THE PROPERTY AND THAT BUYER HAS PURCHASED THE PROPERTY BASED UPON SUCH EXAMINATION AND INSPECTION. BUYER, ACKNOWLEDGES THAT BUYER IS PURCHASING THE PROPERTY IN "AS-IS, WHERE-IS" CONDITION "WITH ALL FAULTS" AS OF THE CLOSING AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED, FROM ANY OF THE SELLER AND ITS PARTNERS, AFFILIATES, SHAREHOLDERS, OFFICERS, EMPLOYEES, AGENTS, TRUSTEES AND BENEFICIARIES (THE "SELLER INDEMNITEES") AS TO, AND BUYER, ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS, INCLUDING WITHOUT LIMITATION, ANY SUBSEQUENT OWNER OF THE PROPERTY OR ANY PORTION THEREOF, WAIVES ALL CLAIMS AGAINST AND RIGHT TO RECOVER FROM, RELEASES AND AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE SELLER INDEMNITEES FROM ANY AND ALL PRESENT OR FUTURE DEMANDS, CLAIMS, LEGAL OR ADMINISTRATIVE PROCEEDINGS, LOSSES, LIABILITIES, DAMAGES, PENALTIES, FINES, LIENS, JUDGMENTS, COSTS OR EXPENSES, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, ARISING FROM OR RELATING TO: (I) THE PROPERTY'S CONDITION, FITNESS FOR ANY PARTICULAR PURPOSES, SUITABILITY, OR MERCHANTABILITY, (II) THE STRUCTURAL INTEGRITY OF AND/OR ANY DEFECTS IN THE IMPROVEMENTS OR THE PROPERTY, (III) THE ACCURACY OR COMPLETENESS OF ANY OF THE INFORMATION, DATA, MATERIALS OR CONCLUSIONS CONTAINED IN ANY INFORMATION PROVIDED BUYER, (IV) THE FAILURE OF THE PROPERTY TO COMPLY WITH ANY LAWS APPLICABLE TO THE PROPERTY, (V) THE ENVIRONMENTAL CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE PRESENCE OR ALLEGED PRESENCE OF ASBESTOS, RADON OR ANY HAZARDOUS MATERIALS OR HARMFUL OR TOXIC SUBSTANCES IN, ON, UNDER OR ABOUT THE PROPERTY, INCLUDING WITHOUT LIMITATION ANY CLAIMS UNDER OR ON ACCOUNT OF (A) THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS THE SAME MAY HAVE BEEN OR MAY BE AMENDED FROM TIME TO TIME, AND SIMILAR STATE STATUTES, AND ANY REGULATIONS PROMULGATED THEREUNDER, (B) ANY OTHER FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION, NOW OR HEREAFTER IN EFFECT, THAT DEALS WITH OR OTHERWISE IN ANY MANNER RELATES TO, ENVIRONMENTAL MATTERS OF ANY KIND, (C) THIS AGREEMENT, OR (D) THE COMMON LAW, OR (VI) ANY OTHER WARRANTY OF ANY KIND, NATURE, OR TYPE WHATSOEVER FROM SELLER OR ANY OTHER PARTY ON BEHALF OF SELLER. BUYER HAS CONDUCTED AND IS RELYING EXCLUSIVELY UPON ITS OWN INDEPENDENT INVESTIGATION IN THE EVALUATION OF THE PROPERTY. BUYER ASSUMES ALL RISKS RELATING IN ANY MANNER TO THE PROPERTY OR ANY DEFECTS THEREIN, IF ANY, OF ANY TYPE OR NATURE WHATSOEVER, AND SHALL BE SOLELY AND COMPLETELY RESPONSIBLE FOR THE PAYMENT OF ALL COSTS AND EXPENSES IN CONNECTION THEREWITH. FOR PURPOSES HEREOF, THE TERM "HAZARDOUS MATERIALS" SHALL MEAN ANY SUBSTANCE, CHEMICAL, WASTE OR MATERIAL THAT IS OR BECOMES REGULATED BY ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AUTHORITY BECAUSE OF ITS TOXICITY, INFECTIOUSNESS, RADIOACTIVITY, EXPLOSIVENESS, IGNITABILITY, CORROSIVENESS OR REACTIVITY, INCLUDING, WITHOUT LIMITATION, ASBESTOS OR ANY SUBSTANCE CONTAINING ASBESTOS, THE GROUP OF COMPOUNDS KNOWN AS POLYCHLORINATED BIPHENYLS, FLAMMABLE EXPLOSIVES, OIL, PETROLEUM OR ANY REFINED PETROLEUM PRODUCT. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE EXECUTION AND DELIVERY OF THIS SPECIAL WARRANTY DEED AND SHALL CONSTITUTE COVENANTS RUNNING WITH THE LAND AS TO THE PROPERTY BINDING UPON BUYER, ITS SUCCESSORS AND ASSIGNS, INCLUDING WITHOUT LIMITATION, ANY SUBSEQUENT OWNER OF THE PROPERTY.



8. Miscellaneous.

a. Plans and Approvals. Buyer shall have the right to file, at Buyer's expense, any and all applications and plans necessary to obtain building permits, rezoning, subdivision or plat (or the vacation of any existing subdivision or plat), and/or any other agreement, assurance, approval or permit from any and all governmental authorities having jurisdiction over the Property that Buyer deems appropriate in connection with the intended purpose of the Property. Seller agrees to join in the execution of any application required in order to obtain any such agreement, assurance, permit or approval (or file such application individually if the relevant governmental authority shall so require). Seller further agrees to cooperate with Buyer or its nominee in all respects as in Seller's discretion shall be reasonably necessary to satisfy such governmental requirements.,

b. Notices and Deadline Dates. Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant to this Agreement shall be in writing and shall be (i) delivered personally, (ii) sent or by overnight express courier, postage prepaid, or (iii) sent by facsimile or electronically (email), each addressed to the Parties at their respective addresses set forth above, and the same shall be effective upon receipt if delivered personally, by overnight courier or by facsimile or electronically. A Party may change its address for receipt of notices by service of a notice of such change in accordance herewith. If any deadline under this Agreement falls on a Saturday, Sunday or legal holiday (which for purposes of this Agreement shall be not be considered a "**business day**"), the deadline shall be extended to the next business day.

c. Attorneys' Fees. In the event either Party brings an action at law or other proceeding permitted under the terms of this Agreement against the other Party in order to enforce or interpret any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement or by reason of any breach or default hereunder or thereunder, the Party prevailing in any such action or proceeding shall be paid all reasonable costs and expenses, including without limitation reasonable attorneys' fees, by the non-prevailing Party.

d. Assignment; Binding Agreement. Seller may not assign this Agreement without the written consent of Buyer. Buyer may assign this Agreement and/or any interest herein without Seller's consent. In the event of an assignment of this Agreement, the assignor shall be released from any and all of the assignor's obligations under this Agreement, provided the assignee agrees in writing to be fully bound by the terms and conditions of this Agreement as if such assignee had been the original Buyer hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assignees. This Agreement constitutes the entire agreement between the Parties, and supersedes any and all prior agreements, arrangements and understanding between the Parties. This Agreement may only be amended by a written agreement executed by all of the Parties.

e. Reserved.

f. BROKERS AND COMMISSIONS. BUYER AND SELLER REPRESENT AND WARRANT TO EACH OTHER THAT NEITHER HAS DEALT WITH A BROKER, AGENT OR OTHER

PERSON IN CONNECTION WITH THIS TRANSACTION, OTHER THAN FIRST AMERICAN COMMERCIAL PROPERTY GROUP, A TEXAS LICENSED BROKER, AND THEIR FEES AND COMMISSIONS SHALL BE PAID BY SELLER AT CLOSING PURSUANT TO THE TERMS OF A SEPARATE AGREEMENT. SELLER AND BUYER EACH INDEMNIFY THE OTHER AGAINST, AND SHALL HOLD EACH OTHER HARMLESS FROM, ANY AND ALL SUITS, CLAIMS, DEMANDS, JUDGMENTS, DAMAGES, COSTS AND EXPENSES OF OR FOR ALL SUCH BROKER FEES OR COMMISSIONS WHICH ARE THE RESPONSIBILITY OF THE INDEMNIFYING PARTY, AND SHALL PAY ALL COSTS OF DEFENDING ANY ACTION OR LAWSUIT BROUGHT TO RECOVER ANY FEES OR COMMISSIONS INCURRED BY THE OTHER, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES.

g. Effect of Termination. This Agreement shall be void and of no further force and effect upon any proper termination under the terms hereof (other than terms herein that specifically provide that they survive the termination of this Agreement).

h. Multiple Counterparts. This Agreement may be executed in one or more counterparts, and all so executed shall constitute one and the same agreement, binding upon the Parties, and notwithstanding that all of the Parties are not signatories to the same counterparts.

i. Time of the Essence. Time is of the essence of this Agreement and every provision hereof.

j. **CHOICE OF LAW. THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE UNITED STATES OF AMERICA AND THE INTERNAL LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO ITS CONFLICT RULES. VENUE AND JURISDICTION FOR ALL CLAIMS UNDER THIS AGREEMENT SHALL BE EXCLUSIVELY IN BEXAR COUNTY, TEXAS.**

k. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement, a legal, valid and enforceable provision that is as similar in terms to such illegal, invalid or unenforceable provision as is possible.

l. Exchange. Either party may include this transaction in a 1031 exchange at no additional expense to the other.

Complete Understanding. This Agreement represents the complete understanding between the Parties as to the subject matter hereof and supersedes all prior negotiations, statements and agreements, either written or oral, between the Parties. No inducements, representations, statements or agreements have been made or relied upon in the making of this Agreement, except those specifically set forth in this Agreement. Neither Party has any right to rely on any other prior or contemporaneous statements and/or agreements made by anyone concerning this Agreement that are not set forth herein.



**[Signatures begin on the next page]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

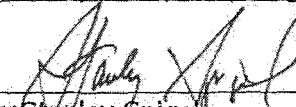
**Seller:**

**El Centro Mall, Ltd**  
a Texas Limited Partnership  
By: Spigel Properties, Inc., its general partner

**Date:** \_\_\_\_\_

1/9/17

**By:** \_\_\_\_\_

  
Name: Stanley Spigel  
Title: President

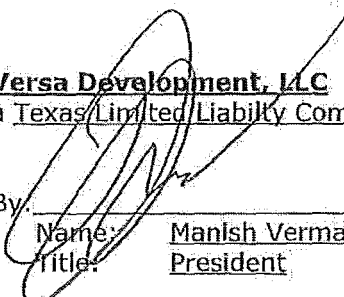
**Buyer:**

**Versa Development, LLC**  
a Texas Limited Liability Company

**Date:** \_\_\_\_\_

1/9/17

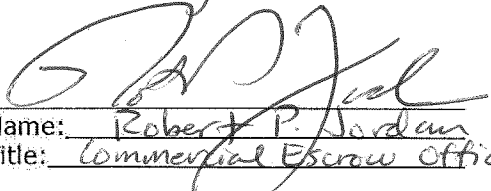
**By:** \_\_\_\_\_

  
Name: Manish Verma  
Title: President



**TITLE COMPANY'S ACCEPTANCE AND RECEIPT**

By signing this Acceptance and Receipt, the Title Company (a) acknowledges that it has received a copy of this Agreement executed by both Buyer and Seller, (b) agrees to act as escrow agent hereunder, and (c) acknowledges that it has received from Buyer a check payable to it in the amount of \$ 10,000.00 constituting the Original Earnest Money hereunder, which it has deposited into one of its federally insured interest bearing accounts. The Title Company shall likewise deposit any additional amounts it receives constituting Earnest Money into a federally insured interest bearing account.

Chicago Title  
By:   
Name: Robert P. Jordan  
Title: Commercial Escrow Officer

Date: January 9, 2017

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF LAND**

8.763 acres, more or less, out of Wildwood Subdivision, Unit 14, as recorded in Volume 9513, Pages 56-57, Deed and Plat Records, Bexar County, Texas, being out of an 88.092 acre tract out of Lot 29, 30, 35 and 36, as described in Volume 1333, Page 456, Deed and Plat Records, Bexar County, Texas, out of the Jose Alameda Survey No. 81, Abstract No. 26, New City Block (N.C.B.) 17929, City of San Antonio, Bexar County, Texas, and more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" rebar on the north right-of-way line of Guilbeau Road (R.O.W. varies) on the east line of Lot 174, Block 7, Braun Station, Unit 15, as recorded in Volume 9502, Page 220, Deed and Plat Records, Bexar County, Texas, for the southwest corner of said 88.092 acre tract, the southwest corner of said Wildwood Subdivision, Unit 14 and the southwest corner of this parcel;

THENCE North 16°44'50" West, coincident with the common line of said Wildwood Subdivision, Unit 14, and said 88.092 acre tract, a distance of 306.47 feet to a 1/2" rebar found at an angle point of said 88.092 acre tract; and said Wildwood Subdivision, Unit 14, for an angle of this parcel;

THENCE in a northerly direction with the common line of said 88.092 acre tract and said Wildwood Subdivision, Unit 14, the following courses:

North 00° 06'16" East, a distance of 128.94 feet to a found 1/2" rebar for an angle;

North 11°18' 22" West, a distance of 507.71 feet to a 1/2" rebar with a Castella & Associates plastic cap set for the north corner of this parcel;

THENCE curving to the left with a radius of 445.50 feet, a central angle of 78°30' 33", an arc length of 610.44 feet, a chord of South 50°33'46" East and a chord distance of 563.80 feet to a 1/2" rebar with a Castella & Associates plastic cap set at a point of tangency'

THENCE South 89°49'03" East, a distance of 315.86 feet to a 1/2" rebar with a Castella & Associates plastic cap set for the northeast corner of this parcel;

THENCE South 00°10'57" West, passing at 29.92 a reentrant corner of a 27.953 acre drainage easement as shown on the aforementioned plat of Wildwood Subdivision, Unit 14, and continuing with the west line of said easement a total distance of 562.92 feet to a 1/2" rebar with a Castella & Associates plastic cap set on the north line of Guilbeau Road and the south line of the aforementioned Wildwood Subdivision, Unit 14, at the southwest corner of said drain for the southeast corner of this parcel;

THENCE North 89°49'03" West, with the above mentioned common line, a distance of 561.88 feet to the POINT OF BEGINNING and containing 8.763 acres, more or less.



# Attachment D



CITY OF SAN ANTONIO  
**DEVELOPMENT SERVICES DEPARTMENT**  
P.O. BOX 839966 | SAN ANTONIO TEXAS 78283-3966



February 24, 2017

Mr. David Krukiel  
4733 College Park, Ste. 200  
San Antonio, TX 78249

**SUBJECT: ZV2017209:** LOT 67, NCB 17929, 8055-8295 Guilbeau Rd., San Antonio, Texas, 78254

To Whom It May Concern:

As of the date of this letter, the above-referenced properties are **split zoned "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District" and "C-2 AHOD" Commercial Airport Overlay District.** Both the current "R-6" and "C-2" base zoning districts resulted from the zoning district conversion that accompanied the adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001); the current "C-2" base zoning district converted from the previous "B-2" Business District, which was established by Ordinance 62155, dated January 2, 1986. The current "R-6" converted from the previous "Temp R-1" Temporary Single Family Residence District, which was assigned upon annexation.

**Per Section 35-D101(d) in the Unified Development Code, Multi-Family Dwellings developed at thirty-three (33) units or less per acre are a permitted use for any tract or parcel zoned under the 1938 districts as "F", "G", and "GG", or the 1965 districts as "B-1," "B-2," or "B-2NA" prior to the adoption date of this chapter, so long as such tract is not the subject of rezoning in accordance with the provisions of this chapter and remain within the "C-1," "C-2" or "C-2NA" zoning districts. In addition, a Multi-Family Dwelling at a density of Thirty-Three (33) units per acre is an allowed use within the "MF-33" base zoning district.**

**Multi-family uses are not permitted in the portion of the property zoned "R-6".**

Please reference Articles III and V of San Antonio's UDC for lot dimension and building criteria, including outside storage and display standards, height limitations, buffer requirements, building setbacks, and minimum and maximum parking requirements. If you wish to ensure compliance with the current building code or with development standards and other regulations in the UDC, which may require the review of building/site plans, please contact a Development Services Department Engineer at (210) 207-8281 to discuss or to schedule a more in-depth preliminary plan review.

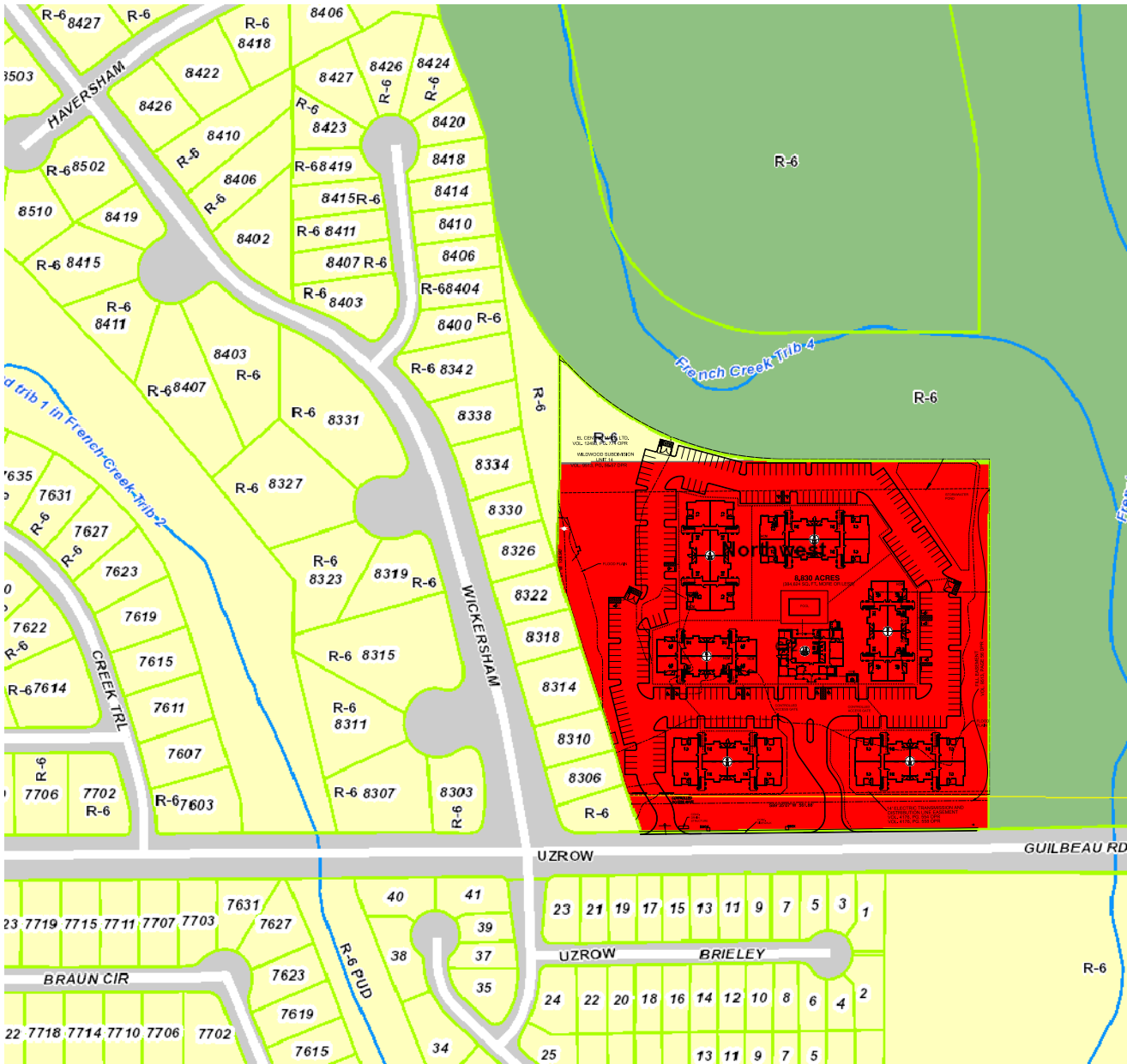
For information on the enforcement of building and development code requirements including the issuance of building permits, records of zoning code violations and certificates of occupancy, please contact the Customer Services Section of our Department at (210) 207-1111. If we may be of further assistance, please contact Angela Cardona, the Planner who worked on your request, at (210) 207-5876 or via email at [Angela.Cardona@sanantonio.gov](mailto:Angela.Cardona@sanantonio.gov). Thank you.

Cordially,

Logan Sparrow  
Principal Planner



# Attachment E





## Zoning

Powered by ArcGIS Server

Printed: Apr 12, 2017

The City of San Antonio does not guarantee the accuracy, adequacy, completeness or usefulness of any information. The City does not warrant the completeness, timeliness, or positional, thematic, and attribute accuracy of the GIS data. The GIS data, cartographic products, and associated applications are not legal representations of the depicted data. Information shown on these maps is derived from public records that are constantly undergoing revision. Under no circumstances should GIS-derived products be used for final design purposes. The City provides this information on an "as is" basis without warranty of any kind, express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.



# Attachment F

## Ian Wach

---

**From:** John R. Osten (DSD) <John.Osten@sanantonio.gov>  
**Sent:** Friday, May 26, 2017 4:52 PM  
**To:** Ian Wach  
**Subject:** RE: Wickersham and Guilbeau - Proposed Site Plan

Mr. Wach,

I confirm your statement. Please note that my statement does not confirm the status of the current "C-2" Commercial District's conversion from old "B-2" Business District.

Thank you,

**John R. Osten, AICP**

City of San Antonio  
Development Services Department  
Zoning Section  
T (210) 207-2187  
E john.osten@sanantonio.gov

*"Partnering with our community to build and maintain a safer San Antonio"*  
*Please take a moment and tell us how we are doing by taking our survey.*  
<http://www.sanantonio.gov/dsd/survey.asp>

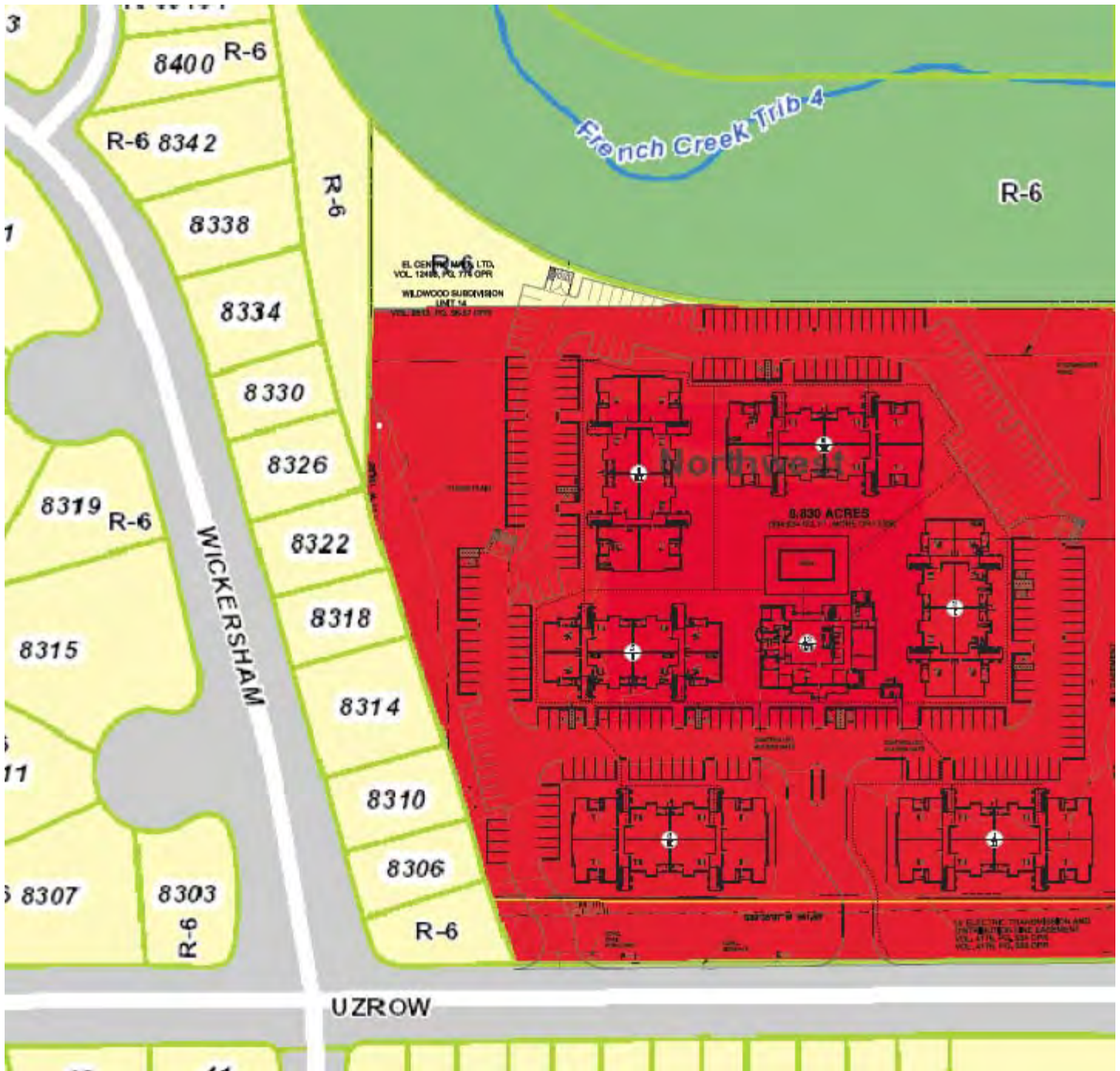
---

**From:** Ian Wach [mailto:iwach@apmanagement.net]  
**Sent:** Friday, May 26, 2017 3:17 PM  
**To:** John R. Osten (DSD)  
**Subject:** [EXTERNAL] Wickersham and Guilbeau - Proposed Site Plan

Mr. Osten,

Below is the site plan I mentioned on the call. The parking and dumpster enclosures for the multifamily apartment complex are located in the R-6 zone. Per our conversation, the parking and trash enclosure are considered multifamily uses, and as a result a rezoning is necessary to develop the below multifamily project. Will you please confirm my understanding of our conversation?





Thank you,

**IAN WACH**  
Development Associate

2950 SW 27<sup>th</sup> Avenue, Ste. 200, Miami, FL 33133  
Mobile: (561) 613-2838 Work: (305) 357-4734



**\*\*THIS EMAIL IS FROM AN EXTERNAL SENDER OUTSIDE OF THE CITY.  
Be cautious before clicking links or opening attachments from unknown sources. Do not provide personal or  
confidential information.\*\***



## Ian Wach

---

**From:** Zenon Solis (DSD) <Zenon.Solis@sanantonio.gov>  
**Sent:** Friday, April 21, 2017 1:59 PM  
**To:** Ian Wach  
**Subject:** RE: Zoning Recap - Site at NEC of Guilbeau and Wickersham

correct

*Thanks,*

*Zenón "Zeke" Solís, Senior Planner  
Development Services Department  
Land Development Division, Zoning Section  
1901 S. Alamo  
San Antonio, TX 78204  
office - 207.7796  
fax - 207.0043*

*Please take a moment and tell us how we are doing by taking our survey:  
<http://www.sanantonio.gov/DSD/About/Survey.aspx>*

---

**From:** Ian Wach [mailto:iwach@apcommunities.com]  
**Sent:** Friday, April 21, 2017 10:52 AM  
**To:** Zenon Solis (DSD)  
**Subject:** [EXTERNAL] Zoning Recap - Site at NEC of Guilbeau and Wickersham

Mr. Solis,

Thank you very much for your time yesterday. Could you please review and confirm the below recap of part of yesterday's conversation?

Non-commercial Parking is not permitted in R-6 zoning (based on the use regulations here: [https://www.municode.com/library/tx/san\\_antonio/codes/unified\\_development\\_code?nodeId=ARTIIIIZO\\_DIV2BAZODI\\_S35-311USRE](https://www.municode.com/library/tx/san_antonio/codes/unified_development_code?nodeId=ARTIIIIZO_DIV2BAZODI_S35-311USRE)). Thus a rezoning would be necessary to allow parking spaces on the part of the site zoned R-6.

Best regards,

**IAN WACH**  
Development Associate

---

2950 SW 27<sup>th</sup> Avenue, Ste. 200, Miami, FL 33133  
Mobile: (561) 613-2838 Work: (305) 357-4734



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confidential information.\*\***



# Attachment G

- **Sec. 35-F125. - Prohibited Development Within the Regulatory Floodplain.**

(a) The following development will not be allowed in the regulatory floodplain:

(1) Development without first obtaining a floodplain development permit.

(2) Habitable structures.

(3) Street or access construction that does not meet the requirements of subsection [35-504](#)(g)(7).

(4) Activity prohibited by Chapter 34, Article VI of the City Code "Aquifer Recharge Zone and Watershed Protection."

(5) 1% annual chance floodplain reclamation where the watershed drainage area exceeds three hundred twenty (320) acres except as provided in section A.

(6) 1% annual chance floodplain reclamation in over bank areas that are subject to flood depths greater than three (3) feet.

(7) 1% annual chance floodplain reclamation in over bank areas where flood velocities are greater than three (3) fps.

(8) No development will be permitted that has a significant adverse impact to other properties - refer to subsection [35-504](#)(b)(1).

(Ord. No. 95415 § 1 Attachment A) (Ord. No. 2009-01-15-0001, § 2, 1-15-09) (Ord. No. 2010-10-14-0894, § 2, 10-14-10)



# Attachment H

- **Sec. 35-F144. - Subdivision Proposals.**

(a) All subdivision proposals shall be consistent with sections [35-F103](#), [35-F104](#), [35-F105](#).

(b) All proposals for the development of subdivisions shall meet the development permit requirements of this subdivision. No floodproofing of an existing or proposed building in a new subdivision will be allowed as a substitute for providing the proper finished ground elevation, at the slab, above the ultimate development 100-year or twenty-five-year plus freeboard flood elevation, whichever is higher. Buildings in a proposed subdivision shall be on land that is above the controlling flood elevation.

(c) Flood elevation data shall be provided for subdivision proposals and other proposed development, if not otherwise provided, and shall conform to the design requirements of [section 35-504](#), Stormwater Management.

(d) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and in accordance with this subdivision.

(e) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed so that they will not affect the existing water surface elevations of the base flood, the ultimate development 100-year or 25-year ultimate development flood (whichever is greater) in the area of special flood hazard.

(f) All proposed subdivisions must be contiguous to high ground that is not subject to flooding (the base flood, ultimate development 100-year or the twenty-five-year ultimate development flood, whichever is higher) that is in excess of one (1) foot flow depth, i.e., no "island" will be considered for platting; unless adequate connecting structures capable of passing the base flood, ultimate development 100-year or twenty-five-year ultimate development flood (whichever is higher) are provided to high ground (not subject to the controlling flood of the same floodplain), and an additional one (1) foot of free board is provided to all minimum floor slab elevations.

(g) All proposed subdivisions traversed by an area of special flood hazard where the "buildable" portion of the subdivision is severed by the floodplain shall be provided with adequate access. Adequate access shall be a structure that will pass the control flood (ultimate development 100-year) without overtopping the structure. Upstream property must not be affected by backwater, and velocities in the vicinity of the structure must be controlled to prevent scour, erosion or structural damage. Proposed subdivisions that involve the platting of streets shall have at least one (1) access to an unflooded portion of existing dedicated street or roadway.

(h) Proposed subdivisions that do not involve the platting of streets shall have access to an existing dedicated street that is not subject to flood depths of over one (1) foot.

(i) Existing channels shall not be increased or decreased from their natural state until engineering data meeting the requirements of [section 35-504](#), Stormwater Management, has been approved by the city engineering division. Floodplain engineering and procedures requirements for subdivision within FEMA or United States Corps of Engineers official flood prone areas shall conform to the engineering criteria as set out in [section 35-504](#), Stormwater Management.

(Ord. No. 95415 § 1 Attachment A)



# Attachment I



Attorneys & Counselors

600 Congress, Suite 2200  
Austin, TX 78701  
Telephone: 512-305-4700  
Fax: 512-305-4800  
www.lockelord.com

Lori Fixley Winland  
Direct Telephone: 512-305-4718  
Direct Fax: 512-391-4718  
lwinland@lockelord.com

May 15, 2017

**RECEIVED**

**MAY 15 2017**

**OPEN RECORDS DIVISION**

***VIA HAND DELIVERY (Original)***

Justin Gordon, Chief  
Office of the Attorney General  
Open Records Division  
209 W. 14<sup>th</sup> Street  
Austin, Texas 78701

***VIA CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED (Copy)***

Office of the Attorney General  
Open Records Division  
P.O. Box 12548  
Austin, Texas 78711-2548

Re: Request for Public Information to the Texas Department of Housing and  
Community Affairs by Ian Wach with AP Communities; received April 7, 2017

Dear Mr. Gordon:

This firm represents Versa Development, LLC ("Versa"). On April 7, 2017, the Texas Department of Housing and Community Affairs ("TDHCA") received a request for public information (the "Request") from Ian Wach with AP Communities. The Request encompasses certain records submitted to TDHCA by Versa. TDHCA notified Versa of the Request by correspondence dated and received by Versa on May 8, 2017.

Versa now submits these comments pursuant to section 552.305 of the Public Information Act (the "Act") to assert that information pertaining to Versa and responsive to the Request constitutes information that would give an advantage to a competitor or bidder pursuant to section 552.104 of the Act and confidential commercial information protected pursuant to section 552.110(b) of the Act, the release of which would cause Versa substantial competitive harm.



## **I. Factual Background**

Versa is a real estate development company based in San Antonio, Texas. Versa is planning to develop The Acacia, a proposed multifamily housing development in San Antonio (the “Project”). Versa has applied to TDHCA for federal low-income housing tax credits to finance the Project through the 2017 Housing Credit Application Cycle. Each state receives a specified amount of tax credit award authority from the federal government each year. TDHCA administers the tax credits for Texas, and it awards the tax credits on a competitive basis based on 13 regions within the state. The application review process for this year is currently ongoing, and awards are expected to be made in July 2017. The application process is governed by Chapter 2306, Subchapter DD of the Texas Government Code and related rules promulgated by TDHCA.

The Request seeks a copy of the engineering feasibility study that Versa procured for the Project from Pape-Dawson Engineers and submitted to TDHCA in connection with the tax-credit application process. A copy of the feasibility study is attached as Attachment A. As more fully discussed below, the feasibility study should be excepted from disclosure under sections 552.104 and 552.110(b) of the Act, as the study constitutes information the release of which would give advantage to Versa’s competitors and cause the company substantial competitive harm.

## **II. Discussion**

The information that Versa is seeking to protect is attached as Attachment A. Versa asserts that this information should be protected from disclosure pursuant to sections 552.104 and 552.110(b) of the Act for the reasons discussed below.

### **A. Section 552.104 -- Information that would give advantage to a competitor or bidder**

Versa asserts that the feasibility study in Attachment A should be protected from disclosure under section 552.104 of the Act in its entirety. Section 552.104 of the Act excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” TEX. GOV’T CODE § 552.104(a). Historically, your office has interpreted this exception as “designed to protect the interests of governmental bodies and not the interests of private parties submitting information to the government.” Open Records Decision No. 592 (1991). However, the Texas Supreme Court recently adopted a more expansive interpretation of section 552.104, holding: “We find no such limitation in the Act’s text . . . and conclude that a private party may assert the exception to protect its competitively sensitive information.” *See Boeing Co. et al. v. Paxton*, 466 S.W.3d 831, 833 (Tex. 2015).

Your office has applied section 552.104 to protect a third party’s information when that third party establishes that it has competitors and that the disclosure of the records would give an advantage to the third party’s competitors. *See, e.g.,* Tex. Att’y Gen. Open Records Letter Ruling Nos. 2015-16010; 2015-16875; *see also* No. 2015-16712 (noting that “[t]he ‘test under section 552.104 is whether knowing another bidder’s [or competitor’s information] would be an advantage, not whether it would

be a decisive advantage’”) (citing *Boeing*, 2015 WL 3854264 at \*9). Those requirements are met with respect to the information in Attachment A.

There is significant competition between real estate development firms for appropriate multifamily housing sites under the tax credit award program described above. The feasibility study in Attachment A provides a detailed engineering analysis of Versa’s chosen site for the proposed development of the Project, providing insight into why the Project site is desirable and what work would be necessary to develop it. Versa is hoping to be awarded federal tax credits this year and to move forward with the development of the Project. However, in the event that Versa is not awarded tax credits during this application cycle and/or is unable to move forward with the development of the Project at this time, Versa may elect to submit an application to TDHCA for federal tax credits to finance the Project in a future year. If Versa’s competitors are provided with a detailed analysis of the feasibility of the Project site, then those competitors will be privy to what it would take to develop the Project site from an engineering perspective. A competitor could in turn make the decision to develop a project at the Project site themselves and/or to submit an application for tax credits to TDHCA in a future year before Versa has an opportunity to do so, effectively taking the work that Versa has already procured and paid for and using it to usurp Versa’s future development opportunities. Such a result would undoubtedly give an advantage to Versa’s competitors—insight into a potential project site paid for by someone else—and would in turn disadvantage Versa.

Further, in addition to potentially limiting Versa’s *future* opportunities with respect to the development of the Project site, the release of the feasibility study in Attachment A could give Versa’s competitors an advantage in connection with the *current* 2017 federal tax-credit award process. As noted above, the State of Texas receives a limited amount of federal low-income housing tax credits to award each year. Versa has electronically submitted an application to compete for those tax credits, and the feasibility study was submitted to TDHCA in connection with that process. Each tax credit application submitted to TDHCA is ranked based on how it scores under this competitive process, and the top scoring applications in each region receive tax credits until the amount of tax credits allotted to that region runs out, with tie-breakers for applications that have an identical score within a region. An application can be challenged by competitors on the basis that the application does not meet one or more of the criteria listed in the application and thus should not qualify for those points. If the application loses points as a result of a challenge, then the competitor increases their chances of having the higher-scoring application.

Versa’s application related to the Project currently has the same number of points as the application submitted to TDHCA by AP Communities, the competitor that submitted the Request. The requestor presumably hopes to find something in the feasibility study that it believes it could use as a basis for submitting a challenge to reduce the score of Versa’s application. Although Versa does not believe there is any valid reason for reducing the score on its application, such a challenge could give AP Communities (and Versa’s other competitors in the federal tax-credit award process) an improper competitive advantage. Indeed, the fact that Versa’s competitor in connection with the ongoing application process submitted the request for information in the first place suggests that the competitor believes that they stand to gain a competitive advantage from the information.



Further, note that the feasibility study was submitted to TDHCA electronically pursuant to section 2306.67041 of the Government Code. That statute gives TDHCA discretion to “determine the process for allowing access to on-line preapplications and applications, information related to those applications, and department decisions relating to those applications.” TEX. GOV’T CODE § 2306.67041(b). TDHCA has made some application materials available on its website, but has not made any feasibility studies or other third-party reports accessible in this manner. In other words, TDHCA has general statutory discretion to determine whether, how, and when to allow access to electronically-submitted application materials, and TDHCA has exercised that discretion here by not posting the feasibility study in question on its website or otherwise making it accessible at this time.

Versa is aware that your office held in a previous letter ruling that “Waivers, Pre-Clearance, Determinations, and Disclosure packets” submitted in connection with a prior year’s Housing Tax Credit Application Cycle were considered public under the governing statute and therefore not excepted from disclosure under the PIA. See Tex. Att’y Gen. Open Records Letter Ruling No. OR2013-09309. However, the request underlying that prior ruling is readily distinguishable from the request for information at issue here. The request at issue in OR2013-09309 sought a “part of the application submitted in the **pre-application process** for the Housing Tax Credit Program.” *Id.* (emphasis added). As a result, your office determined that section 2306.6717(a)(1), which requires TDHCA to make materials submitted through the pre-application process available on the department’s website “as soon as practicable,” made the requested information public. TEX. GOV’T CODE § 2306.6717(a)(1); Tex. Att’y Gen. Open Records Letter Ruling No. OR2013-09309. It is important to note that, unlike the materials requested in OR2013-09309, the feasibility study was **not** submitted through the pre-application process, nor was it required to be submitted as part of the pre-application. The feasibility study is, therefore, not subject to section 2306.6717(a)(1). Had the legislature intended to make all materials submitted to TDHCA through the Housing Tax Credit Program available on the TDHCA website “as soon as practicable,” they could have included all submitted materials within the scope of section 2306.6717(a)(1) rather than explicitly limiting it to “any proposed application submitted through the preapplication process.” TEX. GOV’T CODE § 2306.6717(a)(1). Additionally, OR2013-09309 was decided prior to *Boeing Co. et al. v. Paxton*, 466 S.W.3d 831, 833 (Tex. 2015), which greatly expanded the protections afforded to third parties like Versa under the PIA in competitive bidding situations exactly like this one. It is Versa’s belief that the Supreme Court’s decision in *Boeing* renders the information protected from disclosure indefinitely.

Therefore, Versa asserts that all of the information contained in Attachment A should be excepted from disclosure pursuant to section 552.104 of the Act.

**B. Section 552.110(b) – Commercial or financial information the disclosure of which would cause substantial competitive harm**

In addition to the reasons stated above, the information in Attachment A should be protected from disclosure under section 552.110(b) of the Act. Section 552.110(b) of the Act excepts from disclosure “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom

Mr. Justin Gordon  
May 15, 2017  
Page 5 of 5

the information was obtained.” TEX. GOV'T CODE § 552.110(b); *see also* Tex. Att'y Gen. ORD No. 669 at 5; Tex. Att'y Gen. Open Records Letter Ruling No. OR 2002-3359 at 4-5 (2002).

As discussed above, the feasibility study that Versa is seeking to protect consists of commercial information procured and paid for by Versa regarding the proposed Project site. Versa expended significant resources to identify the Project site and to obtain the detailed information about the Project site reflected in the feasibility study in Attachment A. The disclosure of this information to Versa's competitors would effectively do this “legwork” for them, showing them what it would take to develop a multifamily housing project on the Project site from an engineering perspective. Those competitors could, as a result of the release of the information, decide to develop their own project on the Project site or to use the Project site as a basis for submission of an application for federal tax credits in a future year. Such an outcome would limit Versa's development opportunities and cause Versa substantial competitive harm. Therefore, for the reasons stated above, the information in Attachment A should be protected from disclosure pursuant to section 552.110(b) of the Act.

Pursuant to section 552.305(e) of the Act, Versa will send a copy of this brief with any necessary redactions and without the enclosures to the requestor via certified mail, return receipt requested.

If you have any questions regarding this matter, or require any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Fixley Winland". The signature is fluid and cursive, with the first name "Lori" being the most prominent.

Lori Fixley Winland

Enclosures



Mr. Justin Gordon  
May 15, 2017  
Page 5 of 5

the information was obtained.” TEX. GOV'T CODE § 552.110(b); *see also* Tex. Att'y Gen. ORD No. 669 at 5; Tex. Att'y Gen. Open Records Letter Ruling No. OR 2002-3359 at 4-5 (2002).

As discussed above, the feasibility study that Versa is seeking to protect consists of commercial information procured and paid for by Versa regarding the proposed Project site. Versa expended significant resources to identify the Project site and to obtain the detailed information about the Project site reflected in the feasibility study in Attachment A. The disclosure of this information to Versa's competitors would effectively do this “legwork” for them, showing them what it would take to develop a multifamily housing project on the Project site from an engineering perspective. Those competitors could, as a result of the release of the information, decide to develop their own project on the Project site or to use the Project site as a basis for submission of an application for federal tax credits in a future year. Such an outcome would limit Versa's development opportunities and cause Versa substantial competitive harm. Therefore, for the reasons stated above, the information in Attachment A should be protected from disclosure pursuant to section 552.110(b) of the Act.

Pursuant to section 552.305(e) of the Act, Versa will send a copy of this brief with any necessary redactions and without the enclosures to the requestor via certified mail, return receipt requested.

If you have any questions regarding this matter, or require any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Fixley Winland".

Lori Fixley Winland

Enclosures

Application #17356  
The Acacia  
Third Party Request for Administrative  
Deficiency

Administrative Deficiency issued as result of  
the Request



## Marni Holloway

---

**From:** Sharon Gamble  
**Sent:** Tuesday, June 13, 2017 11:43 AM  
**To:** Manish Verma  
**Cc:** 'Janice Degollado'  
**Subject:** 17356 - 9% HTC Application Deficiency Notice - TIME SENSITIVE  
**Attachments:** The Acacia #17356 - Zoning and Floodplain RFAD FINAL.PDF

**Importance:** High

**\*\*All deficiencies must be corrected or clarified by 5 pm Austin local time on JUNE 20, 2017. Please respond to this email as confirmation of receipt.\*\***

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17356 The Acacia**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please review the attached.

1. The request asserts that a portion of the property is not zoned for multifamily use. Provide evidence in the form of certification from the City of San Antonio that the entire Development Site is appropriately zoned for multifamily use, as is stated on the Tab 7 Application exhibit.
2. The request asserts that the proposed Development cannot be built in accordance with local (San Antonio) flood zone requirements. Provide evidence in the form of certification from the City of San Antonio that the development plan adheres to all of the local requirements for a development within the floodplain.

**The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.**

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at

[liz.cline@tdhca.state.tx.us](mailto:liz.cline@tdhca.state.tx.us) or by phone at (512)475-3227. You may also contact Jason Burr at [jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us) or by phone at (512)475-3986.

**All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.**

Thanks,

Ben Sheppard  
Specialist, Multifamily Finance  
Texas Department of Housing and Community Affairs  
Ph. 512.475.2122

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in [10 TAC Section 11.1\(b\)](#) there are important limitations and caveats (Also see [10 TAC §10.2\(b\)](#)).*



Application #17356  
The Acacia  
Third Party Request for Administrative  
Deficiency

Applicant Response

# VDC Guilbeau Bandera, LP

4733 College Park, Ste. 200  
San Antonio, Texas 78249

June 20, 2017

Ben Sheppard  
Specialist, Multifamily Finance  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78711-3941

Re: The Acacia, TDHCA No. 17356—Response to Third Party Request for Administrative Deficiency

Ladies and Gentlemen:

This letter responds to the notice of a Third Party Request for Administrative Deficiency regarding the Application for The Acacia, TDHCA No. 17356 (the "Application") sent to us by Mr. Ben Sheppard and Ms. Sharon Gamble on June 13, 2017 with regard to zoning and flood plain. Specifically, the third party requestor (the "**Requestor**") has raised questions regarding the necessity to rezone the site and the constructability of the project because of the floodplain.

## **ZONING—R6**

Section 10.204(11)(b) of the **2017 Uniform Multifamily Rules** (the "**Rules**") states:

(B) Zoning Ordinance in Effect. The Application must include a letter from a local government official with appropriate jurisdiction stating the Development is permitted under the provisions of the zoning ordinance that applies to the location of the Development.

The Requestor states: "The Development Site requires a rezoning, as the Applicant itself acknowledged, both in their Site Control Agreement and the City of San Antonio Application for Resolution of Support; yet the Applicant did not submit the re-zoning application and indemnity information (Hold Harmless Letter) required by the Multifamily Rules".

The Requestor further states: "ZONING – A PORTION OF THE SITE IS NOT ZONED FOR MULTIFAMILY USE, AND APPLICANT DID NOT INCLUDE THE REQUIRED EVIDENCE OF APPLICATION FOR ZONING CHANGE".

The Requestor is correct in that the Site Control Agreement anticipates that the Development Site may require a rezoning. At the time of entering into the Site Control Agreement, the Applicant was aware of the two different zoning classifications and was not entirely sure how the proposed development would fit within the site. Thus, the Site Control Agreement contemplated that "Seller agrees to assist buyer with rezoning of the Property as needed." After further work with engineers and the City, the Applicant determined that no rezoning would be required because no portion of the development will be located on the land zoned R-6. It should be noted that the Effective Date of the Site Control Agreement is January 9, 2017. The letter required under Section 10.204 (11)(b) of the Rules is dated February 24, 2017 and was provided after further information was available and discussed with the City. For your reference, a copy of the zoning letter that was included in the Application is attached as Exhibit "A". The mere fact that the Site Control Agreement was not amendment to remove this language does not negate the fact



June 15, 2017

Page 2

that a majority of the Development Site is zoned C-2, which does allow for the proposed multifamily use, and that all multifamily improvements are fully within the C-2 zoned portion of the Development Site.

In the same way, the Requestor is correct in that our Application for Resolution of Support contemplated that the property was not properly zoned for the development. However, the Application for Resolution for Support was made prior to the issuance of the February 24, 2017 letter, prior to the additional engineering and site planning work. The mention of this in the Application for Resolution of Support does not negate the fact that a majority of the Development Site is zoned C-2, which does allow for the proposed multifamily use, and that all multifamily improvements are fully within the C-2 zoned portion of the Development Site.

Our engineer has provided a correct map of the site plan with the zoning boundaries overlaid. It is attached as Exhibit "B". You will see that no portion of the development is within the R-6 zoning. It appears the Requestor miscalculated and incorrectly scaled The Acacia site plan and zoning exhibit in his letter to you, giving the impression that a portion of our parking and a trash dumpster would be located on the land zoned R-6. That representation, and the exhibit provided by the Requestor, are incorrect. All multifamily improvements are located within the C-2 zoning district.

**Because the Requestor incorrectly assumed that a portion of the multifamily improvements were within the R-6 zoned portion of the Development Site, the Requestor's first criticism of the Application utterly fails. We note that this question was previously posed in an Administrative Deficiency from Liz Cline dated May 10, 2017, and we provided the same response at that time.**

#### FLOOD PLAIN

The Requestor states: "The Applicant's proposed development in the 100-year floodplain cannot be built in accordance with the more stringent local flood Code requirements found in the City of San Antonio's Unified Development Code".

The Requestor further states - "FLOODPLAIN - THE APPLICANT'S PROPOSED DEVELOPMENT IN THE 100-YEAR FLOODPLAIN CANNOT BE BUILT IN ACCORDANCE WITH THE MORE STRINGENT LOCAL FLOOD CODE REQUIREMENTS FOUND IN THE CITY OF SAN ANTONIO'S UNIFIED DEVELOPMENT CODE".

Our engineer has been working proactively with the City of San Antonio to ensure that the development will meet the City's Unified Development Code, and received confirmation from the City of San Antonio, prior to filing the Application, that the proposed development would meet the UDC. The City of San Antonio will not issue a certification that the development plan adheres to all of the local requirements for a development within the floodplain until full drawings are submitted for review. However, our civil engineering firm, Pape-Dawson Engineers, reviewed the existing FEMA model and ran preliminary proposed conditions models, and then met with Jacob Powell, P.E., the division's manager for the City of San Antonio Storm Water Engineering department on February 28, 2017. Jacob concurred that the proposed floodplain modifications would be allowed and acceptable, and are within the floodplain modifications allowed in the UDC. Please see the letter from the engineer attached as Exhibit "C".

The floodplain at and around the Development Site is complex. The main channel of the floodplain flows from the north, turns east at the northwest corner of the site, then turns south again. This main channel follows along the north edge and the east edge of the Development Site. **The proposed site plan does not affect this main channel.**

June 15, 2017

Page 3

There is a secondary channel, or spill, that follows along the west edge of the Development Site. The current drainage system for the secondary channel is under-sized. Increasing the size of this drainage system, extending an underground storm drain along the western portion of the Development Site, and reconstructing a limited portion of Guilbeau Road (estimated to be 100 to 200 linear feet) to raise its elevation, will eliminate the existing secondary floodplain.

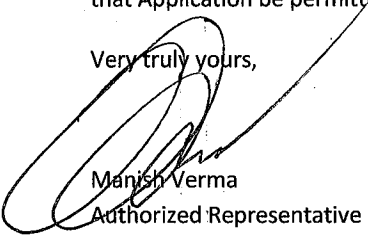
The floodplain and its mitigation are addressed in multiple locations of the Feasibility Report prepared by Pape-Dawson that was submitted with the Application. Further, the costs of the required mitigation, which I again stress complies with the UDC, were included in Tabs 28 and 29 of the Application. There is nothing in local, state, or federal regulations that prevent this from being done.

A Requestor should not be permitted to omit key relevant provisions of materials, such as the ability to mitigate flood plain and the ability to bring a property into compliance with local, state or federal guidelines, from the Department simply because such information is not favorable to their argument. Attorneys are subject to strict ethical standards requiring that they accurately quote provisions of law when arguing before a court. While such standards are not applicable in this context, the principle behind such ethical rules is important—a judge or jury should be able to rely on counsel to accurately and honestly set forth legal standards. Similarly, the TDHCA staff and Board should be able to rely on the accuracy of materials presented by a requestor—because without such candor and accuracy they cannot make proper decisions in a competitive context.

#### CONCLUSION

For the reasons cited above, we believe the Requestor provided inaccurate information to the TDHCA, and that the Development Site is both zoned appropriately and that mitigation of flood plain is allowed and will cause this property to comply with the City of San Antonio's Uniform Development Code. As such, we respectfully request that Application be permitted to move forward.

Very truly yours,

  
Manish Verma  
Authorized Representative

cc: David Krukiel  
Cynthia Bast

Exhibit A - Confirmation of Zoning Letter required under Section 10.204 (11)(b), from original Application  
Exhibit B - Site Plan with Zoning Boundary, from engineers  
Exhibit C - Letter from engineers from engineers



Exhibit "A"

Confirmation of Zoning Letter required under Section 10.204 (11)(b), from original Application



CITY OF SAN ANTONIO  
**DEVELOPMENT SERVICES DEPARTMENT**  
P.O. BOX 839966 | SAN ANTONIO TEXAS 78283-3966



February 24, 2017

Mr. David Krukiel  
4733 College Park, Ste. 200  
San Antonio, TX 78249

**SUBJECT: ZV2017209:** LOT 67, NCB 17929, 8055-8295 Guilbeau Rd., San Antonio, Texas, 78254

To Whom It May Concern:

As of the date of this letter, the above-referenced properties are **split zoned "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District" and "C-2 AHOD" Commercial Airport Overlay District.** Both the current "R-6" and "C-2" base zoning districts resulted from the zoning district conversion that accompanied the adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001); the current "C-2" base zoning district converted from the previous "B-2" Business District, which was established by Ordinance 62155, dated January 2, 1986. The current "R-6" converted from the previous "Temp R-1" Temporary Single Family Residence District, which was assigned upon annexation.

**Per Section 35-D101(d) in the Unified Development Code, Multi-Family Dwellings developed at thirty-three (33) units or less per acre are a permitted use for any tract or parcel zoned under the 1938 districts as "F", "G", and "GG", or the 1965 districts as "B-1," "B-2," or "B-2NA" prior to the adoption date of this chapter, so long as such tract is not the subject of rezoning in accordance with the provisions of this chapter and remain within the "C-1," "C-2" or "C-2NA" zoning districts. In addition, a Multi-Family Dwelling at a density of Thirty-Three (33) units per acre is an allowed use within the "MF-33" base zoning district.**

**Multi-family uses are not permitted in the portion of the property zoned "R-6".**

Please reference Articles III and V of San Antonio's UDC for lot dimension and building criteria, including outside storage and display standards, height limitations, buffer requirements, building setbacks, and minimum and maximum parking requirements. If you wish to ensure compliance with the current building code or with development standards and other regulations in the UDC, which may require the review of building/site plans, please contact a Development Services Department Engineer at (210) 207-8281 to discuss or to schedule a more in-depth preliminary plan review.

For information on the enforcement of building and development code requirements including the issuance of building permits, records of zoning code violations and certificates of occupancy, please contact the Customer Services Section of our Department at (210) 207-1111. If we may be of further assistance, please contact Angela Cardona, the Planner who worked on your request, at (210) 207-5876 or via email at [Angela.Cardona@sanantonio.gov](mailto:Angela.Cardona@sanantonio.gov). Thank you.

Cordially,

  
Logan Sparrow  
Principal Planner



Exhibit "B"

Site Plan with Zoning Boundary, from engineers

NO.	REVISION	DATE

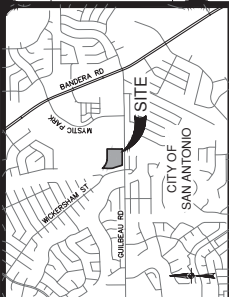
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**Pape-Dawson ENGINEERS**

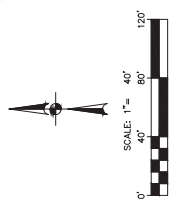
2000 W. LOOP 410 | SAN ANTONIO, TX 78213 | 210.275.9300  
 1700 FM HOUSTON #400 | HOUSTON, TX 77058 | 281.488.4400

THE ACACIA  
 SAN ANTONIO, TEXAS  
 OVERALL SITE LAYOUT E AND ZONING

PLAT NO. MDP-178  
 JOB NO. 10388-00  
 DATE: JUNE 2017  
 DESIGNER: TR  
 CHECKED: BK, SHAWN, TR  
 SHEET: EX 1



THIS SITE PLAN MATERIALLY ADDRESSES TO ALL APPLICABLE CITY ORDINANCES, ZONING REGULATIONS, DEVELOPMENT AND BUILDING CODE ORDINANCES.



**LEGEND**

- PROPERTY LINE
- FEMA 100-YR FLOODPLAIN
- EXISTING CURB
- PROPOSED STANDING CURB
- PROPOSED RETAINING WALL
- EXISTING C-2 ZONING
- EXISTING R-6 ZONING

**PARKING SUMMARY TABLE**

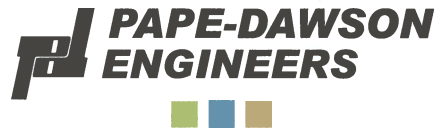
BUILDING USE	MINIMUM REQUIRED PARKING	ACTUAL/PROPOSED
MULTI-FAMILY	15.0 (6 RES/3 VAND)	15
GROSS FLOOR AREA (sq ft./UNITS)	145,686 SF/144 UNITS	144
PARKING STORAGE STANDARDS	1.0/UNIT	274
MINIMUM PARKING RATIO	1.0/UNIT	260
MAXIMUM PARKING RATIO	1.0/UNIT	14
REGULAR	MINIMUM REQUIRED PARKING	7
MINIMUM REQUIRED PARKING	MINIMUM REQUIRED PARKING	2
TOTAL PROPOSED PARKING	REQUIRED REGULAR P.C. PARKING	13
MINIMUM REQUIRED PARKING	REQUIRED V.A. PARKING	
MINIMUM REQUIRED	PROPOSED P.C.	
HANDICAPPED (ADA)		
REQUIRED REGULAR P.C. PARKING		
REQUIRED V.A. PARKING		
PROPOSED P.C.		





Exhibit "C"

Letter from engineers



June 20, 2017

Mr. Manish Verma  
VDC Guilbeau Bandera, LP  
4733 College Park, Suite 200  
San Antonio, TX 78249

Re: The Acacia

Dear Mr. Verma:

Some items in a letter dated May 31, 2017, provided to us June 1, 2017, with an additional email notification on June 13, 2017, question some of the underlying engineering/entitlements issues relating to The Acacia site. The intent of this letter is not to respond directly to these comments, but to supplement your responses by answering the engineering/entitlements issues raised as they relate to local AHJ (City of San Antonio) codes and requirements. The issues are as follows:

1. The Development Site requires a rezoning, as the Applicant itself acknowledged, both in their Site Control Agreement and the City of San Antonio Application for Resolution of Support; yet the Applicant did not submit the re-zoning application and indemnity information (Hold Harmless Letter) required by the Multifamily Rules.

**Response:** *The comment states that the site requires a rezoning, but that appears to be based on an incorrectly-scaled site plan which shows proposed site improvements within the area zoned R-6. No parking or dumpster improvements are being proposed within the area zoned R-6, as evidenced by the attached exhibit. The zoning letter we requested and obtained from the City of San Antonio that was submitted with the tax credit application clarifies that multi-family development, as proposed, is allowed within the C-2 zoning that applies to a large majority of the site. Therefore, the proposed project is allowed as currently proposed in our original submittal, and no zoning change is required.*

2. The Applicant's proposed development in the 100-year floodplain cannot be built in accordance with the more stringent local flood Code requirements found in the City of San Antonio's Unified Development Code.

**Response:** *The existing floodplain at and around the site is complex. First, the main channel of the floodplain flows from the north, turns east at the northwest corner of the site, then turns south again. This main channel follows along the north edge and the east edge of the site. The proposed site plan does not affect this main channel.*

TBPE Firm Registration #470 | TBPLS Firm Registration #10028800

San Antonio | Austin | Houston | Fort Worth | Dallas

Transportation | Water Resources | Land Development | Surveying | Environmental

2000 NW Loop 410, San Antonio, TX 78213 T: 210.375.9000 [www.Pape-Dawson.com](http://www.Pape-Dawson.com)

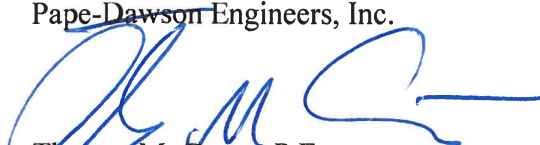


*There is a secondary channel, or spill, that follows along the west edge of the site. The intent of the existing drainage system is for that flow to cross under Guilbeau Road through an underground storm drain, and then turn east in an existing concrete V-channel running parallel to Guilbeau Road. The system is undersized, so some of that flow goes east instead of crossing under Guilbeau. As a result of this undersizing, the west side of the site, the south side of the site, and the portion of Guilbeau Road itself in front of the property are within the existing floodplain. However, increasing the size of this drainage system, extending an underground storm drain along the western portion of the site, and reconstructing a limited portion of Guilbeau Road (estimated to be 100 to 200 linear feet) to raise its elevation, eliminates the existing secondary floodplain. We reviewed the existing FEMA model and ran preliminary proposed conditions models, and then met with Jacob Powell, P.E., the manager of the City of San Antonio Storm Water Engineering Division, on February 28, 2017. He concurred that the proposed floodplain modifications would be allowed in the UDC (specifically Appendix F, "Floodplains – Areas of Special Flood", and Appendix H, "Storm Water Design Criteria Manual") and by FEMA. Since there is nothing in local, state, or federal regulations that prevent this from being done, we conclude that there is nothing that precludes floodplain mitigation from being done to the site.*

We hope this material adequately responds to your questions and comments. If you have any questions or require additional information, please do not hesitate to contact our office at your earliest convenience.

Sincerely,  
Pape-Dawson Engineers, Inc.

6-20-17



Thomas M. Carter, P.E.  
Sr. Vice President



P:\112\98\00\Word\Letters\170614 Acacia Comment Response Letter (Verma).docx

NO.	REVISION	DATE

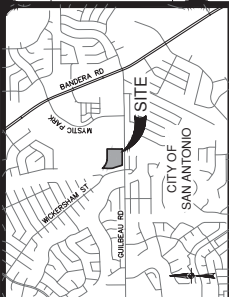
This document is intended for internal review only. It is not to be used for the construction of any project. This drawing was prepared on 6/20/2017. P.E. No. 10398-00. THE ENGINEERS' OFFICE, INC.

**Pape-Dawson ENGINEERS**

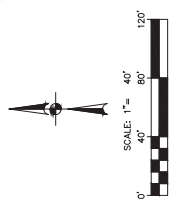
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THE ACACIA  
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 OVERALL SITE LAYOUT E AND ZONING

PLAT NO. MDP-178  
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THIS SITE PLAN MATERIALLY ADHERES TO ALL APPLICABLE CITY ORDINANCES, REGULATIONS, DEPARTMENT AND BUILDING CODE ORDINANCES.



**LEGEND**

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- EXISTING CURB
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**PARKING SUMMARY TABLE**

BUILDING USE	MINIMUM REQUIRED PARKING	ACTUAL/PROPOSED
MULTI-FAMILY	15.0 (6 RES/3 VAND.)	2
GROSS FLOOR AREA (sq ft./UNITS)	15,646.57/144 UNITS	14
PARKING STORAGE STANDARDS	1.0/UNIT	274
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MAXIMUM PARKING RATIO	1.0/UNIT	14
REGULAR	MINIMUM REQUIRED PARKING	14
	MINIMUM REQUIRED PARKING	14
	TOTAL PROPOSED PARKING	2
	MINIMUM REQUIRED	14
	ACTUAL/PROPOSED	7
	HANDICAPPED (ADA)	2
	REQUIRED REGULAR V.A. PARKING	13 (6 RES/3 VAND.)
	REQUIRED V.A. PARKING	2
	PROPOSED V.A. PARKING	2





Application #17356  
The Acacia  
Third Party Request for Administrative  
Deficiency

Department Determination



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

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Sharon Thomason, Member  
Leo Vasquez, Member

July 5, 2017

Writer's direct phone # (512) 475-1676  
Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)

Mr. Manish Verma  
VDC Guilbeau Bandera, L.P.  
4733 College Park, Ste 200  
San Antonio, TX 78249

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17356 THE ACACIA

Dear Mr. Verma:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of a Third Party Request for Administrative Deficiency ("RFAD") requesting that the Department review the Application above to determine whether it meets the requirements of 10 TAC §10.101(a)(1), related to Floodplain, and §10.204(11) related to Zoning. Pursuant to 10 TAC §11.10 related to Third Party Request for Administrative Deficiency for Competitive HTC Applications, an Administrative Deficiency was appropriate for this Application as the request brought new, material information about an Application to staff's attention. The Department issued a deficiency notice on June 13, 2017, and the response was received timely. Note that the eligibility of the Opportunity Index amenities was questioned in your scoring notice, so those issues were not included in the deficiency notice you received.

After reviewing the response, the Department has determined that the response provides sufficient evidence that the Applicant intends to develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements and in compliance with more stringent local requirements. Further, the response provides sufficient evidence that while a portion of the proposed Development Site is zoned for uses other than multifamily uses, no portion of the proposed development will be built on that portion of the site. Any further issues regarding zoning or flood mitigation will be handled by the Real Estate Analysis Division, should the Application be underwritten.

For purposes of this request, the matter is considered closed. You have been issued a scoring notice indicating the loss of tie-breaker items and have the ability to appeal staff's decision within the parameters of that scoring notice. If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Marni Holloway".

Marni Holloway  
Multifamily Division Director

Cc: Henry Flores





Application #17368

Cielo

Third Party Request for Administrative  
Deficiency



May 31, 2017

via FTP site

Sharon Gamble  
Texas Department of Housing & Community Affairs  
P.O. Box 13941  
Austin, Texas 78711

Re: Third Party Request for Administrative Deficiency  
Cielo TDHCA # 17368

Sharon,

In connection with the above referenced application, we are unable to verify final staff determination of several representations made in the application that would impact both site eligibility and final ranking based on tie breaker self-scoring related to Opportunity Index Points. Accordingly, we bring to your attention the following items that we believe warrant further review and resolution by staff to ensure the final rankings in Region 11 Urban are accurate and do not rely on self-score.

**1) Undesirable site features- site is contiguous to active railroad tracks without mitigation**

We note the applicant has requested approval to allow their site to be eligible even though it is contiguous to active railroad tracks. The rules are clear as to acceptable mitigation measures when sites are within 500 feet from active railroad tracks. They are simply 1) provide evidence there is an adopted City Quiet Zone ; 2) provide evidence the railroad is commuter or light rail or 3) provide a copy of any ordinance adopted by the local municipality that would allow a reduction to the distances mandated under the rule.

Applicants own letter acknowledges that the city does not have a Quiet Zone and that the railroads in question are not only active, but not commuter or light rail. Further, the applicant provides evidence there are no adopted ordinances that would allow a reduction of setbacks from the railroad.

The issue is not what the city will allow or has allowed in the past for multifamily absent an ordinance, nor is it relevant if the trains are using the track once a day or once a year, they are still active. What matters is does the site meet the required rules established under Subchapter B Site Development and Restrictions which clearly, the site does not.

It should also be noted that application #17267 Industrial Lofts made provisions in their site control documents to be outside the 500 foot separation distance from the very same railroad track that this application is adjacent to.



Nevertheless, if the applicant is successful in any approval of the undesirable railroad feature, we would bring to your attention that the application still fails to meet many Opportunity Index tie breaker points as self-scored and thus the ranking for this application would change based upon the following deficiencies that warrant further staff review and determination. These include:

## 2) Playground fails to meet ADA accessible route

The applicant claims that the proposed site is located within ½ mile of a playground on an accessible route in compliance with the 2010 ADA. The applicant provides no route nor means as to how the site would connect to such route other than use of public transportation. Our review of this information would indicate that the application is not eligible for the Playground Opportunity Point.

Staff provided clear guidance during the FAQ process that public transportation could not be used as a substitute for the required accessible route to the playground. Staff provided the following guidance:

*Clarified January 31:*

*Q: Can an accessible route include accessible public transportation (wheelchair capable/meets ADA standards) service that stops at the development site and has service to and from a public park that is located w/in ½ from the development site?*

***CLARIFICATION: The provision of transportation is not a substitute for having an accessible route. If transportation is one of the services you will provide at your development, then that transportation must be accessible as described above, but it may not take the place of an accessible route***

Staff also provided technical assistance at the application workshops and advised that applicants must provide “maps showing accessible routes to the playgrounds and bus stops” and also “the routes must allow a person to safely travel from the site to the playground or bus stop”.

The application is relying on public transportation to provide the accessible route to the park which would not allow the application to qualify for the playground opportunity point for this deficiency alone. There is no accessible route to the park and moreover, there is not even an accessible route that meets the 2010 ADA Standards to the closest public transportation stop from the site boundary.

This application site is across the street from the proposed site for application # 17267 Industrial Lofts. As provided in a separate RFAD, we pointed out that even though no such route is shown in the Cielo application, the assumption is the route from the site to the closest public transportation stop would travel down Industrial Blvd. and therefore would fail to meet the 2010 ADA as follows:

A) ADA 403.3 Cross Slope

The maximum allowed cross slope for any accessible route is 1:48 or 2.08%. This means that for the 48 inch wide sidewalks that could be used for the route, the maximum allowed cross slope (the side to side slope) cannot exceed 1 inch. (48 inches times 2.08% = .99 or 1 inch).

The only accessible route that could be shown down Industrial Blvd must cross over private drive approaches into commercial property that are not public sidewalks and several of these exceed the maximum cross slope. One example of the non-compliant cross slope is the drive approach into the Move It Self Storage. The measured cross slope on the drive apron is 11.9% which is almost 6 times the allowed.

Exhibits A-3, A-4

B) ADA 403.5.3 Passing spaces

Sidewalks less than 60 inches in width must have passing spaces located no more than 200 feet apart. The walks along Industrial Blvd (that could be used as the only accessible route) are installed at a width of 48 inches. The lengths of several walk sections along Industrial measure 232 feet and 211 feet without the required passing spaces. Neither of these walk sections comply with ADA 403.5.3.

Exhibits B-1, B-2

C) ADA 406 Curb Ramps

The only route that could be shown for the application must cross the intersection of Industrial Blvd and N 23<sup>rd</sup> in order to reach the public transportation stop on N 23<sup>rd</sup>. There is no compliant route at this intersection. Specifically, the route would fail section 406 Curb Ramps as follows:

1) ADA 406.4 Landings

There is no landing at all on the NE corner curb ramp of the intersection. A minimum 36 inch long landing is required at any curb ramp. A curb ramp cannot exist without a landing.

Exhibit C-1

2) 406.6 Diagonal Curb Ramps

The curb ramps at the NE and SE corner of the intersection do not provide the required 48 inch clear floor space within the marked cross walk nor do they provide the required 24 inch segment of curb within the marked cross walk.

Exhibit C-2



§11.9 (c)(4)(B)(i)(I) of the QAP rules clearly states “... *both of which meet 2010 ADA standards*”. The rules do not allow you to omit sections of the technical standards you do not comply with. The ADA standards are concise and exacting and do not allow variances or exceptions unless stated. There are no exceptions to the standards for any of the above deficiencies and only one of the above 4 needs to fail in order to not be in compliance with the standards. For example, passing spaces per section 403.5.3 is a fundamental element of an accessible route and as documented herein, the only possible route that could be shown in the application cannot meet this requirement.

Please see attached Exhibits “A” through “C” for all ADA and playground supporting documentation. We have also provided the full applicable chapters of the 2010 ADA standards in the appendix.

### **3) Public transportation stop does not have ADA accessible route.**

The applicant claims that the proposed site is located within ½ mile on an accessible route to Public Transportation. The application does not show any route whatsoever nor how such route would connect the proposed site to the bus stop. Our review of this information would indicate that the application is not eligible for Public Transportation Opportunity points.

Even though the actual bus stop is located within ½ mile of the proposed site, the assumed route must rely on existing walks along Industrial Blvd that do not meet multiple sections of the accessible route standards. Specifically, the route to the bus stop fails to meet:

#### A) ADA 403.3 Cross Slope

The maximum allowed cross slope for any accessible route is 1:48 or 2.08%. This means that for the 48 inch wide sidewalks that could only be used for the route, the maximum allowed cross slope (the side to side slope) cannot exceed 1 inch. (48 inches times 2.08% = .99 or 1 inch).

The only accessible route that could be shown down Industrial Blvd must cross over private drive approaches into commercial property that are not public sidewalks and several of these exceed the maximum cross slope. One example of the non-compliant cross slope is the drive approach into the Move It Self-Storage. The measured cross slope on the drive apron is 11.9% which is almost 6 times the allowed.

Exhibits A-3, A-4

#### D) ADA 403.5.3 Passing spaces

Sidewalks less than 60 inches in width must have passing spaces located no more than 200 feet apart. The walks along Industrial Blvd (that could only be used as the

accessible route) are installed at a width of 48 inches. The lengths of several walk sections along Industrial measure 232 feet and 211 feet without the required passing spaces. Neither of these walk sections comply with ADA 403.5.3. Exhibits B-1, B-2

E) ADA 406 Curb Ramps

The only route that could be shown in the application must cross the intersection of Industrial Blvd and N 23<sup>rd</sup> in order to reach the closest public transportation stop on N 23<sup>rd</sup>. There is no compliant route at this intersection. Specifically, the route would fail section 406 Curb Ramps as follows:

3) ADA 406.4 Landings

There is no landing at all on the NE corner curb ramp of the intersection. A minimum 36 inch long landing is required at any curb ramp. A curb ramp cannot exist without a landing.

Exhibit C-1

4) ADA 406.6 Diagonal Curb Ramps

The curb ramps at the NE and SE corner of the intersection do not provide the required 48 inch clear floor space within the marked cross walk nor do they provide the required 24 inch segment of curb within the marked cross walk.

Exhibit C-2

Please see attached Exhibits "A" through "C" for all ADA and public transportation supporting documentation. We have also provided the full applicable chapters of the 2010 ADA standards in the appendix.

If you have any questions or wish to discuss this RFAD in further detail, please contact me at 713-522-4141.

Sincerely,

MGROUP HOLDINGS, INC.



Mark D. Musemeche

MDM/oe

cc: Manish Verma – manishv@versadevco.com



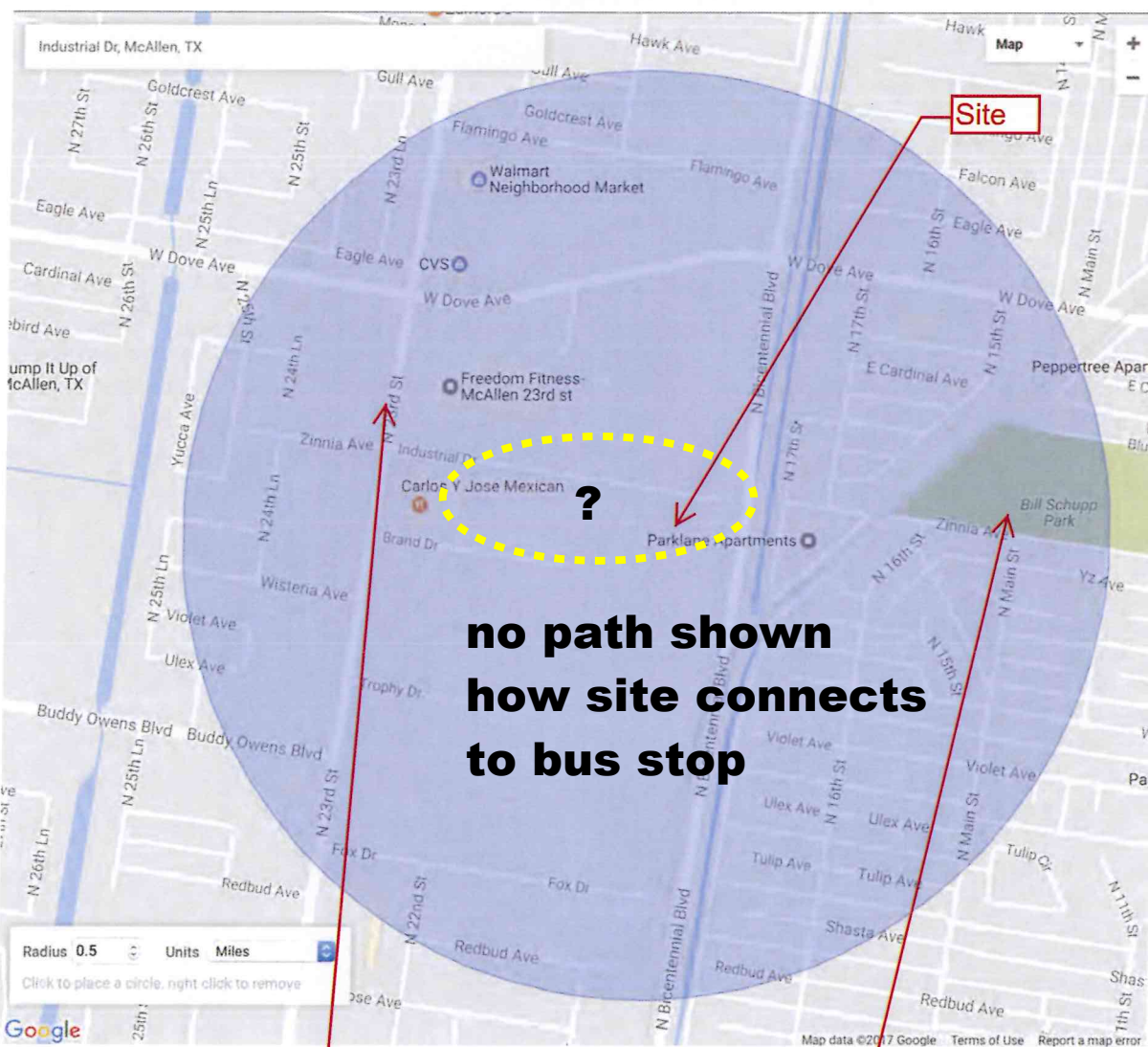
## Playground Documentation

Exhibits A-1, A-2, A-3, A-4

Exhibits B-1, B-2

Exhibits C-1, C-2

# Cielo Opportunity Index



(II) Site is located less than 1/2 mile on accessible route from Via Metro Transit Rte 606 Bus Stop

(II) Site is located less than 1/2 mile using on demand accessible transportation to 2010 ADA playground at Bill Schupp Park

**on demand not allowed per FAQ process and clarifications**



**bus stop shown in application**

**sidewalk is 232 feet long and fails to meet 403.5.3 passing spaces**

**sidewalk length 211 feet and fails to meet 403.5.3 passing spaces**

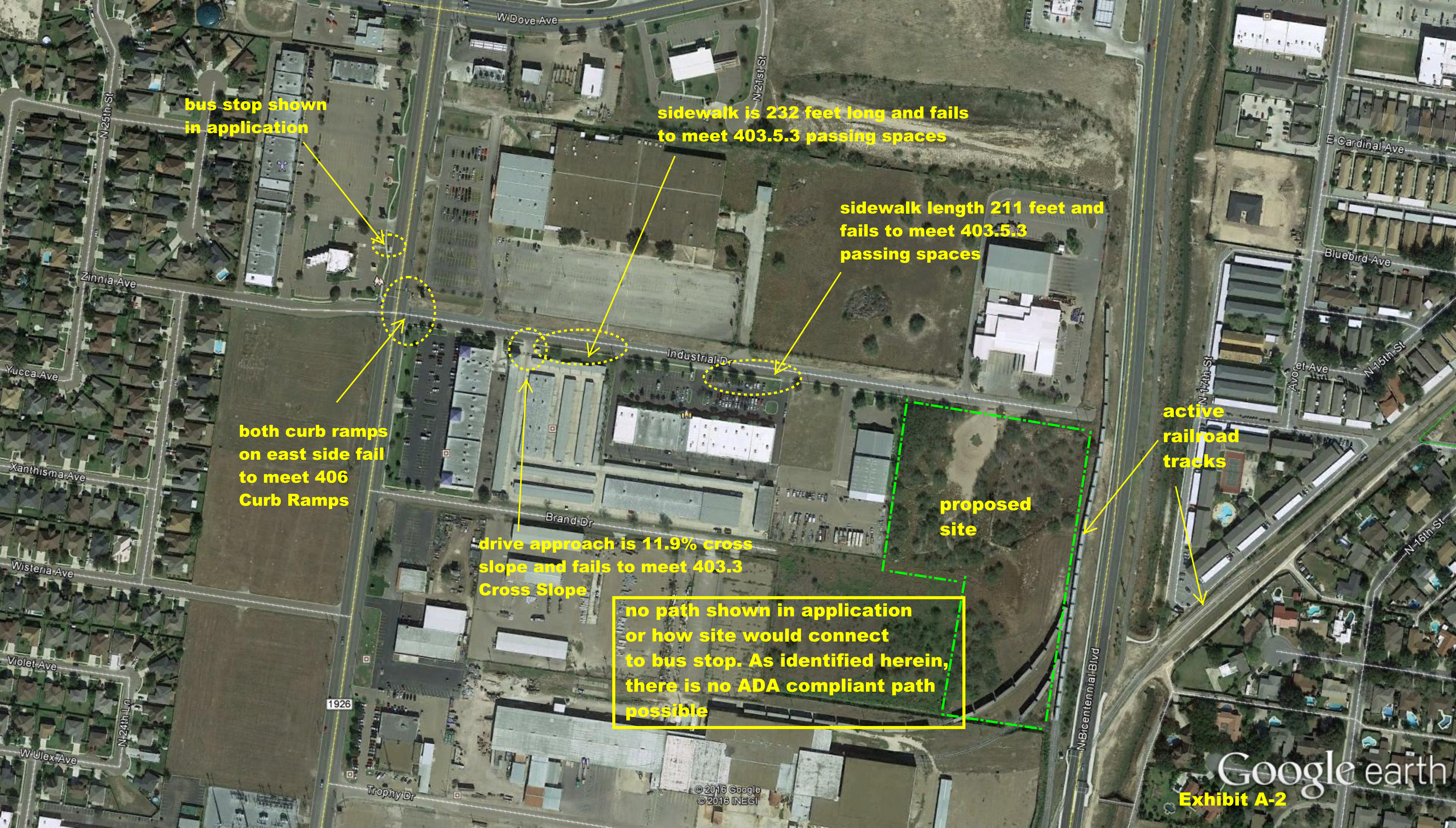
**both curb ramps on east side fail to meet 406 Curb Ramps**

**drive approach is 11.9% cross slope and fails to meet 403.3 Cross Slope**


**no path shown in application or how site would connect to bus stop. As identified herein, there is no ADA compliant path possible**

**active railroad tracks**

**proposed site**





<p><b>Violation</b></p>	<p>The only possible route that could be shown must cross over a privately owned drive approach into the Move It Storage facility. The cross slope over this section varies between 9.7% and 11.9%. The route does not comply with 403.3 cross slope. The route cannot travel another way along Industrial. Cross slopes are required with a maximum slope of 1:48 (2%).</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.3 Slope.</b> <i>The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48.</i></p>	






48 inch long level


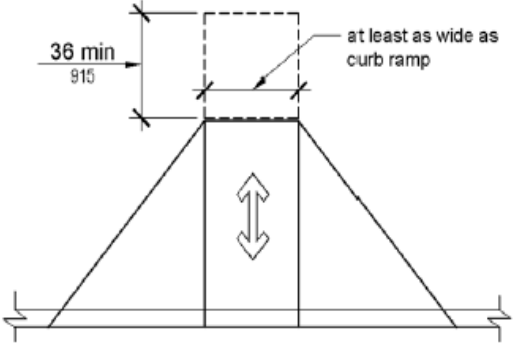


5 3/4" rise over 48"  
or 11.9% cross  
slope


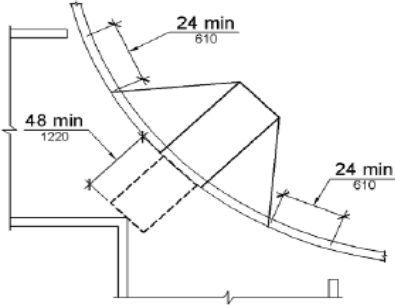
<p><b>Violation</b></p>	<p>The only route that could be shown to access the public transportation stop is along the south side of Industrial Blvd. The existing sidewalk along Industrial is 48" in width. 60 inches is the minimum width required without triggering section 403.5.3. Multiple sections of the walk measure 232 feet and 211 feet in length whereas 200 feet is the maximum allowed without passing spaces per 403.5.3. No such passing spaces are provided along Industrial Blvd.</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.5.3 Passing Spaces.</b> <i>An accessible route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.</i></p>	





<p><b>Violation</b></p>	<p>The curb ramp at the NE corner of Industrial and N 23rd does not provide the required 36" min landing at the top of the curb ramp. There is no landing at all.</p>	
<p><b>ADA Ref.</b></p>	<p><b>406.4 Landings.</b> Landings shall be provided at the tops of curb ramps. The landing clear length shall be 36 inches (915 mm) minimum. The landing clear width shall be at least as wide as the curb ramp, excluding flared sides, leading to the landing.  <i>EXCEPTION:</i> In alterations, where there is no landing at the top of curb ramps, curb ramp flares shall be provided and shall not be steeper than 1:12.</p>	



<p><b>Violation</b></p>	<p>The curb ramps at Industrial and N 23rd do not provide the required 48" clear floor space within the marked cross walk per 406.6 nor do they provide the required 24" segment of curb within the marked crossing.</p>	
<p><b>ADA Ref.</b></p>	<p><b>406.6 Diagonal Curb Ramps.</b> <i>Diagonal or corner type curb ramps with returned curbs or other well-defined edges shall have the edges parallel to the direction of pedestrian flow. The bottom of diagonal curb ramps shall have a clear space 48 inches (1220 mm) minimum outside active traffic lanes of the roadway. Diagonal curb ramps provided at marked crossings shall provide the 48 inches (1220 mm) minimum clear space within the markings. Diagonal curb ramps with flared sides shall have a segment of curb 24 inches (610 mm) long minimum located on each side of the curb ramp and within the marked crossing.</i></p>	

## Public Transportation Documentation

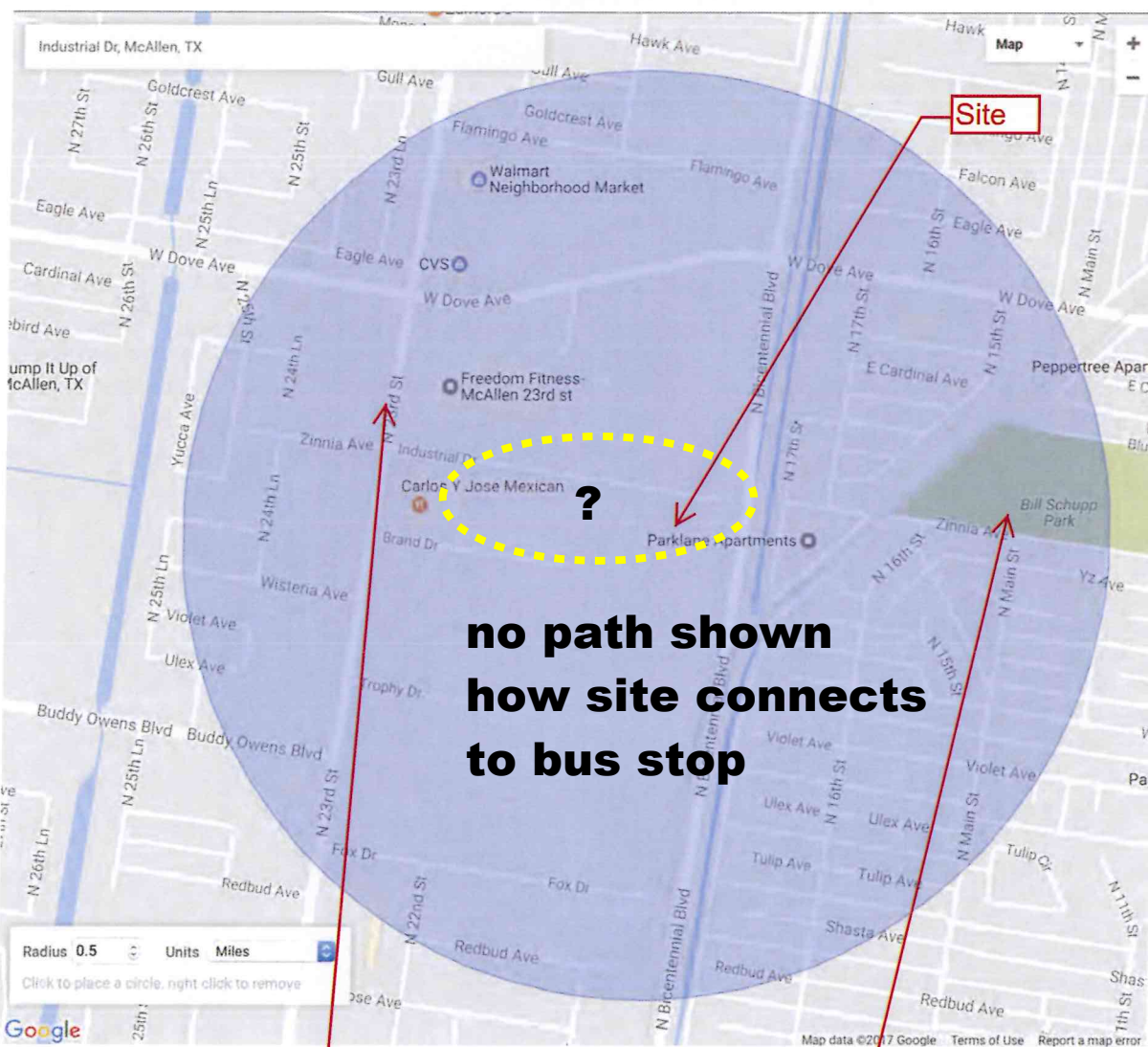
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Exhibits B-1, B-2

Exhibits C-1, C-2



# Cielo Opportunity Index



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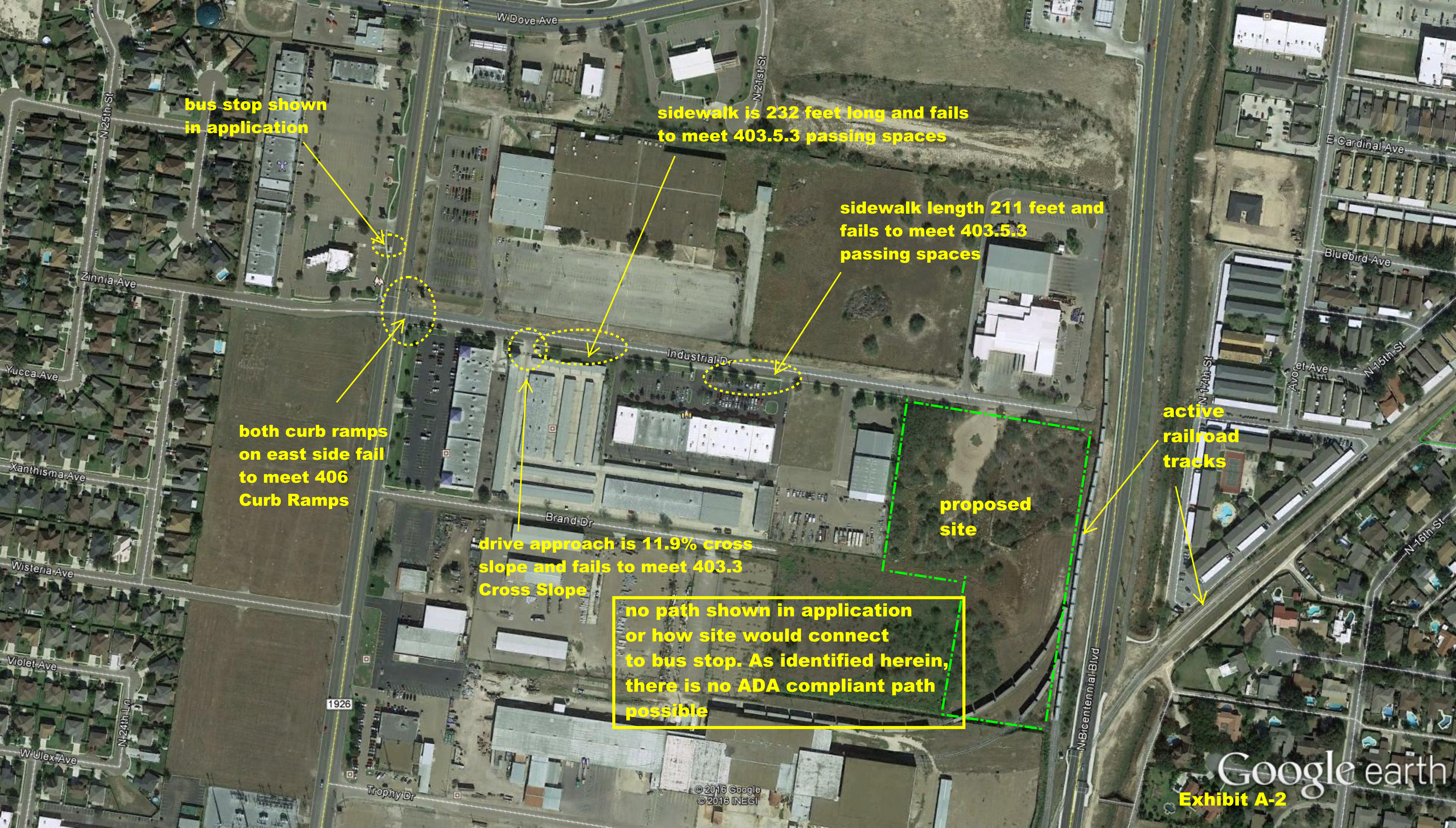
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**drive approach is 11.9% cross slope and fails to meet 403.3 Cross Slope**


**no path shown in application or how site would connect to bus stop. As identified herein, there is no ADA compliant path possible**

**active railroad tracks**

**proposed site**





<p><b>Violation</b></p>	<p>The only possible route that could be shown must cross over a privately owned drive approach into the Move It Storage facility. The cross slope over this section varies between 9.7% and 11.9%. The route does not comply with 403.3 cross slope. The route cannot travel another way along Industrial. Cross slopes are required with a maximum slope of 1:48 (2%).</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.3 Slope.</b> <i>The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48.</i></p>	




48 inch long level




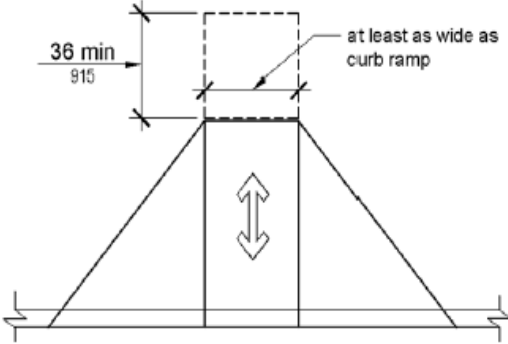
5 3/4" rise over 48"  
or 11.9% cross  
slope


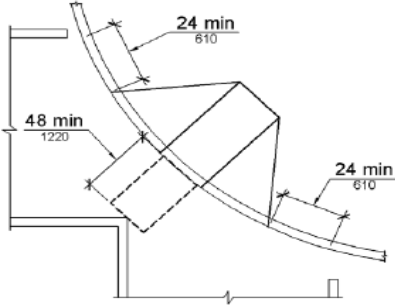


<p><b>Violation</b></p>	<p>The only route that could be shown to access the public transportation stop is along the south side of Industrial Blvd. The existing sidewalk along Industrial is 48" in width. 60 inches is the minimum width required without triggering section 403.5.3. Multiple sections of the walk measure 232 feet and 211 feet in length whereas 200 feet is the maximum allowed without passing spaces per 403.5.3. No such passing spaces are provided along Industrial Blvd.</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.5.3 Passing Spaces.</b> <i>An accessible route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.</i></p>	





<p><b>Violation</b></p>	<p>The curb ramp at the NE corner of Industrial and N 23rd does not provide the required 36" min landing at the top of the curb ramp. There is no landing at all.</p>	
<p><b>ADA Ref.</b></p>	<p><b>406.4 Landings.</b> Landings shall be provided at the tops of curb ramps. The landing clear length shall be 36 inches (915 mm) minimum. The landing clear width shall be at least as wide as the curb ramp, excluding flared sides, leading to the landing.  <i>EXCEPTION:</i> In alterations, where there is no landing at the top of curb ramps, curb ramp flares shall be provided and shall not be steeper than 1:12.</p>	

<p><b>Violation</b></p>	<p>The curb ramps at Industrial and N 23rd do not provide the required 48" clear floor space within the marked cross walk per 406.6 nor do they provide the required 24" segment of curb within the marked crossing.</p>	
<p><b>ADA Ref.</b></p>	<p><b>406.6 Diagonal Curb Ramps.</b> <i>Diagonal or corner type curb ramps with returned curbs or other well-defined edges shall have the edges parallel to the direction of pedestrian flow. The bottom of diagonal curb ramps shall have a clear space 48 inches (1220 mm) minimum outside active traffic lanes of the roadway. Diagonal curb ramps provided at marked crossings shall provide the 48 inches (1220 mm) minimum clear space within the markings. Diagonal curb ramps with flared sides shall have a segment of curb 24 inches (610 mm) long minimum located on each side of the curb ramp and within the marked crossing.</i></p>	



2010 ADA Standards



Figure 307.2  
of Protruding Objects

# 2010 ADA Standards for Accessible Design

Department of Justice  
September 15, 2010

Figure 703.2.1  
Height of Raised Characters



## 2010 Standards for Titles II and III Facilities: 2004 ADAAG

The following section applies to **both** State and local government facilities (Title II) and public accommodations and commercial facilities (Title III). The section consists of (ADA) Chapters 1 and 2 and Chapters 3 through 10, of the 2004 ADAAG (36 CFR part 1191, appendices B and D, adopted as part of both the Title II and Title III 2010 Standards).

State and local government facilities must follow the requirements of the 2010 Standards, including both the Title II regulations at 28 CFR 35.151; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

Public accommodations and commercial facilities must follow the requirements of the 2010 Standards, including both the Title III regulations at 28 CFR part 36, subpart D; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

In the few places where requirements between the regulation and the 2004 ADAAG differ, the requirements of 28 CFR 35.151 or 28 CFR part 36, subpart D, prevail.

for example when passing spaces 403.5.3 states 200 feet maximum, there is no tolerance or exception to the distance. 200 feet is the absolute maximum a path may travel without a passing space if such path is less than 60 inches in width.

**104.1.1 Construction and Manufacturing Tolerances.** All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.

**Advisory 104.1.1 Construction and Manufacturing Tolerances.** Conventional industry tolerances recognized by this provision include those for field conditions and those that may be a necessary consequence of a particular manufacturing process. Recognized tolerances are not intended to apply to design work.

It is good practice when specifying dimensions to avoid specifying a tolerance where dimensions are absolute. For example, if this document requires "1½ inches," avoid specifying "1½ inches plus or minus X inches."

Where the requirement states a specified range, such as in Section 609.4 where grab bars must be installed between 33 inches and 36 inches above the floor, the range provides an adequate tolerance and therefore no tolerance outside of the range at either end point is permitted.

Where a requirement is a minimum or a maximum dimension that does not have two specific minimum and maximum end points, tolerances may apply. Where an element is to be installed at the minimum or maximum permitted dimension, such as "15 inches minimum" or "5 pounds maximum", it would not be good practice to specify "5 pounds (plus X pounds) or 15 inches (minus X inches)." Rather, it would be good practice to specify a dimension less than the required maximum (or more than the required minimum) by the amount of the expected field or manufacturing tolerance and not to state any tolerance in conjunction with the specified dimension.

Specifying dimensions in design in the manner described above will better ensure that facilities and elements accomplish the level of accessibility intended by these requirements. It will also more often produce an end result of strict and literal compliance with the stated requirements and eliminate enforcement difficulties and issues that might otherwise arise. Information on specific tolerances may be available from industry or trade organizations, code groups and building officials, and published references.

**104.2 Calculation of Percentages.** Where the required number of *elements* or *facilities* to be provided is determined by calculations of ratios or percentages and remainders or fractions result, the next greater whole number of such *elements* or *facilities* shall be provided. Where the determination of the required size or dimension of an *element* or *facility* involves ratios or percentages, rounding down for values less than one half shall be permitted.

**104.3 Figures.** Unless specifically stated otherwise, figures are provided for informational purposes only.



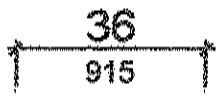
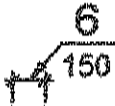

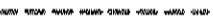

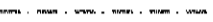




Convention	Description
	dimension showing English units (in inches unless otherwise specified) above the line and SI units (in millimeters unless otherwise specified) below the line
	dimension for small measurements
	dimension showing a range with minimum - maximum
min	minimum
max	maximum
$>$	greater than
$\geq$	greater than or equal to
$<$	less than
$\leq$	less than or equal to
	boundary of clear floor space or maneuvering clearance
	centerline
	a permitted element or its extension
	direction of travel or approach
	a wall, floor, ceiling or other element cut in section or plan
	a highlighted element in elevation or plan
	location zone of element, control or feature

Figure 104  
Graphic Convention for Figures

## CHAPTER 3: BUILDING BLOCKS

### 301 General

**301.1 Scope.** The provisions of Chapter 3 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

### 302 Floor or Ground Surfaces

**302.1 General.** Floor and ground surfaces shall be stable, firm, and slip resistant and shall comply with 302.

- EXCEPTIONS:**
1. Within animal containment areas, floor and ground surfaces shall not be required to be stable, firm, and slip resistant.
  2. Areas of sport activity shall not be required to comply with 302.

**Advisory 302.1 General.** A stable surface is one that remains unchanged by contaminants or applied force, so that when the contaminant or force is removed, the surface returns to its original condition. A firm surface resists deformation by either indentations or particles moving on its surface. A slip-resistant surface provides sufficient frictional counterforce to the forces exerted in walking to permit safe ambulation.

**302.2 Carpet.** Carpet or carpet tile shall be securely attached and shall have a firm cushion, pad, or backing or no cushion or pad. Carpet or carpet tile shall have a level loop, textured loop, level cut pile, or level cut/uncut pile texture. Pile height shall be  $\frac{1}{2}$  inch (13 mm) maximum. Exposed edges of carpet shall be fastened to floor surfaces and shall have trim on the entire length of the exposed edge. Carpet edge trim shall comply with 303.

**Advisory 302.2 Carpet.** Carpets and permanently affixed mats can significantly increase the amount of force (roll resistance) needed to propel a wheelchair over a surface. The firmer the carpeting and backing, the lower the roll resistance. A pile thickness up to  $\frac{1}{2}$  inch (13 mm) (measured to the backing, cushion, or pad) is allowed, although a lower pile provides easier wheelchair maneuvering. If a backing, cushion or pad is used, it must be firm. Preferably, carpet pad should not be used because the soft padding increases roll resistance.

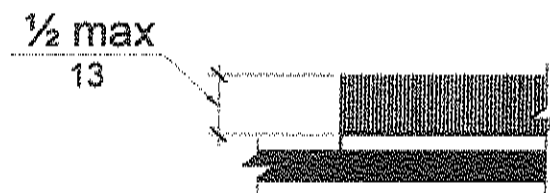


Figure 302.2  
Carpet Pile Height



**242.4 Spas.** At least one *accessible* means of entry shall be provided for spas. *Accessible* means of entry shall comply with swimming pool lifts complying with 1009.2; transfer walls complying with 1009.4; or transfer systems complying with 1009.5.

**EXCEPTION:** Where spas are provided in a cluster, no more than 5 percent, but no fewer than one, spa in each cluster shall be required to comply with 242.4.

#### **243 Shooting Facilities with Firing Positions**

**243.1 General.** Where shooting *facilities* with firing positions are designed and constructed at a *site*, at least 5 percent, but no fewer than one, of each type of firing position shall comply with 1010.

**302.3 Openings.** Openings in floor or ground surfaces shall not allow passage of a sphere more than  $\frac{1}{2}$  inch (13 mm) diameter except as allowed in 407.4.3, 409.4.3, 410.4, 810.5.3 and 810.10. Elongated openings shall be placed so that the long dimension is perpendicular to the dominant direction of travel.

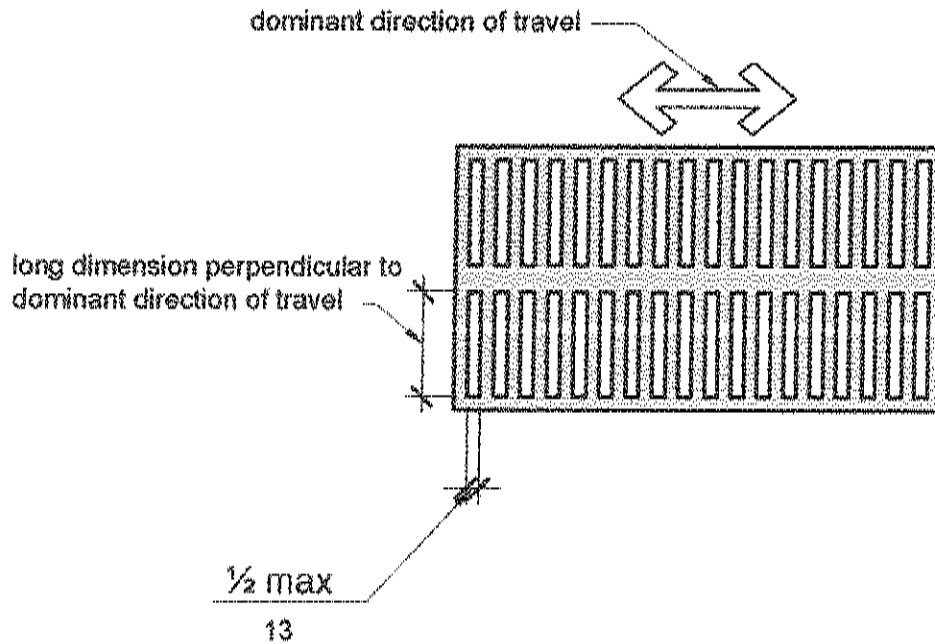


Figure 302.3  
Elongated Openings in Floor or Ground Surfaces

### 303 Changes in Level

**303.1 General.** Where changes in level are permitted in floor or ground surfaces, they shall comply with 303.

**EXCEPTIONS:** 1. Animal containment areas shall not be required to comply with 303.

2. Areas of sport activity shall not be required to comply with 303.

**303.2 Vertical.** Changes in level of  $\frac{1}{4}$  inch (6.4 mm) high maximum shall be permitted to be vertical.



Figure 303.2  
Vertical Change in Level



**303.3 Beveled.** Changes in level between  $\frac{1}{4}$  inch (6.4 mm) high minimum and  $\frac{1}{2}$  inch (13 mm) high maximum shall be beveled with a slope not steeper than 1:2.

**Advisory 303.3 Beveled.** A change in level of  $\frac{1}{2}$  inch (13 mm) is permitted to be  $\frac{1}{4}$  inch (6.4 mm) vertical plus  $\frac{1}{4}$  inch (6.4 mm) beveled. However, in no case may the combined change in level exceed  $\frac{1}{2}$  inch (13 mm). Changes in level exceeding  $\frac{1}{2}$  inch (13 mm) must comply with 405 (Ramps) or 406 (Curb Ramps).

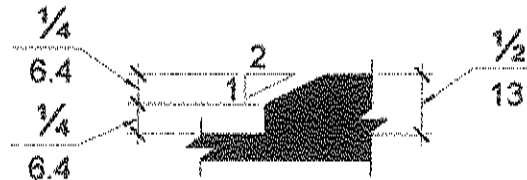


Figure 303.3  
Beveled Change in Level

**303.4 Ramps.** Changes in level greater than  $\frac{1}{2}$  inch (13 mm) high shall be *ramped*, and shall comply with 405 or 406.

### 304 Turning Space

**304.1 General.** Turning *space* shall comply with 304.

**304.2 Floor or Ground Surfaces.** Floor or ground surfaces of a turning *space* shall comply with 302. Changes in level are not permitted.

**EXCEPTION:** Slopes not steeper than 1:48 shall be permitted.

**Advisory 304.2 Floor or Ground Surface Exception.** As used in this section, the phrase "changes in level" refers to surfaces with slopes and to surfaces with abrupt rise exceeding that permitted in Section 303.3. Such changes in level are prohibited in required clear floor and ground spaces, turning spaces, and in similar spaces where people using wheelchairs and other mobility devices must park their mobility aids such as in wheelchair spaces, or maneuver to use elements such as at doors, fixtures, and telephones. The exception permits slopes not steeper than 1:48.

**304.3 Size.** Turning *space* shall comply with 304.3.1 or 304.3.2.

**304.3.1 Circular Space.** The turning *space* shall be a *space* of 60 inches (1525 mm) diameter minimum. The *space* shall be permitted to include knee and toe clearance complying with 306.

**304.3.2 T-Shaped Space.** The turning *space* shall be a T-shaped *space* within a 60 inch (1525 mm) square minimum with arms and base 36 inches (915 mm) wide minimum. Each arm of the T shall be clear of obstructions 12 inches (305 mm) minimum in each direction and the base shall be clear of

## CHAPTER 4: ACCESSIBLE ROUTES

### 401 General

**401.1 Scope.** The provisions of Chapter 4 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

### 402 Accessible Routes

**402.1 General.** Accessible routes shall comply with 402.

**402.2 Components.** Accessible routes shall consist of one or more of the following components: walking surfaces with a *running slope* not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4.

**Advisory 402.2 Components.** Walking surfaces must have running slopes not steeper than 1:20, see 403.3. Other components of accessible routes, such as ramps (405) and curb ramps (406), are permitted to be more steeply sloped.

### 403 Walking Surfaces

**403.1 General.** Walking surfaces that are a part of an accessible route shall comply with 403.

**403.2 Floor or Ground Surface.** Floor or ground surfaces shall comply with 302.

**403.3 Slope.** The *running slope* of walking surfaces shall not be steeper than 1:20. The *cross slope* of walking surfaces shall not be steeper than 1:48.

**403.4 Changes in Level.** Changes in level shall comply with 303.

**403.5 Clearances.** Walking surfaces shall provide clearances complying with 403.5.

**EXCEPTION:** Within *employee work areas*, clearances on *common use circulation paths* shall be permitted to be decreased by *work area equipment* provided that the decrease is essential to the function of the work being performed.

**403.5.1 Clear Width.** Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.

**EXCEPTION:** The clear width shall be permitted to be reduced to 32 inches (815 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum.

**When paths are shown to cross private driveways or entrances into retail or commercial parking lots along a public street, this section 403.3 is often very difficult to meet because the paths at these locations are not public sidewalks- they transition from a public walk to over a private drive or private entrance, then back to a public walk. The private drive is not regulated by ADA thus most often fails to meet the ADA.**



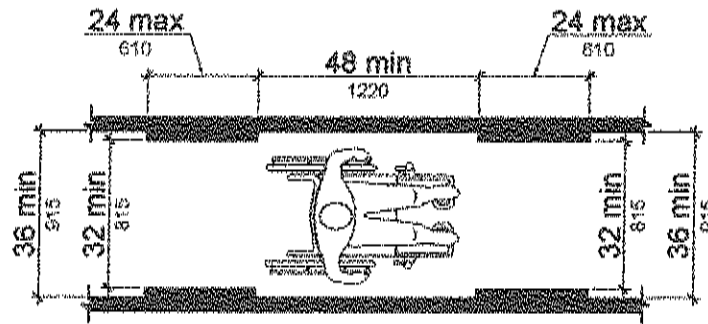


Figure 403.5.1  
Clear Width of an Accessible Route

**403.5.2 Clear Width at Turn.** Where the *accessible* route makes a 180 degree turn around an *element* which is less than 48 inches (1220 mm) wide, clear width shall be 42 inches (1065 mm) minimum approaching the turn, 48 inches (1220 mm) minimum at the turn and 42 inches (1065 mm) minimum leaving the turn.

**EXCEPTION:** Where the clear width at the turn is 60 inches (1525 mm) minimum compliance with 403.5.2 shall not be required.

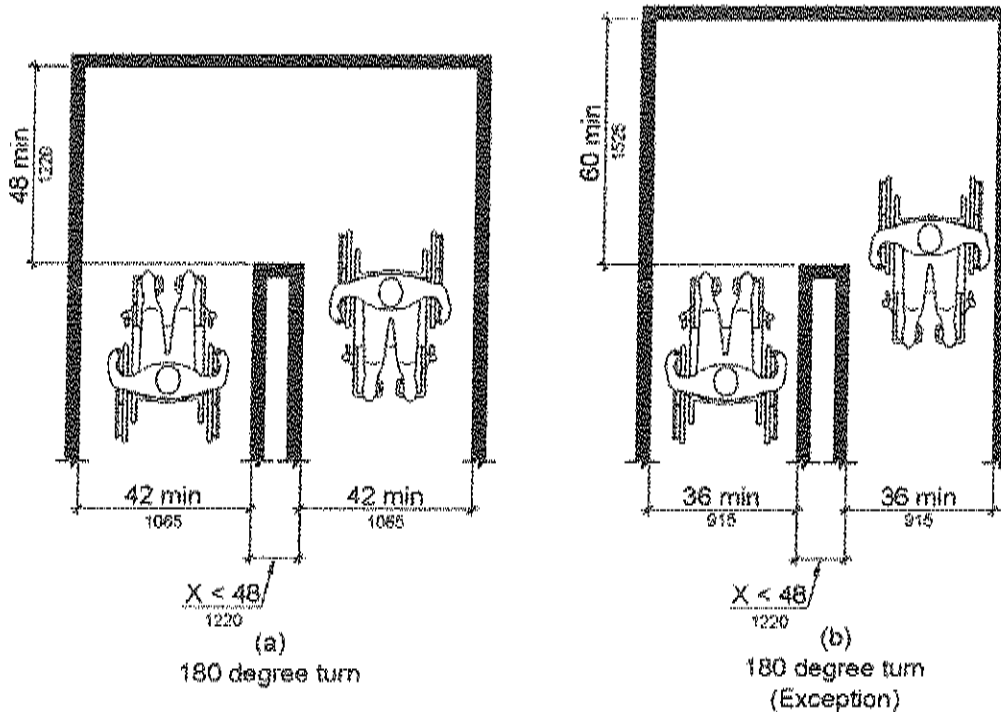


Figure 403.5.2  
Clear Width at Turn

**many old walks do not meet this section because the walks were built with widths less than 60 inches. New city walk and path projects typically require 60 inch wide walks thus this section is met.**

**403.5.3 Passing Spaces.** An *accessible* route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.

**403.6 Handrails.** Where handrails are provided along walking surfaces with *running slopes* not steeper than 1:20 they shall comply with 505.

**Advisory 403.6 Handrails.** Handrails provided in elevator cabs and platform lifts are not required to comply with the requirements for handrails on walking surfaces.

#### 404 Doors, Doorways, and Gates

**404.1 General.** Doors, doorways, and gates that are part of an *accessible* route shall comply with 404. **EXCEPTION:** Doors, doorways, and gates designed to be operated only by security personnel shall not be required to comply with 404.2.7, 404.2.8, 404.2.9, 404.3.2 and 404.3.4 through 404.3.7.

**Advisory 404.1 General Exception.** Security personnel must have sole control of doors that are eligible for the Exception at 404.1. It would not be acceptable for security personnel to operate the doors for people with disabilities while allowing others to have independent access.

**404.2 Manual Doors, Doorways, and Manual Gates.** Manual doors and doorways and manual gates intended for user passage shall comply with 404.2.

**404.2.1 Revolving Doors, Gates, and Turnstiles.** Revolving doors, revolving gates, and turnstiles shall not be part of an *accessible* route.

**404.2.2 Double-Leaf Doors and Gates.** At least one of the active leaves of doorways with two leaves shall comply with 404.2.3 and 404.2.4.

**404.2.3 Clear Width.** Door openings shall provide a clear width of 32 inches (815 mm) minimum. Clear openings of doorways with swinging doors shall be measured between the face of the door and the stop, with the door open 90 degrees. Openings more than 24 inches (610 mm) deep shall provide a clear opening of 36 inches (915 mm) minimum. There shall be no projections into the required clear opening width lower than 34 inches (865 mm) above the finish floor or ground. Projections into the clear opening width between 34 inches (865 mm) and 80 inches (2030 mm) above the finish floor or ground shall not exceed 4 inches (100 mm).

**EXCEPTIONS:** 1. In *alterations*, a projection of 5/8 inch (16 mm) maximum into the required clear width shall be permitted for the latch side stop.

2. Door closers and door stops shall be permitted to be 78 inches (1980 mm) minimum above the finish floor or ground.



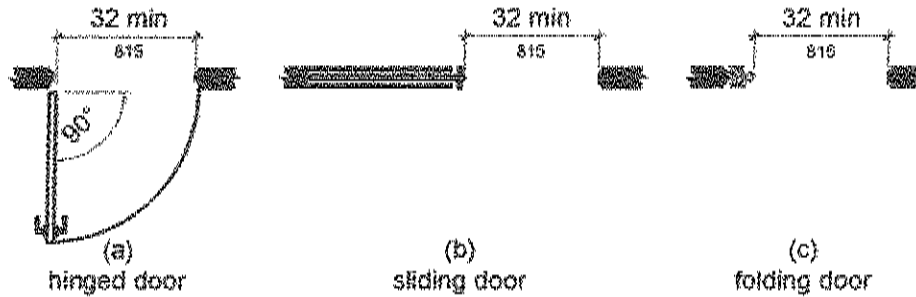


Figure 404.2.3  
Clear Width of Doorways

**404.2.4 Maneuvering Clearances.** Minimum maneuvering clearances at doors and gates shall comply with 404.2.4. Maneuvering clearances shall extend the full width of the doorway and the required latch side or hinge side clearance.

**EXCEPTION:** Entry doors to hospital patient rooms shall not be required to provide the clearance beyond the latch side of the door.

**404.2.4.1 Swinging Doors and Gates.** Swinging doors and gates shall have maneuvering clearances complying with Table 404.2.4.1.

Table 404.2.4.1 Maneuvering Clearances at Manual Swinging Doors and Gates

Type of Use		Minimum Maneuvering Clearance	
Approach Direction	Door or Gate Side	Perpendicular to Doorway	Parallel to Doorway (beyond latch side unless noted)
From front	Pull	60 inches (1525 mm)	18 inches (455 mm)
From front	Push	48 inches (1220 mm)	0 inches (0 mm) <sup>1</sup>
From hinge side	Pull	60 inches (1525 mm)	36 inches (915 mm)
From hinge side	Pull	54 inches (1370 mm)	42 inches (1065 mm)
From hinge side	Push	42 inches (1065 mm) <sup>2</sup>	22 inches (560 mm) <sup>3</sup>
From latch side	Pull	48 inches (1220 mm) <sup>4</sup>	24 inches (610 mm)
From latch side	Push	42 inches (1065 mm) <sup>4</sup>	24 inches (610 mm)

1. Add 12 inches (305 mm) if closer and latch are provided.
2. Add 6 inches (150 mm) if closer and latch are provided.
3. Beyond hinge side.
4. Add 6 inches (150 mm) if closer is provided.

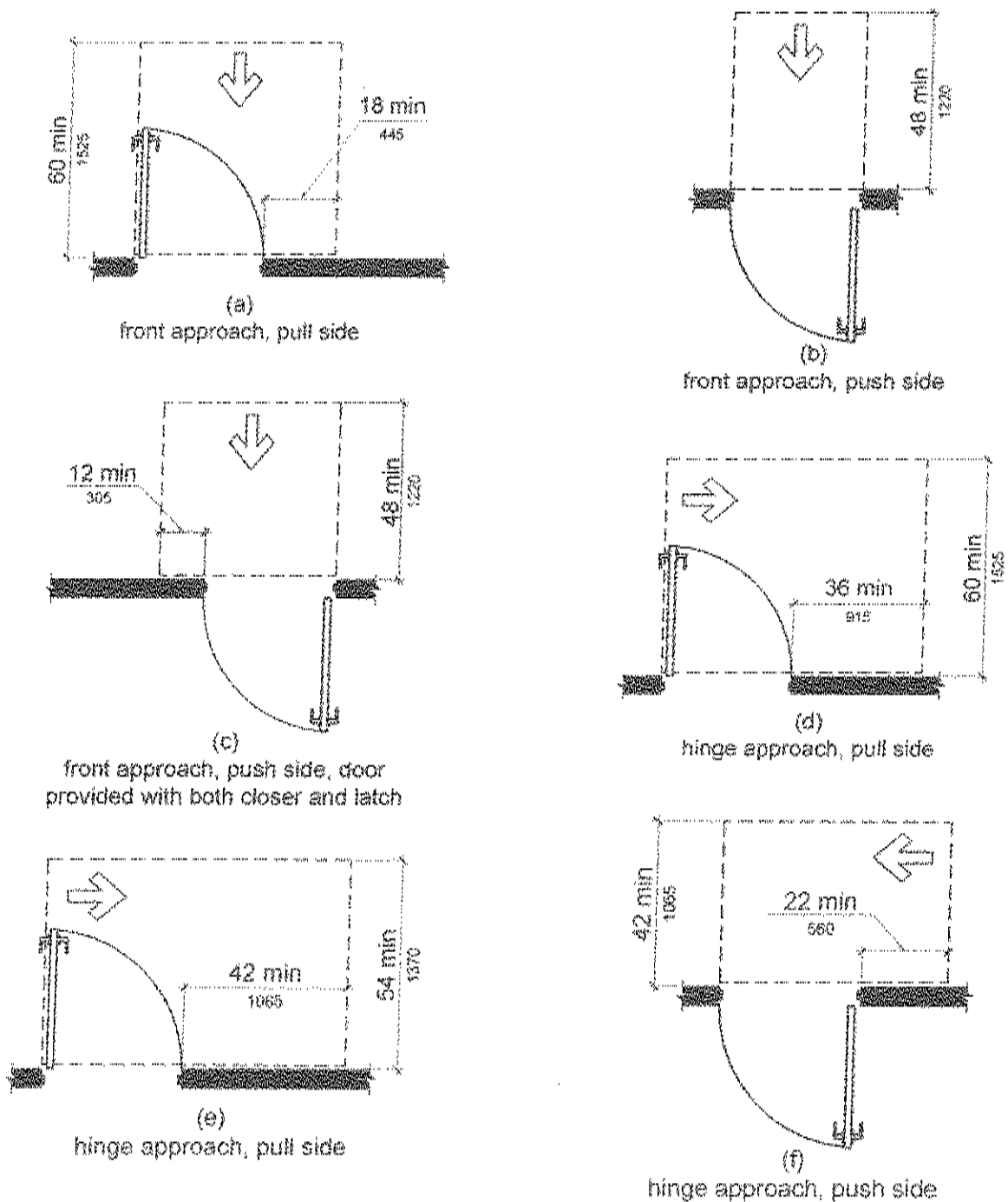


Figure 404.2.4.1  
 Maneuvering Clearances at Manual Swinging Doors and Gates



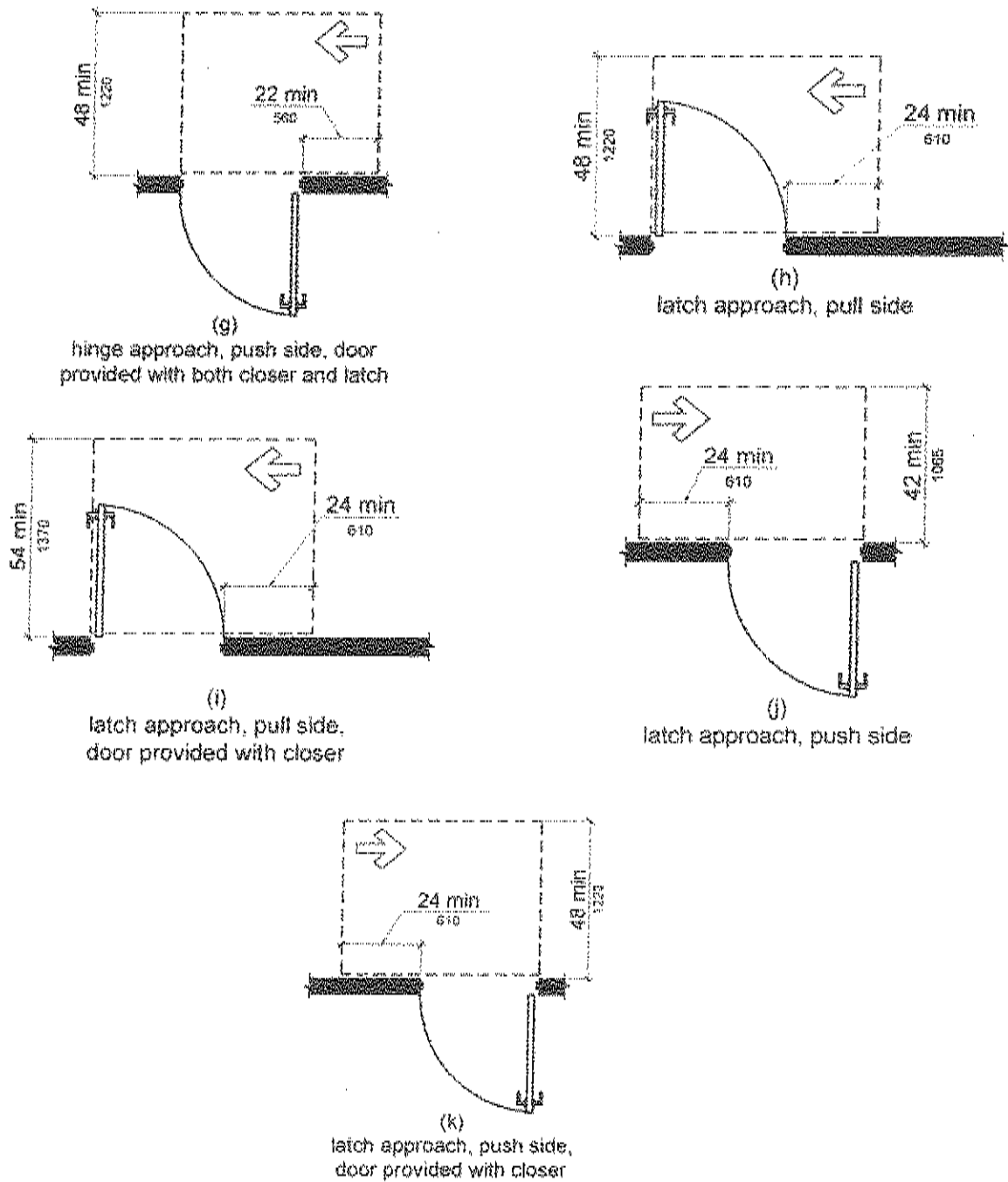


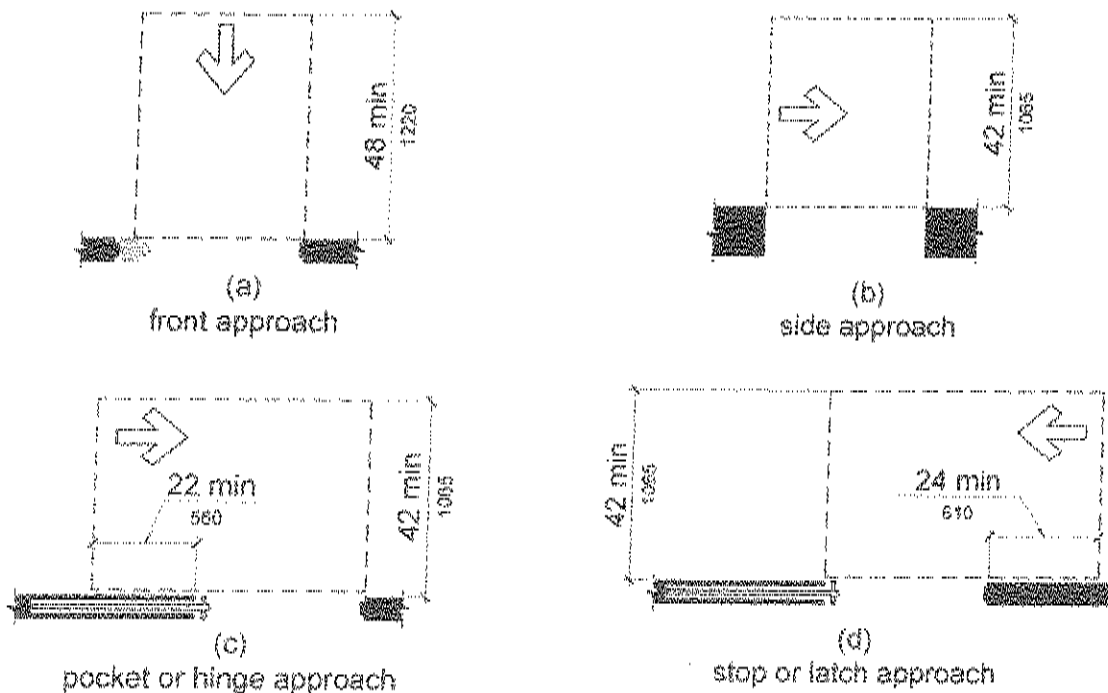
Figure 404.2.4.1  
Maneuvering Clearances at Manual Swinging Doors and Gates

**404.2.4.2 Doorways without Doors or Gates, Sliding Doors, and Folding Doors.** Doorways less than 36 inches (915 mm) wide without doors or gates, sliding doors, or folding doors shall have maneuvering clearances complying with Table 404.2.4.2.

**Table 404.2.4.2 Maneuvering Clearances at Doorways without Doors or Gates, Manual Sliding Doors, and Manual Folding Doors**

Approach Direction	Minimum Maneuvering Clearance	
	Perpendicular to Doorway	Parallel to Doorway (beyond stop/latch side unless noted)
From Front	48 inches (1220 mm)	0 inches (0 mm)
From side <sup>1</sup>	42 inches (1065 mm)	0 inches (0 mm)
From pocket/hinge side	42 inches (1065 mm)	22 inches (560 mm) <sup>2</sup>
From stop/latch side	42 inches (1065 mm)	24 inches (610 mm)

- 1. Doorway with no door only.
- 2. Beyond pocket/hinge side.

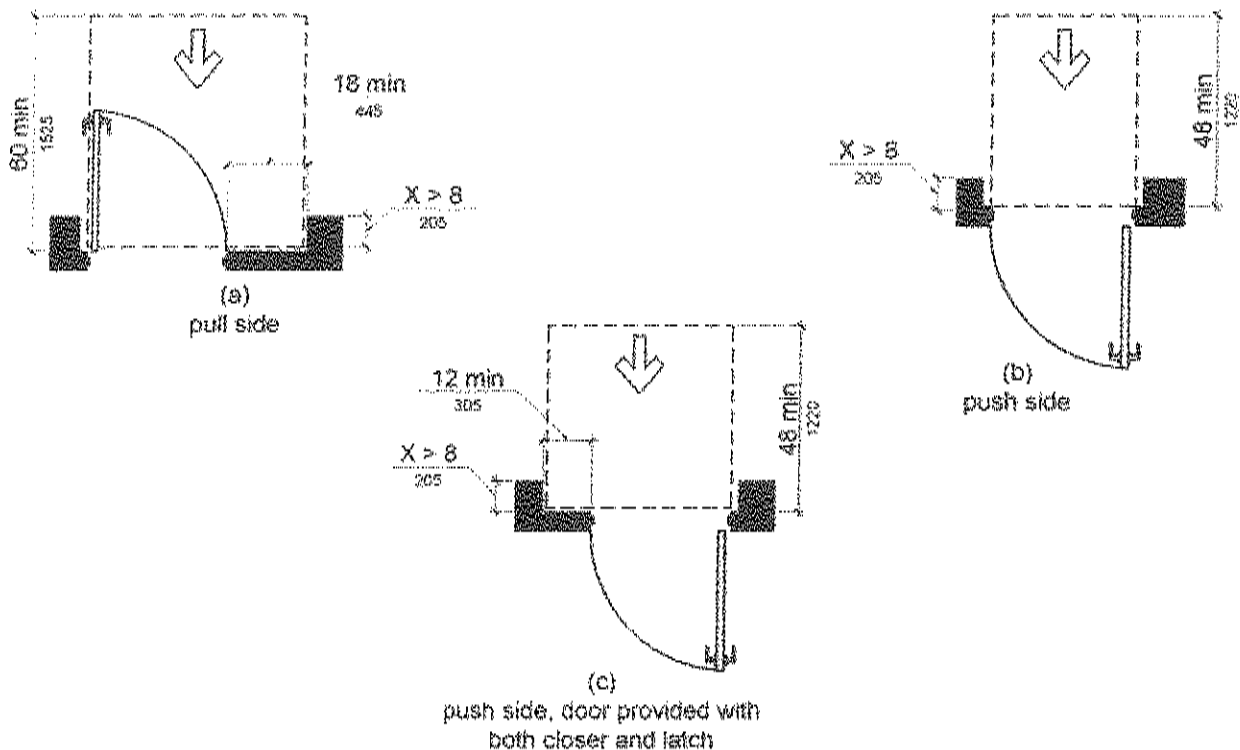


**Figure 404.2.4.2**  
**Maneuvering Clearances at Doorways without Doors, Sliding Doors, Gates, and Folding Doors**



**404.2.4.3 Recessed Doors and Gates.** Maneuvering clearances for forward approach shall be provided when any obstruction within 18 inches (455 mm) of the latch side of a doorway projects more than 8 inches (205 mm) beyond the face of the door, measured perpendicular to the face of the door or gate.

**Advisory 404.2.4.3 Recessed Doors and Gates.** A door can be recessed due to wall thickness or because of the placement of casework and other fixed elements adjacent to the doorway. This provision must be applied wherever doors are recessed.



**Figure 404.2.4.3**  
**Maneuvering Clearances at Recessed Doors and Gates**

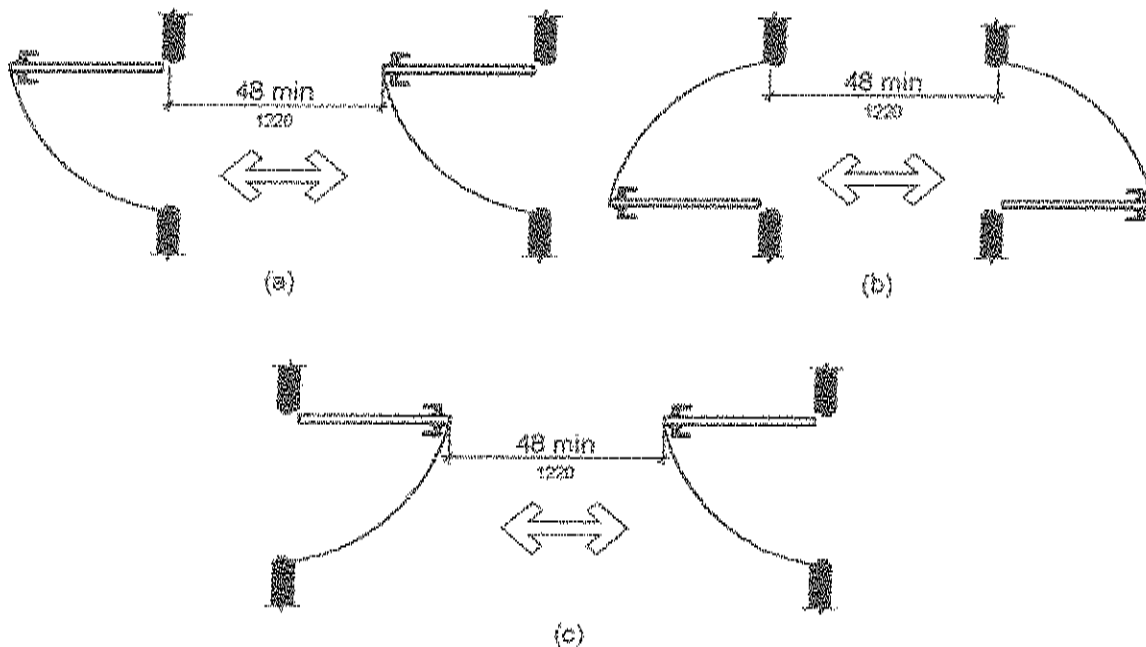
**404.2.4.4 Floor or Ground Surface.** Floor or ground surface within required maneuvering clearances shall comply with 302. Changes in level are not permitted.

- EXCEPTIONS:**
1. Slopes not steeper than 1:48 shall be permitted.
  2. Changes in level at thresholds complying with 404.2.5 shall be permitted.

**404.2.5 Thresholds.** Thresholds, if provided at doorways, shall be ½ inch (13 mm) high maximum. Raised thresholds and changes in level at doorways shall comply with 302 and 303.

**EXCEPTION:** Existing or altered thresholds ¾ inch (19 mm) high maximum that have a beveled edge on each side with a slope not steeper than 1:2 shall not be required to comply with 404.2.5.

**404.2.6 Doors in Series and Gates in Series.** The distance between two hinged or pivoted doors in series and gates in series shall be 48 inches (1220 mm) minimum plus the width of doors or gates swinging into the space.



**Figure 404.2.6**  
**Doors in Series and Gates in Series**

**404.2.7 Door and Gate Hardware.** Handles, pulls, latches, locks, and other *operable parts* on doors and gates shall comply with 309.4. *Operable parts* of such hardware shall be 34 inches (865 mm) minimum and 48 inches (1220 mm) maximum above the finish floor or ground. Where sliding doors are in the fully open position, operating hardware shall be exposed and usable from both sides.

**EXCEPTIONS:** 1. Existing locks shall be permitted in any location at existing glazed doors without stiles, existing overhead rolling doors or grilles, and similar existing doors or grilles that are designed with locks that are activated only at the top or bottom rail.

2. Access gates in barrier walls and fences protecting pools, spas, and hot tubs shall be permitted to have *operable parts* of the release of latch on self-latching devices at 54 inches (1370 mm) maximum above the finish floor or ground provided the self-latching devices are not also self-locking devices and operated by means of a key, electronic opener, or integral combination lock.

**Advisory 404.2.7 Door and Gate Hardware.** Door hardware that can be operated with a closed fist or a loose grip accommodates the greatest range of users. Hardware that requires simultaneous hand and finger movements require greater dexterity and coordination, and is not recommended.



**404.2.8 Closing Speed.** Door and gate closing speed shall comply with 404.2.8.

**404.2.8.1 Door Closers and Gate Closers.** Door closers and gate closers shall be adjusted so that from an open position of 90 degrees, the time required to move the door to a position of 12 degrees from the latch is 5 seconds minimum.

**404.2.8.2 Spring Hinges.** Door and gate spring hinges shall be adjusted so that from the open position of 70 degrees, the door or gate shall move to the closed position in 1.5 seconds minimum.

**404.2.9 Door and Gate Opening Force.** Fire doors shall have a minimum opening force allowable by the appropriate *administrative authority*. The force for pushing or pulling open a door or gate other than fire doors shall be as follows:

1. Interior hinged doors and gates: 5 pounds (22.2 N) maximum.
2. Sliding or folding doors: 5 pounds (22.2 N) maximum.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door or gate in a closed position.

**Advisory 404.2.9 Door and Gate Opening Force.** The maximum force pertains to the continuous application of force necessary to fully open a door, not the initial force needed to overcome the inertia of the door. It does not apply to the force required to retract bolts or to disengage other devices used to keep the door in a closed position.

**404.2.10 Door and Gate Surfaces.** Swinging door and gate surfaces within 10 inches (255 mm) of the finish floor or ground measured vertically shall have a smooth surface on the push side extending the full width of the door or gate. Parts creating horizontal or vertical joints in these surfaces shall be within 1/16 inch (1.6 mm) of the same plane as the other. Cavities created by added kick plates shall be capped.

- EXCEPTIONS:**
1. Sliding doors shall not be required to comply with 404.2.10.
  2. Tempered glass doors without stiles and having a bottom rail or shoe with the top leading edge tapered at 60 degrees minimum from the horizontal shall not be required to meet the 10 inch (255 mm) bottom smooth surface height requirement.
  3. Doors and gates that do not extend to within 10 inches (255 mm) of the finish floor or ground shall not be required to comply with 404.2.10.
  4. Existing doors and gates without smooth surfaces within 10 inches (255 mm) of the finish floor or ground shall not be required to provide smooth surfaces complying with 404.2.10 provided that if added kick plates are installed, cavities created by such kick plates are capped.

**404.2.11 Vision Lights.** Doors, gates, and side lights adjacent to doors or gates, containing one or more glazing panels that permit viewing through the panels shall have the bottom of at least one glazed panel located 43 inches (1090 mm) maximum above the finish floor.

**EXCEPTION:** Vision lights with the lowest part more than 66 inches (1675 mm) from the finish floor or ground shall not be required to comply with 404.2.11.

**404.3 Automatic and Power-Assisted Doors and Gates.** Automatic doors and automatic gates shall comply with 404.3. Full-powered automatic doors shall comply with ANSI/BHMA A156.10 (incorporated

by reference, see “Referenced Standards” in Chapter 1). Low-energy and power-assisted doors shall comply with ANSI/BHMA A156.19 (1997 or 2002 edition) (incorporated by reference, see “Referenced Standards” in Chapter 1).

**404.3.1 Clear Width.** Doorways shall provide a clear opening of 32 inches (815 mm) minimum in power-on and power-off mode. The minimum clear width for automatic door systems in a doorway shall be based on the clear opening provided by all leaves in the open position.

**404.3.2 Maneuvering Clearance.** Clearances at power-assisted doors and gates shall comply with 404.2.4. Clearances at automatic doors and gates without standby power and serving an *accessible means of egress* shall comply with 404.2.4.

**EXCEPTION:** Where automatic doors and gates remain open in the power-off condition, compliance with 404.2.4 shall not be required.

**404.3.3 Thresholds.** Thresholds and changes in level at doorways shall comply with 404.2.5.

**404.3.4 Doors in Series and Gates in Series.** Doors in series and gates in series shall comply with 404.2.6.

**404.3.5 Controls.** Manually operated controls shall comply with 309. The clear floor space adjacent to the control shall be located beyond the arc of the door swing.

**404.3.6 Break Out Opening.** Where doors and gates without standby power are a part of a means of egress, the clear break out opening at swinging or sliding doors and gates shall be 32 inches (815 mm) minimum when operated in emergency mode.

**EXCEPTION:** Where manual swinging doors and gates comply with 404.2 and serve the same means of egress compliance with 404.3.6 shall not be required.

**404.3.7 Revolving Doors, Revolving Gates, and Turnstiles.** Revolving doors, revolving gates, and turnstiles shall not be part of an *accessible* route.

## 405 Ramps

**405.1 General.** *Ramps on accessible routes shall comply with 405.*

**EXCEPTION:** In *assembly areas*, aisle ramps adjacent to seating and not serving *elements* required to be on an *accessible* route shall not be required to comply with 405.

**405.2 Slope.** *Ramp runs shall have a running slope not steeper than 1:12.*

**EXCEPTION:** In existing *sites, buildings, and facilities*, ramps shall be permitted to have *running slopes* steeper than 1:12 complying with Table 405.2 where such slopes are necessary due to *space* limitations.

**405 Ramps- As applicable. It is rare to see walks in public right of ways trigger this section but some cases where an applicant has shown a path to enter into a park over a driveway could exceed or trigger ramp slopes.**



**Table 405.2 Maximum Ramp Slope and Rise for Existing Sites, Buildings, and Facilities**

Slope <sup>1</sup>	Maximum Rise
Steeper than 1:10 but not steeper than 1:8	3 inches (75 mm)
Steeper than 1:12 but not steeper than 1:10	6 inches (150 mm)

1. A slope steeper than 1:8 is prohibited.

**Advisory 405.2 Slope.** To accommodate the widest range of users, provide ramps with the least possible running slope and, wherever possible, accompany ramps with stairs for use by those individuals for whom distance presents a greater barrier than steps, e.g., people with heart disease or limited stamina.

**405.3 Cross Slope.** *Cross slope of ramp runs shall not be steeper than 1:48.*

**Advisory 405.3 Cross Slope.** Cross slope is the slope of the surface perpendicular to the direction of travel. Cross slope is measured the same way as slope is measured (i.e., the rise over the run).

**405.4 Floor or Ground Surfaces.** Floor or ground surfaces of ramp runs shall comply with 302. Changes in level other than the *running slope* and *cross slope* are not permitted on ramp runs.

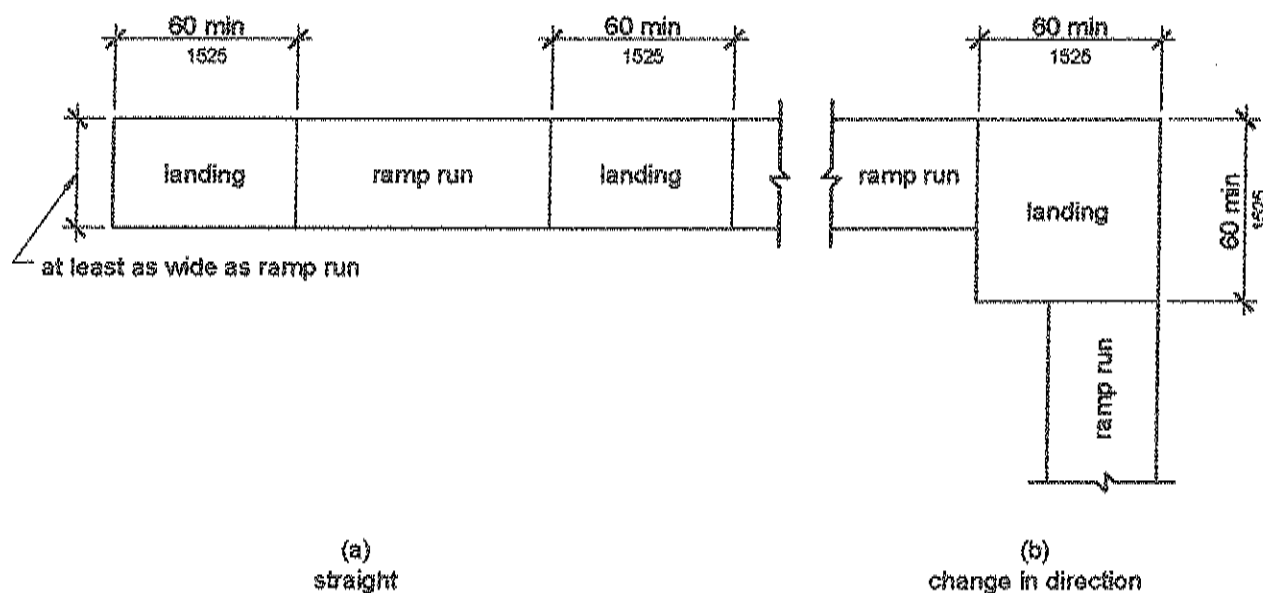
**405.5 Clear Width.** The clear width of a ramp run and, where handrails are provided, the clear width between handrails shall be 36 inches (915 mm) minimum.

**EXCEPTION:** Within *employee work areas*, the required clear width of ramps that are a part of *common use circulation paths* shall be permitted to be decreased by *work area equipment* provided that the decrease is essential to the function of the work being performed.

**405.6 Rise.** The rise for any ramp run shall be 30 inches (760 mm) maximum.

**405.7 Landings.** Ramps shall have landings at the top and the bottom of each ramp run. Landings shall comply with 405.7.

**Advisory 405.7 Landings.** Ramps that do not have level landings at changes in direction can create a compound slope that will not meet the requirements of this document. Circular or curved ramps continually change direction. Curvilinear ramps with small radii also can create compound cross slopes and cannot, by their nature, meet the requirements for accessible routes. A level landing is needed at the accessible door to permit maneuvering and simultaneously door operation.



**Figure 405.7**  
**Ramp Landings**

**405.7.1 Slope.** Landings shall comply with 302. Changes in level are not permitted.

**EXCEPTION:** Slopes not steeper than 1:48 shall be permitted.

**405.7.2 Width.** The landing clear width shall be at least as wide as the widest *ramp* run leading to the landing.

**405.7.3 Length.** The landing clear length shall be 60 inches (1525 mm) long minimum.

**405.7.4 Change in Direction.** *Ramps* that change direction between runs at landings shall have a clear landing 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum.

**405.7.5 Doorways.** Where doorways are located adjacent to a *ramp* landing, maneuvering clearances required by 404.2.4 and 404.3.2 shall be permitted to overlap the required landing area.

**405.8 Handrails.** *Ramp* runs with a rise greater than 6 inches (150 mm) shall have handrails complying with 505.

**EXCEPTION:** Within *employee work areas*, handrails shall not be required where *ramps* that are part of *common use circulation paths* are designed to permit the installation of handrails complying with 505. *Ramps* not subject to the exception to 405.5 shall be designed to maintain a 36 inch (915 mm) minimum clear width when handrails are installed.

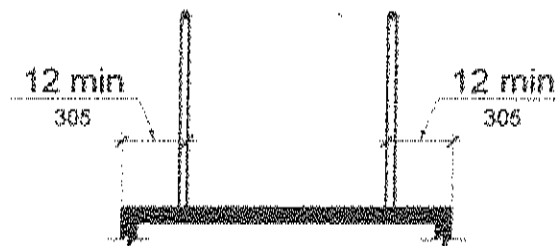
**405.9 Edge Protection.** Edge protection complying with 405.9.1 or 405.9.2 shall be provided on each side of *ramp* runs and at each side of *ramp* landings.



- EXCEPTIONS:**
1. Edge protection shall not be required on *ramps* that are not required to have handrails and have sides complying with 406.3.
  2. Edge protection shall not be required on the sides of *ramp* landings serving an adjoining *ramp* run or stairway.
  3. Edge protection shall not be required on the sides of *ramp* landings having a vertical drop-off of  $\frac{1}{2}$  inch (13 mm) maximum within 10 inches (255 mm) horizontally of the minimum landing area specified in 405.7.

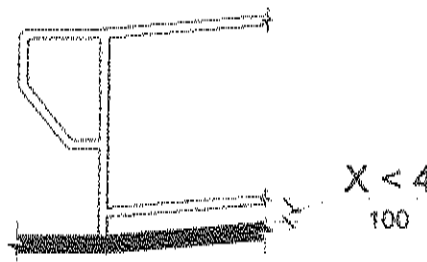
**405.9.1 Extended Floor or Ground Surface.** The floor or ground surface of the *ramp* run or landing shall extend 12 inches (305 mm) minimum beyond the inside face of a handrail complying with 505.

**Advisory 405.9.1 Extended Floor or Ground Surface.** The extended surface prevents wheelchair casters and crutch tips from slipping off the ramp surface.



**Figure 405.9.1**  
Extended Floor or Ground Surface Edge Protection

**405.9.2 Curb or Barrier.** A curb or barrier shall be provided that prevents the passage of a 4 inch (100 mm) diameter sphere, where any portion of the sphere is within 4 inches (100 mm) of the finish floor or ground surface.



**Figure 405.9.2**  
Curb or Barrier Edge Protection

**405.10 Wet Conditions.** Landings subject to wet conditions shall be designed to prevent the accumulation of water.

**406 Curb Ramps**

**406.1 General.** *Curb ramps* on *accessible routes* shall comply with 406, 405.2 through 405.5, and 405.10.

**406.2 Counter Slope.** Counter slopes of adjoining gutters and road surfaces immediately adjacent to the *curb ramp* shall not be steeper than 1:20. The adjacent surfaces at transitions at *curb ramps* to *walks*, *gutters*, and *streets* shall be at the same level.

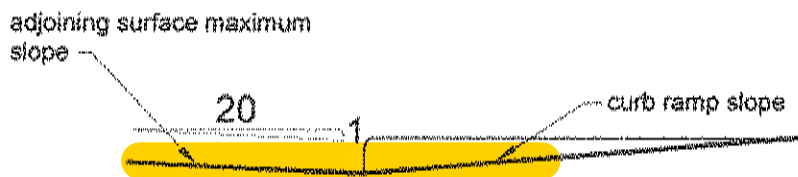


Figure 406.2  
Counter Slope of Surfaces Adjacent to Curb Ramps

**406.3 Sides of Curb Ramps.** Where provided, *curb ramp* flares shall not be steeper than 1:10.

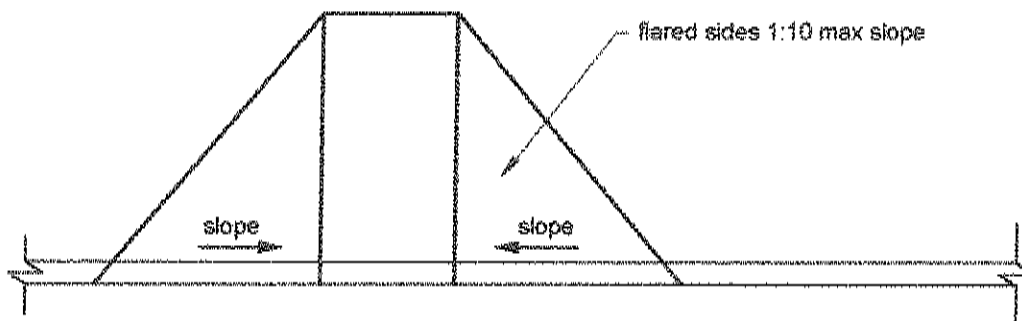
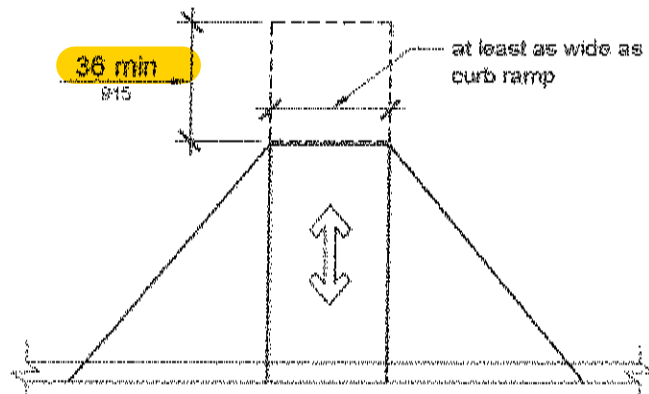


Figure 406.3  
Sides of Curb Ramps

**406.4 Landings.** Landings shall be provided at the tops of *curb ramps*. The landing clear length shall be 36 inches (915 mm) minimum. The landing clear width shall be at least as wide as the *curb ramp*, excluding flared sides, leading to the landing.

**EXCEPTION:** In *alterations*, where there is no landing at the top of *curb ramps*, *curb ramp* flares shall be provided and shall not be steeper than 1:12.

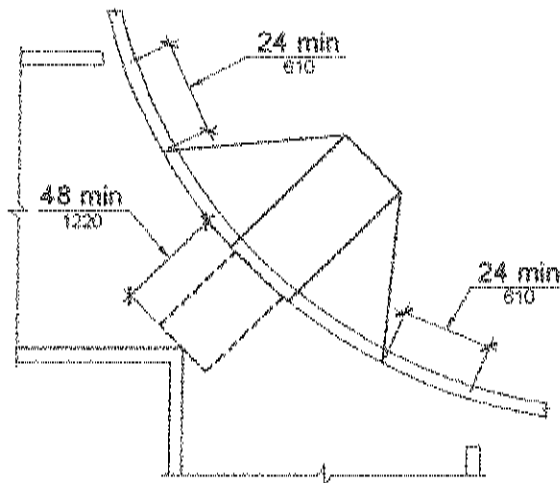




**Figure 406.4**  
Landings at the Top of Curb Ramps

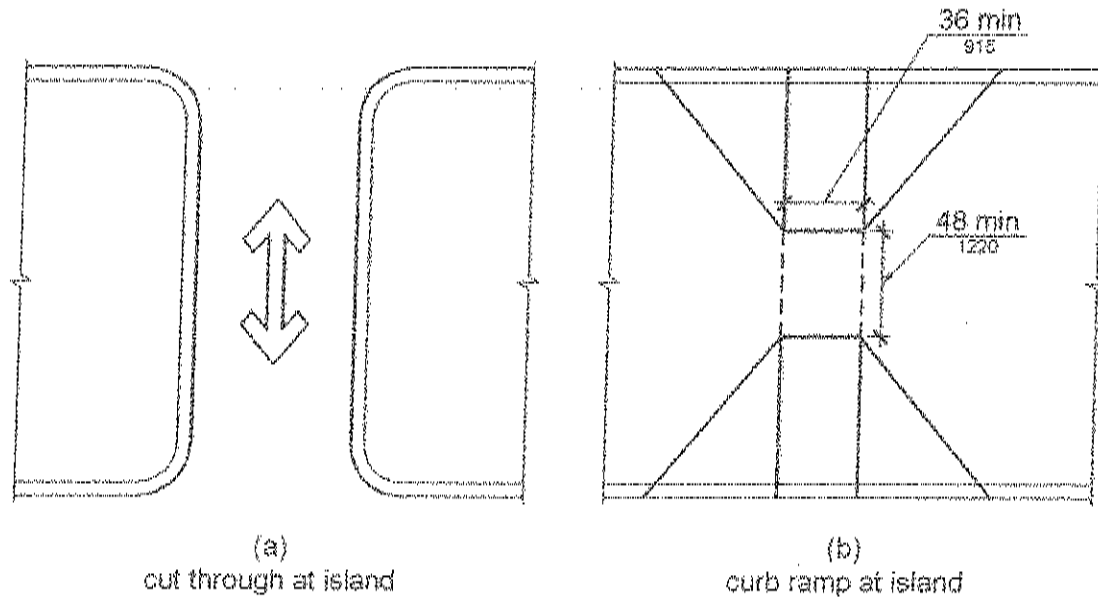
**406.5 Location.** *Curb ramps* and the flared sides of *curb ramps* shall be located so that they do not project into vehicular traffic lanes, parking spaces, or parking access aisles. *Curb ramps* at *marked crossings* shall be wholly contained within the markings, excluding any flared sides.

**406.6 Diagonal Curb Ramps.** Diagonal or corner type *curb ramps* with returned curbs or other well-defined edges shall have the edges parallel to the direction of pedestrian flow. The bottom of diagonal *curb ramps* shall have a clear space 48 inches (1220 mm) minimum outside active traffic lanes of the roadway. Diagonal *curb ramps* provided at *marked crossings* shall provide the 48 inches (1220 mm) minimum clear space within the markings. Diagonal *curb ramps* with flared sides shall have a segment of curb 24 inches (610 mm) long minimum located on each side of the *curb ramp* and within the *marked crossing*.



**Figure 406.6**  
Diagonal or Corner Type Curb Ramps

**406.7 Islands.** Raised islands in crossings shall be cut through level with the street or have *curb ramps* at both sides. Each *curb ramp* shall have a level area 48 inches (1220 mm) long minimum by 36 inches (915 mm) wide minimum at the top of the *curb ramp* in the part of the island intersected by the crossings. Each 48 inch (1220 mm) minimum by 36 inch (915 mm) minimum area shall be oriented so that the 48 inch (1220 mm) minimum length is in the direction of the *running slope* of the *curb ramp* it serves. The 48 inch (1220 mm) minimum by 36 inch (915 mm) minimum areas and the *accessible* route shall be permitted to overlap.



**Figure 406.7**  
**Islands in Crossings**

#### 407 Elevators

**407.1 General.** Elevators shall comply with 407 and with ASME A17.1 (incorporated by reference, see "Referenced Standards" in Chapter 1). They shall be passenger elevators as classified by ASME A17.1. Elevator operation shall be automatic.

**Advisory 407.1 General.** The ADA and other Federal civil rights laws require that accessible features be maintained in working order so that they are accessible to and usable by those people they are intended to benefit. Building owners should note that the ASME Safety Code for Elevators and Escalators requires routine maintenance and inspections. Isolated or temporary interruptions in service due to maintenance or repairs may be unavoidable; however, failure to take prompt action to effect repairs could constitute a violation of Federal laws and these requirements.

**407.2 Elevator Landing Requirements.** Elevator landings shall comply with 407.2.



Application #17368  
Cielo  
Third Party Request for Administrative  
Deficiency

Administrative Deficiency issued as result of  
the Request

**From:** Nicole Fisher  
**To:** [Manish Verma](#); "[Janice Degollado](#)"; "[Alyssa Carpenter](#)"  
**Cc:** [Sharon Gamble](#)  
**Subject:** 17368 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.  
**Date:** Thursday, June 08, 2017 3:46:00 PM  
**Attachments:** [17368 RFAD Cielo.pdf](#)

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17365 Cielo Apartments**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please review the attached.

1. The requestor states the site is contiguous to active railroad tracks without mitigation.
2. The requestor states that there is not accessible route to the playground. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that the route to the playground is accessible.
3. The requestor states that there is not accessible route to the public transportation. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that there is an accessible route to public transportation.

**The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.**

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at [liz.cline@tdhca.state.tx.us](mailto:liz.cline@tdhca.state.tx.us) or by phone at (512)475-



3227. You may also contact Jason Burr at [jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us) or by phone at (512)475-3986.

**All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.**

**\*\*All deficiencies must be corrected or clarified by 5 pm Austin local time on Thursday, June 15, 2017. Please respond to this email as confirmation of receipt.\*\***

**About TDHCA**

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us).

**Nicole Fisher**

Housing Specialist  
Texas Department of Housing and Community Affairs  
221 E. 11th Street | Austin, TX 78701  
Office: 512.475.2201  
Fax: 512.475.1895

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).*

Application #17368  
Cielo  
Third Party Request for Administrative  
Deficiency

Applicant Response





600 Congress, Suite 2200  
Austin, TX 78701  
Telephone: 512-305-4700  
Fax: 512-305-4800  
www.lockelord.com

Neal J. Rackleff  
Direct Telephone: 512-305-4715  
neal.rackleff@lockelord.com

June 15, 2017

Nicole Fisher  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78711-3941

Re: Cielo Apartments, TDHCA No. 17368—Response to Third Party Request for  
Administrative Deficiency

Ladies and Gentlemen:

We represent VDC Lark Kingsley, LP (the “**Applicant**”), which has applied for low-income housing tax credits for Cielo Apartments in McAllen, Texas (the “**Development**”). This letter responds to the notice of a Third Party Request for Administrative Deficiency regarding the application for the Development sent to our client by Ms. Nicole Fisher on June 8, 2017 with regard to undesirable site features and opportunity index points. Specifically, the third party requestor (the “**Requestor**”) has raised questions regarding proximity to a railroad and accessibility issues pertaining to a nearby park and bus stop. The Applicant provided appropriate evidence of mitigation pertaining to the railroad and has committed to implement an accessibility solution, fully compliant with the Multifamily Rules and applicable ADA legal standards, that will enable residents to appropriately utilize the bus stop and playground at the park.

**RAILROAD—APPROPRIATELY MITIGATED**

Section 10.101(a)(2) of the **2017 Uniform Multifamily Rules** (the “**Rules**”) states:

(2) **Undesirable Site Features.** Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A)-(K) of this paragraph **MAY be considered ineligible as determined by the Board, unless** the Applicant provides **information regarding mitigation** of the applicable undesirable site feature(s). (emphasis added)

This is a very significant and intentional departure from the language of Section 10.101(a)(3) of the **2016 Multifamily Rules** which stated:

(3) **Undesirable Site Features:** Development Sites within the applicable distance of any undesirable features identified in subparagraphs (A) – (J) of this paragraph **WILL be considered ineligible.** (emphasis added)

This major change in the language of the Rules allows applicants to demonstrate mitigation measures for the Board's consideration for each and every undesirable site feature listed.

The Applicant committed in its application (the "**Application**") to mitigate the potentially negative impacts of proximity to the railroad. As noted in the Application:

the Architect has studied the site and its proximity to the railroad, and has determined that the proposed Development site and all construction thereon will comply with all applicable state and federal requirements regarding separation for safety purposes.

The Applicant also committed to provide appropriate fencing to ensure resident's safety and provide sound attenuation benefits. A further commitment was made to design the Development in a manner that would reduce noise levels enough to comply with HUD noise standards.

These mitigation measures were all clearly articulated in the Application:

1. Designing and constructing the Development in a manner to comply with all applicable safety laws and regulations;
2. Designing and constructing the Development in a manner to reduce noise from the railroad to levels below HUD acceptable standards; and
3. Providing walls or fencing as needed to ensure safety and sound attenuation.

Additionally, the Applicant provided correspondence identifying that the railroad is used only once per day and speeds do not exceed 10 MPH, and a letter from the Architect clearly indicating that the negative impacts of the railroad can and would be remediated through appropriate design and construction methodologies. For reference, the above referenced correspondence and an updated letter from the Architect providing further amplification are attached hereto as **Exhibit "A"**.

**The Requestor appears to have followed the wrong rules. He apparently mistakenly applied the standards from the 2016 Multifamily Rules rather than properly following the current and enforceable legal standard--the 2017 Multifamily Rules.** He indicates that because the undesirable feature is within the distance referenced in the rule and is not in a "quiet zone" and is not a "commuter or light rail" that the site is therefore ineligible. That conclusion may have been correct in 2016 but it clearly ignores the revised language permitting applicants to provide mitigation measures for all the undesirable features listed in the 2017 Rules, which then are to be considered by the Board.



Additionally, because the 2017 Rules indicate that the eligibility should be “determined by the Board” in light of proffered mitigation measures, this Application should not be deemed ineligible without providing Applicant an opportunity to take the mitigation case to the Board for its determination.

**Because the Requestor incorrectly applied the wrong, outdated 2016 legal standard, which was very thoughtfully and intentionally revised for 2017 by the Board to permit mitigation measures and Board consideration of such matters, the Requestor’s first criticism of the Application utterly fails.**

### PARK IS ACCESSIBLE TO DISABLED RESIDENTS

The Requestor contends that the Applicant has not provided acceptable ADA accessibility to residents of the Development who desire to visit the nearby park and playground. As support the Requestor relied on an FAQ provided by the Department. Unfortunately, the Requestor conveniently omitted a key provision of the FAQ.

Here is a direct “screen clip” of the portion of the FAQ the Requestor provided:

*Clarified January 31:*

*Q: Can an accessible route include accessible public transportation (wheelchair capable/meets ADA standards) service that stops at the development site and has service to and from a public park that is located w/in ½ from the development site?*

*CLARIFICATION: The provision of transportation is not a substitute for having an accessible route. If transportation is one of the services you will provide at your development, then that transportation must be accessible as described above, but it may not take the place of an accessible route*

And here is a direct “screen clip” of the full FAQ from the Department’s website:

*Clarified January 31:*

*Q: Can an accessible route include accessible public transportation (wheelchair capable/meets ADA standards) service that stops at the development site and has service to and from a public park that is located w/in ½ from the development site?*

Page 12 of 15

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## 2017 Competitive Application Cycle FAQ

*A: Your description would qualify as part of the accessible route. If a resident takes accessible transportation from the development to the park, the route from the transportation stop to the actual park would also have to be accessible. Just getting them to the vicinity of the park would not be enough.*

*CLARIFICATION: The provision of transportation is not a substitute for having an accessible route. If transportation is one of the services you will provide at your development, then that transportation must be accessible as described above, but it may not take the place of an accessible route.*

Note that the sentence circled in red above is entirely omitted from the Requestor's "quotation" of the FAQ.

A Requestor should not be permitted to omit key relevant provisions of materials from the Department simply because such information is not favorable to their argument. Attorneys are subject to strict ethical standards requiring that they accurately quote provisions of law when arguing before a court. While such standards are not applicable in this context, the principle behind such ethical rules is important—a judge or jury should be able to rely on counsel to accurately and honestly set forth legal standards. Similarly, the TDHCA staff and Board should be able to rely on the accuracy of materials presented by a requestor—because without such candor and accuracy the review of administrative deficiencies and other weighty matters would be significantly impaired.

Admittedly, the FAQ is somewhat confusing. The original "answer" (omitted by Requestor) indicates that accessible public transportation to a park "would qualify as part of the accessible route" under the right conditions. But the "clarification" indicates that "the provision of transportation is not a substitute for having an accessible route." The clarification goes on to say that "If transportation is one of the services **you will provide at your development**, then that transportation must be accessible as described above, but it may not take the place of an accessible route." (emphasis added)

These provisions can be reconciled if one assumes that the clarifying language pertains to private transportation offered by an applicant--such as a van for resident transportation. And that the original answer pertains to accessible "public transportation."

In this case, Applicant provided information (see **Exhibit "B"**) regarding a wonderful service called "ADA Paratransit Services" which has been implemented by McAllen Metro. In describing its ADA Paratransit Service, McAllen Metro indicates that it "is an origin to destination public transportation service for people with disabilities who are unable to [use] the Metro McAllen fixed routes." They also note that "Paratransit is a shared-ride service operated with accessible vehicles." This service allows disabled residents to be picked up at an accessible location at Applicant's Development and then be taken to an accessible location at the nearby park to disembark.

Use of such innovative "ride sharing" public transit precisely fulfills both the spirit and letter of the applicable Rules--it doesn't just provide an accessible route to a normal fixed public transportation service—it brings the public transportation to the resident's home, permitting him or her to traverse an accessible and shorter route to an accessible vehicle which then transports the resident to the park and allows departure at an accessible route in a location presumably closer to and more easily accessible than a traditional "fixed" bus stop. This service renders the accessibility of a route to a "fixed" public transit stop irrelevant—more importantly, the resident will be better served through such a service. For all those reasons, the Applicant should be entitled to the one Opportunity Index point at issue.



**DEVELOPER WORKING WITH CITY TO RENDER BUS STOP ACCESSIBLE**

The Requestor correctly notes that the route to the nearby traditional or “fixed” public transportation route includes portions that are not currently in compliance with 2010 ADA standards. Some of such deficiencies appear to be the result of changes and shifts in portions of the route that have occurred over time, although they may have been in compliance when initially constructed.

In an effort to remediate these deficiencies, the Applicant is committed, at its expense, to working with the City of McAllen to bring each deficient area into full compliance with 2010 ADA standards before the Development is placed in service.

The areas in need of remediation are within the City’s right of way. Therefore, through working in partnership with the City, the Applicant should have access to remediate the problem areas along the route to the bus stop.

As a matter of public policy, encouraging such remediation measures will enable the TDHCA to stimulate public improvements that will redound to the benefit of not only the residents of the Development but to all the many people outside the Development whose lives will be improved by bringing this route into full compliance with 2010 ADA standards.

**CONCLUSION**

For the reasons cited above, we respectfully request that the mitigation measures submitted to ameliorate the impact of the railroad be accepted and that Applicant’s Application be permitted to move forward. We also request that the Opportunity Index points requested by Applicant be upheld.

Very truly yours,



Neal Rackleff

cc: Manish Verma  
David Krukiel  
Cynthia Bast

Exhibit A - Railroad Mitigation  
Exhibit B - ADA Paratransit Service Description

Exhibit A

Railroad Mitigation





# Gonzalez Newell Bender, Inc.

architecture ❖ urban design ❖ land planning ❖ interior design

1630 Lockhill Selma Road ❖ San Antonio, Texas 78213

☎ (210) 692-0331 ❖ e-mail: gonzalez@gnbarch.com

June 15, 2017

Mr. Manish Verma  
VDC Lark Kingsley, LP  
4733 College Park, Ste. 200  
San Antonio, Texas 78249

**RE: Cielo Apartments (TDHCA #17368) – McAllen, Texas**


Dear Mr. Verma:

The proposed Cielo Apartments (TDHCA #17368) is located along the S side of Industrial Rd, E of N 23rd St in McAllen, Texas 78504.

We have studied the Development Site and its proximity to the railroad, and it is our professional opinion that the proposed Development Site and all construction thereon will comply with all applicable state and federal requirements regarding separation for safety purposes. Further, the design of the development will be done in such regard to minimize any noise impact caused by the railroad.

We have been in contact with an acoustical engineer that agrees that all applicable state and federal requirements regarding sound mitigation can be met through the design of the buildings. The design will implement techniques where noise impact will be minimized to be at or below levels acceptable to HUD. Such techniques include but are not limited to the use of special doors and windows, air leak prevention, special caulking techniques, etc. The Owner will engage the services of an acoustical engineer for full special construction technique recommendations and for review of the design.

**IN PURSUIT OF DESIGN EXCELLENCE**  
Gonzalez Newell Bender Inc.

  
Francisco D. Gonzalez, AIA,  
Principal

## Manish Verma

---

**From:** David Krukiel  
**Sent:** Wednesday, March 1, 2017 1:14 PM  
**To:** Manish Verma  
**Subject:** FW: McAllen Rail Line  
**Attachments:** RVS Map.pdf

See below and attached. One train per day. 10 MPH.

---

**From:** Greg Garcia [mailto:customerservice@riovalleyswitching.com]  
**Sent:** Wednesday, March 01, 2017 1:01 PM  
**To:** David Krukiel <davidk@versadevco.com>  
**Subject:** RE: McAllen Rail Line

Confirmed.

Speed limit is 10 MPH on that line.

Thanks

Greg Garcia

Traffic Coordinator

Rio Valley Switching Co.

956-971-9111 ext. 119

956-971-9114 fax

[Customerservice@riovalleyswitching.com](mailto:customerservice@riovalleyswitching.com)

[WWW.riovalleyswitching.com](http://WWW.riovalleyswitching.com)

---

**From:** David Krukiel [mailto:davidk@versadevco.com]  
**To:** Greg Garcia <customerservice@riovalleyswitching.com>  
**Subject:** McAllen Rail Line

Hello,

Thank you for taking the time to talk to me earlier!

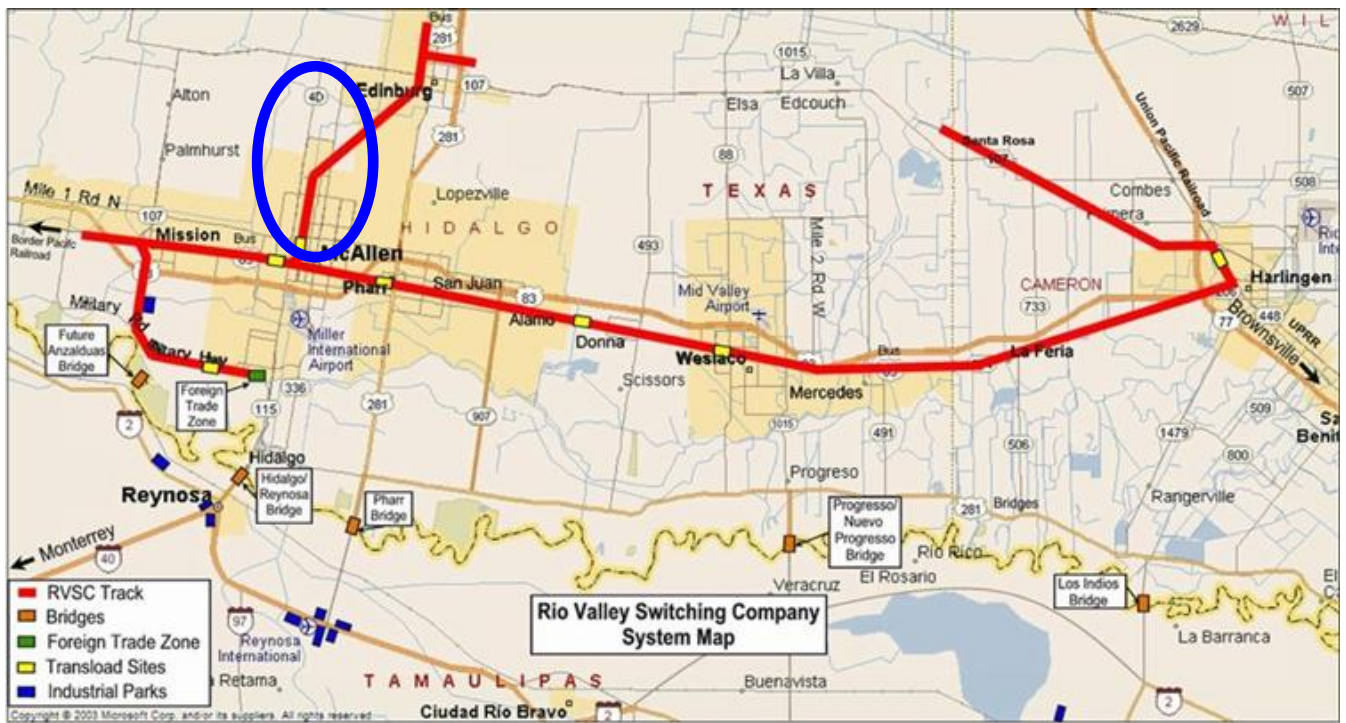
Please confirm, per our convo, that the RR line that runs through McAllen, TX along N 23<sup>rd</sup> Street only has one train per day. I have attached a map from your website confirming this track, which is the red line circles in blue.

Also, if you wouldn't mind, can you give speed details on this train?

THANK YOU!!

David







# Gonzalez Newell Bender, Inc.

architecture ♦ urban design ♦ land planning ♦ interior design

1630 Lockhill Selma Road ♦ San Antonio, Texas 78213

☎ (210) 692-0331 ♦ e-mail: gonzalez@gnbarch.com

February 28, 2017

Mr. Manish Verma  
VDC Lark Kingsley, LP  
4733 College Park, Ste. 200  
San Antonio, Texas 78249

**RE: Cielo Apartments (TDHCA #17368) – McAllen, Texas**

Dear Mr. Verma:

The proposed Cielo Apartments (TDHCA #17368) is located along S side of Industrial Rd, E of N 23rd St in McAllen, Texas 78504.

We have studied the Development Site and its proximity to the railroad, and based on the information known to date it is our opinion that the proposed Development Site and all construction thereon will comply with all applicable state and federal requirements regarding separation for safety purposes. Further, based on the information known to date, it is our opinion that the design of the development can be done in such regard to minimize any noise impact caused by the railroad.

**IN PURSUIT OF DESIGN EXCELLENCE**

Gonzalez Newell Bender Inc.

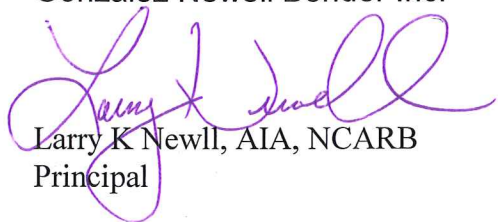
  
Larry K Newell, AIA, NCARB  
Principal



Exhibit B

ADA Paratransit Service Description



[./metro/default.aspx](/metro/default.aspx)

METRO SERVICES

RIDING METRO

NEWS & EVENTS

ABOUT METRO



[McAllen Public Bus System \(/metro/services/mpbs.aspx\)](/metro/services/mpbs.aspx)

[ADA Paratransit Services \(/metro/services/ada.aspx\)](/metro/services/ada.aspx)

[Title VI \(/metro/services/titlevi.aspx\)](/metro/services/titlevi.aspx)

## ADA Paratransit Services

### What is Metro McAllen Paratransit Service?

Metro McAllen Paratransit (MMP) Service is an origin to destination public transportation service for people with disabilities who are unable to use the Metro McAllen fixed routes. Paratransit is a shared-ride service operated with accessible vehicles.

### What is the Metro McAllen Paratransit Service Area?

We provide service within McAllen city limits to origins and destinations within corridors with a width of three-fourth of a mile radius at the end of each fixed route. Origins and destinations in small areas within the core service area that are not inside any of the corridors, but which are surrounded by corridors, shall also be serviced.

### Who qualifies for Paratransit?

Metro McAllen Paratransit (MMP) is designed to serve only those persons whose disability prevents them the use of public transportation. Under ADA provisions, disability or age does not automatically qualify a person to use paratransit services. Neither inconvenience nor reluctance to use the fixed route system is a consideration in determining paratransit eligibility. Eligibility is not based on a medical diagnosis of disability. Eligibility is based solely on the inability of the individual to use the available fixed route system. A person must be functionally unable to use the Metro McAllen fixed route transportation.

### How to apply?

Request an application from the MMP office. The applications are available in person, by mail, or by downloading application please see bottom of page. Fill out the application thoroughly. An incomplete application will delay the application processing and review.

Submit the completed application (with Professional Certification form included) by either mail or drop off at:

Metro McAllen Paratransit  
1501 West Hwy 83, Suite 110  
McAllen, TX 78501



**How do I schedule a trip?**

To request a trip, call the Metro McAllen Paratransit (MMP) office (956) 681-3535 Monday-Saturday 6:00 am - 6:00 pm, Sunday 8:00 am - 6:00 pm. (Except Holidays: Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Day)

When requesting a trip, provide the following information:

- Metro McAllen Paratransit (MMP) ID card number
- Travel date(s) and time(s)
- Complete origin and destination addresses
- Gate or security code and any other special instructions
- If you will be traveling with a mobility device
- If you will be traveling with a service animal
- If a personal care attendant (PCA) will be accompanying you
- Whether you will be traveling with a companion(s) other than a PCA (including children). Please advise Metro McAllen staff if your companion(s) will be traveling with a mobility device or service animal.
- If additional assistance will be needed between the door of the starting point or destination and the paratransit vehicle.

**Can I book a trip for the same day?**

Trips requested on the same day that transportation is needed ("same day scheduling") will be allowed provided that the addition of your trip does not interfere with or in any way hinder or cause delays for passengers already scheduled for that day.

**How do I confirm my trip?**

If possible, trips will be confirmed at the time you schedule your trip. At times, due to excessive incoming calls, immediate confirmation may not be possible. At such time office staff will take your trip request information along with your contact number and submit your request to our scheduler. It will not be a confirmation of your trip request. The scheduler will then contact you to confirm your trip reservation or to negotiate best available times.

**Where do I wait for my ride?**

Passengers should be waiting at the sidewalk, or at another safe waiting area in front of, or as close as possible to, the entrance of the pick-up location, unless additional assistance has been requested. Operators will wait for the passenger at the curb of a public street, in front of, or as close as possible to, the designated pick-up location. The operator cannot enter the passenger's residence or pick up location to assist riders. Alley pick-ups and drop-offs are not allowed.

**When do I need to be ready?**

Paratransit vehicles will usually arrive within one or two minutes of the scheduled times, sometimes the vehicle may arrive early or late due to light or heavy traffic, adverse weather or unforeseen circumstances. Please be ready to board the vehicle immediately upon arrival, or your vehicle will leave after 5 minutes. If passenger is not present or is not ready to board the vehicle after five (5) minutes, the operator will leave and the trip will be recorded as a "No-Show."

**What happened when my vehicle arrives?**

Paratransit operators will wait 5 minutes for passenger to board the vehicle. When your vehicle arrives, you are required to present your MMP ID to the driver together with the exact fare. Please note: The operator cannot take you to your requested destination without the required fare.

**What if my vehicle is late?**

If the vehicle has not arrived by the end of your 20-minute ready-time window, passengers may call the MMP office to get an estimated time of arrival. Please do not call until after the twenty minutes have passed.

**What are the procedures for using wheelchairs or other mobility devices?**

MMP services will make every attempt to wheelchairs, scooters and other mobility devices.

***Securement on Boarding***

MMP vehicles are equipped with four point tie-down restraint systems to accommodate wheelchairs. All wheelchair used are required to use available security restraints. It is required that wheelchairs be restrained and remain in the designated securement areas at all times while on the vehicle. If we cannot safely secure or restrain the mobility device to our satisfaction we will recommend that the passenger be transferred to a seat whenever possible. It is the rider's choice to transfer or remain in the mobility device.

**Who can accompany eligible passengers?*****Personal Care Attendant***

A personal care attendant can accompany a registered MMP passenger at no additional charge. MMP requires that the applicant indicates whether travel will be with a Personal Care Attendants (PCA) during the initial eligibility certification process. Each time you schedule a trip, advise MMP staff if a PCA will be accompanying you.

***Companions***

Companions wishing to accompany the paratransit passenger will be provided service, only if space is available on the paratransit vehicle. The fare will be the

same fare as the paratransit eligible individual, please advise MMP staff if you will be traveling with a Companion and if they will travel with a mobility device or service animal.

#### **Service Animals**

Guard dogs and other service animals are permitted on all MMP vehicles and are allowed to accompany you. The need for a service animal must be indicated on your eligibility application. Please inform MMP staff if a service animal will be accompanying you on the trip.

#### **How many packages can I bring on the vehicle?**

Carry-on packages are limited to the number that a passenger can carry on and off the vehicle without assistance from the driver. Packages must not interfere in the movement of fellow passengers during transport.

#### **Are visitors able to use paratransit services?**

Individuals who do not reside in McAllen but meet criteria for paratransit eligibility may use MMP as visitors for up to twenty-one (21) calendar days per year. To obtain a temporary identification number to make reservations, visitors should contact MMP at least three days in advance of the date they need to use MMP.

What is a subscription service?

Subscription services may be available for recurring trips taken at least three days a week from the same place, to the same location, at the same time, on the same day (s) of the week. Once scheduled, subscription trips are automatic; additional telephone calls are not necessary. Waiting lists or other capacity constraints, and trip purposes restrictions or priorities for participation do apply to subscription services. Subscription services will be restricted to the following trip purposes:

- Medical Treatment
- School
- Work

Subscription service is subject to availability. Most requests for subscription services cannot be accommodated immediately.

If you would like to be considered for subscription service call MMP office.

#### **How do I cancel my trips?**

If cancelling a reservation, please be considerate of others who would like to use that time and call at least the day prior to your scheduled trip. If absolutely necessary, call to cancel at least two hours before your scheduled trip. Cancellations made less than two hours in advance will be recorded as a "No-Show." Failure to cancel with enough advance notice so that rides can be reassigned impacts the system and can lead to suspension of service.

#### **What are No-Shows?**

A "No-Show" is defined as:

- A trip cancellation received within two hours of your scheduled trip.
- Failure to board the vehicle within the 5-minute wait time during the 20-minute ready time window.
- Cancelling with the driver after the vehicle has arrived.
- Calling the MMP office to cancel after the vehicle has arrived

#### **What are the penalties for No-Shows?**

Once a passenger begins to develop a pattern of recurring or frequent "No-Shows", MMP staff will discuss the situation with the passenger and ask for improvement. If the practice continues after the warning, suspension of service may result.

- Three "No-Shows" during any calendar month will result in a verbal warning and a request for improvement. The period begins on the first day of the month and ends on the last day of the month.
- If three more "No-Shows" occur during the next calendar month, a warning letter will be sent to the passenger. The period begins on the first day of the month and ends on the last day of the month.
- If three more "No-Shows" are incurred during the next calendar month, the passenger will be notified by letter that paratransit service will be suspended for a period of 7 days.

Suspension of service will begin 15 days after the date the notice of suspension was sent to the passenger. Any person who is suspended from ADA paratransit services has the right to appeal in writing within one day prior to when the suspension period is to begin.

#### **Does my certification expire?**

Eligibility for paratransit services must be renewed every 2 years. Recertification services will be required of each paratransit participant at least 21 days prior to expiration of current eligibility period. It is the participant's responsibility to reapply for service before eligibility expires. If you do not reapply before your eligibility expires, your name will be placed on our inactive list and paratransit service will cease until your renewal application is received and processed, and recertification is complete.

Recertifying paratransit participants are assessed to identify any change in limitations, or improvement in ability to use fixed route transportation.

#### **How do I get recertified?**

- Call the MMP office for a recertification application and Professional Certification form.



- Return completed paperwork to MMP office before current certification expires.
- You may be contacted for more information or to set up an interview with MMP staff.
- During the recertification process and review, MMP will assess any changes in your abilities in using the fixed route system.
- After the assessment, MMP will notify you by mail either of recertification and a conditional, unconditional or temporary eligibility status; or denial of paratransit service.

If you are denied eligibility to continue paratransit service or are dissatisfied with your eligibility status, you may appeal within 60 days of receiving written notification of the determination.

#### **What does it mean when my service is “conditional”?**

Eligibility may be approved on a “conditional” basis, which means service will be provided only for those trips in which ADA paratransit eligibility standards have been met. If you have a conditional eligibility status, you are able to use the fixed route system for some of your trips, but due to your disability, are not able to use the fixed route system for other trips.

#### **What hours are of operation?**

##### ***Paratransit Services Operation Hours***

Paratransit Services operates on a daily schedule that is comparable to out Metro McAllen bus service.

##### ***Paratransit Scheduling Hours***

Monday-Saturday 6:00 am - 6:00 pm and Sunday 8:00 am - 6:00 pm.

MMP does not provide paratransit service on the following holidays:

Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Day

#### **What are the paratransit fares?**

- Cash: \$0.50
- Companion: \$0.50
- Personal Care Attendants: No Charge

#### **Rules of conduct for passengers**

These rules of conduct are significant in nature and must be followed to provide a safe secure ride for ALL passengers. Violations of these rules are subject to penalty, and/or immediate suspension.

- Absolutely no physical abuse of another rider or the operator. Violation will result in immediate suspension of service and/or prosecution.
- Deliberate fare evasion will not be tolerated. Passenger will face immediate suspension of services and/or prosecution.
- Absolutely no riding under the influence of alcohol or illegal drugs. Violation will result in immediate refusal of service.
- No abusive or threatening language or actions.
- Profanity will not be tolerated.
- Refusing proper securement of a wheelchair is not allowed.
- Disruptive behavior, such as refusing to exit a vehicle, will not be tolerated.
- Inappropriate behavior toward or derogatory comments about other passengers or the driver are unacceptable.
- Engaging in any behavior having a racist or sexual connotation with the driver or other passengers is unacceptable.
- No smoking while on board.
- No littering in or from the paratransit vehicle.
- No discharge of bodily fluids or open wounds.
- No tampering with any vehicle equipment while on board.
- No firearms, explosive devices, knives, or other dangerous weapons will be allowed.

#### **How do I appeal a suspension?**

Any person who is suspended from ADA paratransit services will be allowed to appeal in writing within one day prior to the suspension period is to begin. A request for an appeal should be made to:

MMP Suspension Appeal  
1501 West Hwy 83, Suite 110  
McAllen, TX 78501

- The time limit for appeals will be based on the date of receipt of the letter stating the reasons for the pending suspension of services.

- The individual should request an appeal by stating that the disciplinary action was in error. Immediately upon receipt of such an appeal, MMP management will set a date for the hearing of the appeal.
- The date for the hearing of the appeal will be no later than twenty-one (21) days after the date of the letter requesting the appeal.
- MMP will offer the individual who is to be disciplined the opportunity to present his/her case and receive and enter into the record every relevant piece of evidence and/or testimony from any person who can support him/her.
- Appeals will be heard by MMP staff.
- In all cases, determinations will be made in writing and full documentation will be retained.
- MMP will make a final determination on the appeal within thirty (30) days of the appeals hearing.
- Individuals who are pending suspension of services, except for those who engaged in physical abuse or caused physical injury to another passenger or the driver, will continue to receive paratransit services until the final determination regarding the suspension is made.
- If an individual does not appeal within the allotted time, MMP may make a default finding and impose the proposed sanctions. Suspension of service will begin 15 days after the date the notice of suspension was sent to the passenger.

**How do I appeal a denial of service?**

Any person who is determined to be ineligible for ADA paratransit services will be allowed to appeal within 60 days, to:

MMP Eligibility Appeal  
 1501 West Hwy 83, Suite 110  
 McAllen, TX 78501

- The time limit for appeals will be based on the date of receipt of the letter stating the reasons for a finding of ineligibility.
- The individual should request an appeal by stating that the decision not to certify/recertify was in error. Immediately upon receipt of such an appeal, MMP management will set a date for the hearing of the appeal.
- The date for the hearing of the appeal will be no later than twenty-one (21) days after the date of the letter requesting the appeal.
- MMP will offer the individual who was denied eligibility the opportunity to present his/her case and receive and enter into the record every relevant piece of evidence and/or testimony from any person who can support him/her.
- Appeals will be heard by the Appeals Committee of MMP, composed of the Transit Director, Transit Manager, and Transit Operations Supervisor. The persons who handle the appeal will be different than the persons who made the initial determination of eligibility/ineligibility.
- In all cases, determinations will be made in writing and full documentation will be retained.
- MMP will make a final determination on the appeal within thirty (30) days of the appeals hearing.
- If after 30 days there has been no decision on the appeal, the individual shall receive eligibility and may use paratransit services until the resolution of the appeal.

**CONTACT INFORMATION**

Metro McAllen Paratransit  
 McAllen Central Station  
 1501 West Highway 83, Suite 110  
 McAllen, Texas 78501  
 (956) 681-3535

File	Type	Size	Uploaded on	Download
Paratransit Application	PDF	159.79 KB	13 Jun, 2016	 <a href="http://www.mcallen.net/docs/default-source/metro/ada/paratransit-application.pdf?sfvrsn=2">Download (http://www.mcallen.net/docs/default-source/metro/ada/paratransit-application.pdf?sfvrsn=2)</a>
Paratransit Policy	PDF	303.17 KB	13 Jun, 2016	 <a href="http://www.mcallen.net/docs/default-source/metro/ada/paratransit-policy.pdf?sfvrsn=2">Download (http://www.mcallen.net/docs/default-source/metro/ada/paratransit-policy.pdf?sfvrsn=2)</a>



Welcome to McAllen Metro. Learn more about your ever-growing public transportation service.  
[Read More \(/metro/about/facts.aspx\)](http://www.mcallen.net/metro/about/facts.aspx)





Curb-to-curb public transportation service for people with disabilities who are unable to use Metro buses. Find out how we can help.

[Read More \(#\)](#)

[Home \(/metro/default.aspx\)](#)

[Metro Services \(#\)](#)

[McAllen Public Bus System \(/metro/services/mpbs.aspx\)](#)

[ADA Paratransit Services \(/metro/services/ada.aspx\)](#)

[Riding Metro \(#\)](#)

[Trip Planner \(/metro/riding/planner.aspx\)](#)

[Schedules \(/metro/riding/schedule.aspx\)](#)

[How to Ride Guide \(/metro/riding/howto.aspx\)](#)

[City Unveils New Buses \(http://mcallen.themonitor.com/tag/metro-mcallen/\)](#)

[System Maps \(/metro/riding/maps.aspx\)](#)

[Metro McAllen Hiring New Drivers \(http://www.mcallen.net/news/default/2011-06-23/metro\\_mcallen\\_now\\_hiring\\_drivers.aspx\)](#)

[Stations \(/metro/riding/stations\)](#)

[Ribbon Cutting Ceremony for Metro McAllen Buses \(http://www.kveo.com/news/ribbon-cutting-ceremony-for-metro-mcallen-buses\)](#)

[Fares \(/metro/riding/fares.aspx\)](#)

[McAllen Metro: Is it the wave of the future? \(http://www.yourvalleyvoice.com/news/mcallen/article\\_64750344-8180-11e0-b81e-001cc4c03286.html\)](#)

[Metro Pass Online Store \(/metro/riding/estore.aspx\)](#)

[Current Metro Rider Alerts \(/metro/riding/alerts.aspx\)](#)

[Traveling to MFE \(/metro/riding/mfe.aspx\)](#)

[News & Events \(#\)](#)

[News & Events \(/metro/media/news.aspx\)](#)

[News Room \(/metro/media/nroom.aspx\)](#)

[Calendar \(/metro/media/calendar.aspx\)](#)

[Community Meeting Public](#)

[Hearing Notices \(/metro/media/hearings.aspx\)](#)

[Metro Long Range Plan \(/metro/media/plan.aspx\)](#)

[Metro Project and Expansion Plans \(/metro/media/project.aspx\)](#)

[About Metro \(#\)](#)

[Contact Metro McAllen \(/metro/about/contact.aspx\)](#)

[Metro Connections \(/metro/about/connections.aspx\)](#)

[Metro Facts \(/metro/about/facts.aspx\)](#)

McAllen Metro | 1501 W. US Highway 83, McAllen, TX 78501 | (956) 681-3510

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**Quick Check** (<https://nec24.com/quick-assessment/>)



**BestNeighborsEver.com** (<http://bestneighborsever.com/>)

@ (<https://www.instagram.com/bestneighborser/>)

**Employee Email** (<http://mail.neighborshealth.com>)

📍 (<https://www.snapchat.com/add/bestneighborser>)

**NHU** (<http://www.healthstream.com/hlc/neighborshealth>)

# MCALLEN | 956.664.1100 (TEL:+19566641100)

**CURRENT WAIT TIME:**  
LESS THAN  
**6 MIN**  
UPDATED 02/27/2017 07:40PM  
**956.664.1100**  
**(tel:956.664.1100)**  
6700 N. 10th Street Dr  
McAllen, TX 78504  
(<http://maps.google.com/?q=26.262828,-98.219468>)

**Home** (<https://nec24.com/>) » **Open** ([https://nec24.com/map\\_location\\_categories/open/](https://nec24.com/map_location_categories/open/)) » **McAllen Emergency Center**

Address  
6700 N. 10th Street  
McAllen, TX 78504

Telephone  
956.664.1100 (tel:+19566641100)

Fax



Application #17368

Cielo

Third Party Request for Administrative  
Deficiency

Department Determination

Application #17372  
Sunset Trails  
Third Party Request for Administrative  
Deficiency



# SALEM | CLARK

June 1, 2017

Marni Holloway  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

RE: Third Party Request for Administrative Deficiency  
Application **#17372 Sunset Trails**, Located in Bullard Texas

Dear Ms. Holloway:

In accordance with §11.10 of the 2017 Qualified Allocation Plan (“QAP”) concerning Third Party Request for Administrative Deficiency for Competitive Housing Tax Credit Applications, LKC Development would like to bring the following concerns to the attention of the Department.

1. The Applicant claimed points under §11.9(c)(4)(B)(ii) Opportunity Index for Rural Areas, citing that they were within the required radii of all twelve of the amenities as listed in the 2017 Qualified Allocation Plan, and should be awarded full Opportunity Index and Tie Breaker points. The Applicant’s only provided supporting documentation for eight (8) of the twelve (12) items listed in their application for this section. The amenities with supporting documentation are; Bullard Kids Park, American Freedom Museum, O.L Ferrell Park, ETMC 1<sup>st</sup> Physicians Clinic, Boys and Girls Club, Brookshire’s, Crime rate under 26 per 1,000 and Tyler Junior College. The applicant did not submit any documentation for the following; Anytime Fitness, First Baptist Church of Bullard, The Community Library, or adults with an Associate’s Degree or higher is 27%. The Applicant listed these amenities on an area map but provided no specific documentation showing services, service areas or addresses to verify the proximity to the development site, or in the case of the associates degree, census data to document the requirement. The 2017 Multifamily Application Procedures Manual states, “Include information for score **and** for tie breakers.” (Exhibit A). The applicant failed to include information about each amenity. The Applicant should not be allowed to include the remaining four (4) items pursuant to 11.9(a) *General Information* “... Applicants that elect points where supporting documentation is required but fail to provide any supporting documentation will not be allowed to cure the issue through an Administrative Deficiency...” The following applications have had points deducted due to insufficient documentation.  
#17097 lost one tie breaker point due to insufficient documentation on their library. This applicant attempted to provide documentation but staff determined it to be insufficient.  
#17275 lost two points for failure to document the accessible path between their site and the local park and public transportation  
#17317 lost three tie breakers for not providing sufficient evidence. They lost one point for not providing proof of an accessible path. They also lost two points for not showing “adequate” evidence for their library and museum.  
#17700 lost 1 point because they failed to document the accessible path between their site and public transportation.

# SALEM | CLARK

These four applications made attempts, in various ways, to submit something that could be counted as proper documentation. In fact, each supplied some sort of documentation, but ultimately it was determined that they were inadequately documented. Each applicant also included aerial maps but failed to show specific documentation of each amenity and ultimately resulted in the deduction of tie breaker points. The Applicant, that we are challenging, did not make any attempt to document several of the amenities that they are claiming. They did provide aerial maps with arbitrary arrows pointing to locations on the map, but this was deemed insufficient for the above mentioned, terminated, applications and should not be considered adequate documentation for this Applicant. Additionally, the Application Checklist under Tab 10 Supporting Documentation for the site Information Form Part II reads, *“Selections and maps for BOTH score and tie breakers are included.”* The Applicant marked this box as completed, as indicated by an “x” (Exhibit “B”). However, the Applicant did not “select” or provide any distinction between the scoring items and the opportunity index items. It is our belief that this checklist is provided to give, clear and distinct, information on what is to be included as part of the required supporting documentation. While it does not note exactly what kind of documentation is to be included in the supporting documentation it is a guide to advise what should be included. While we are not contesting that the Applicant submitted sufficient data to score the required seven (7) points on the application scoring for Opportunity Index, we do feel that any and all amenities that do not include supporting documentation should not be allowed for purposes of the tie breaker criteria 11.7(3).

2. The Applicant is using the ETMC First Physicians Clinic in Bullard to score a point under the opportunity index for §11.9(c)(4)(B)(ii)(II). This section states *“The development is located within 4 miles of a health-related facility, such a full service hospital, community health center, or minor emergency center. Physician specialty offices are not considered in this category.”* The Family Medicine Clinic falls under the Physician specialty office as these are primary care “Family Practice” physicians that treat common and minor ailments in the scope of family medicine. They do not treat urgent ailments or provide services for those that cannot afford to see a primary care physician. There is an Urgent Care Clinic immediately adjacent to the Family Medicine Clinic, however, it is a separate practice, with a separate list of provided services than the ETMC Family Medicine Clinic (Exhibit C – D). Also, this Urgent Care is not equipped to deal with major medical issues either. It is a walk in clinic for minor injuries. It is two practices in the same building (Exhibit E). Applicant used the doctors office not the Urgent Care. It is our opinion that, because the Applicant used the wrong information and facility they should not be eligible for points under this amenity.
3. The Applicant is claiming points under §11.9(c)(4)(B)(ii)(VI), a public park, and §11.9(c)(4)(B)(ii)(XI), an outdoor recreation facility. The Applicant submitted Bullard Kids’ Park, as their outdoor recreation amenity, and O.L. Ferrell park, as the City Park. After speaking with the City of Bullard’s secretary (they do not have a parks director), we were informed that these are two play grounds contained in the same park, within 450 feet of each other. The entire tract was the original City park and in 2013 the community built an additional playground on the park grounds. The additional playground, while it has a separate name to differentiate the two areas when renting park space from the City of Bullard, is part of the



# SALEM | CLARK

same park system. The two play areas share several amenities such as restrooms, water fountains and a common parking area (where the tennis courts use to be) (Exhibit F). Furthermore, the tract of land is filed on the Smith County appraisal district as “Bullard City Park” and is one, contiguous, tract of land (Exhibit G). The 2017 Frequently Asked Questions (FAQ) states the following:

*Q: If I have a park area that has a playground on one end of the “city park” and outdoor trails and soccer fields on the other side of the “city park”, can the playground be the one amenity and the walking trails, etc. be an outdoor recreation?*

*A: Possibly. As was the case with the big-box store that contained the grocery, bank and pharmacy, the applicant would have to be able to show that each amenity is indeed its own distinct amenity. For instance, it might be a separate amenity if there is a water feature with no contiguous land and no crossing between the playground and the trails/soccer fields. Staff will make these determinations on a case-by-case basis.*

It is our argument that these two play grounds are on one tract of, contiguous, land with no barriers between them and they are part of the same park system. There are no water features, streets, physical structures or other barriers between the two playgrounds. The Applicant’s included a map in their application of the park, this shows a tennis court and walking trail separating the two playgrounds. The tennis court has been removed and replaced with a common parking lot taking up much of the space between the two playgrounds. The “walking trail” is nothing more than a path that has been scrapped to the dirt that meanders around the back of the site, it is not a concrete or other hard surface material that would create a barrier between the two parks. There is a small drainage easement between the two play grounds but that is spanned by a very small wooden bridge, for crossing in the event of a large rain event, as evident in the attached photographs. We feel that based on §11.9(c)(4)(B) “Each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits:”, they should only be counted as one amenity for scoring purposes. (Please see Exhibit F for all photographs)

5. The Applicant is claiming points under §11.9(c)(4)(B)(ii)(IX), “Development site is within 4 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study exhibition, and educational interpretation of objects having scientific, historical, or artistic value.” The Applicant submitted the American Freedom Museum for consideration under this category. However, the museum does not conform to the rules set forth in the 2017 QAP. The museum is on the campus of The Brook Hill School and is an ancillary part of this school. The museum’s building is part of the main administrative building of the school and you must enter the campus gates to access the museum (Exhibit H). The school is a private day and boarding school in Bullard, Texas. The schools primary function is education and college preparation, not “...acquisition, conservation, study exhibition, and educational interpretation of objects having scientific, historical, or artistic value.” Additionally, the museum is not government sponsored or a standalone non-profit. The museum is part of the school and receives its funding through the school’s 501(c)(3) non-profit, as evident from the museum’s website, [www.americanfreedommuseum.org/membership/](http://www.americanfreedommuseum.org/membership/). The museum is not its own separate

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taxable entity. We respectfully ask that this amenity not count towards the Applicant's score or tie breakers as it does not conform to the 2017 QAP criteria.

6. This applicant failed to follow the 2017 Multifamily Applications Procedures Manual that states, "**NEW! Tie Breaker #3 Selections: Applicants must indicate those point items from §11.9(c)(4)(B) of the QAP for which application would be eligible but the Applicant was unable to claim because of the 7 point cap. These items will not be counted in the self-score. Do not select the items used for points under Opportunity Index!**" (Exhibit "I"). The Applicant only designated the "Full Service Grocery Store or Pharmacy", in their pre-application (Exhibit "J"), as a tie breaker. While this should not disqualify the Applicant's pre-application points, we do feel that of the documented amenities, the "Grocery Store" should be the only one that applies to

We would like to thank you for the opportunity to present the information above. Upon request, we will provide any additional information or documentation. We trust that the Department will find this information appropriate for review and helpful in the selection process.

Sincerely,



Kelly Garrett  
Vice President  
Salem Clark Development, LLC

Cc:

Sharon Gamble – sharon.gamble@tdhca.state.tx.us  
Michael Fogel – fogel@texco.land  
Alyssa Carpenter – ajcarpen@gmail.com



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EXHIBIT "A"

# 2017 Multifamily Application Procedures Manual

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- **Part 3 – Proximity to the Urban Core:** Complete the applicable box if the Development Site is located within the required distance the urban core. Select the Total Points Claimed from the drop-down box.
- **Part 4 – Underserved Area:** Select from the five options available if requesting points for this item, and select the Total Points Claimed from the drop-down box. *If an application qualifies for points under Opportunity Index (§11.9(c)(4)) then the application is not eligible for points under a colonia or an Economically Distressed Area (§11.9(c)(6)).*
- **Part 5 – Concerted Revitalization:** If claiming points, be sure that no points are being claimed under the Opportunity Index. Complete the appropriate boxes and make sure supporting documentation is included behind the following tab. Select the Total Points Claimed from the drop-down box.
- **Part 6 – Declared Disaster Area:** If claiming points, simply mark the yellow box and select the Total Points Claimed from the drop-down box. The 2017 list of eligible counties are posted on the TDHCA website:  
<http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm>.

## ❖ **Tab 10 – Supporting Documentation for the Site Information Form Part II**

- **School Attendance Zone Map and/school rating:**
  - Map should come from the school district and clearly show the attendance zone boundaries of the applicable public school(s) for determining the school rating. The location of the subject Property should be clearly marked as present within the applicable public school’s boundaries. If no map is available, other forms of evidence may be acceptable, including but not limited to a letter from the school district stating the school’s attendance zone in which the site is located.
  - The map (or other evidence) should indicate the ***most current*** school attendance zones, not necessarily the attendance zones at the time the schools were rated. This map should indicate where the children that would live in the proposed Development would attend school as of March 1, 2017 or later.
  - The rating of the school, ESC region, or state should be documented by a copy of the documentation available on the Texas Education Agency (TEA) website (<http://tea.texas.gov/2016accountability.aspx>).

Note that there are prescribed methods for dealing with a number of commonly occurring special circumstances. These rules are described in the discussion of scoring the Opportunity Index and Educational Quality in the 2017 QAP.








- **Opportunity Index information:** The map(s) should indicate the location of the Development Site and include an accurate radius appropriate for the asset. Refer to §11.9(c)(4)(B) for details regarding the radius. If applicable, information about the schools (see above) and/or child care center(s) should be included behind this tab. Evidence of the licenses held by the child care centers can be found by searching for the child care center on the Department of Family and Protective Services (DFPS) website at [http://www.dfps.state.tx.us/Child\\_Care/Search\\_Texas\\_Child\\_Care/ppFacilitySearchDay\\_Care.asp](http://www.dfps.state.tx.us/Child_Care/Search_Texas_Child_Care/ppFacilitySearchDay_Care.asp). Applicants should also be prepared to submit evidence surrounding the detailed operations of any full service grocery stores, senior centers, and health related facilities. **Include information for score and for tie breakers.**
- **NEW! Proximity to the Urban Core:** The map should indicate the location of the Development Site and include an accurate straight-line distance to the city hall facility.
- **Evidence of Underserved area:**



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EXHIBIT "B"

## Supporting Documentation for the Site Information Form Part II

- Educational Quality (Competitive HTC Only)**
- School Attendance Zone Map with Development labeled and TEA information 
  - TEA information
- Opportunity Index (Competitive HTC and Direct Loan Only)**
- Map of Community Assets with Development, radius, and each asset labeled. 
  - Map with Development, census tract boundaries, and distance labeled. 
  - Print-out from DFPS website confirming daycare licensed to serve relevant age groups.
  - Miscellaneous information regarding health-related facility, museum, and/or full service grocery.
  - Crime rate information for census tract from Neighborhood Scout or local data source (<https://www.neighborhoodscout.com>)
  - NA Tabulation from 2010-2014 American Community Survey
  - Selections and maps for BOTH score and tie breakers are included
- Proximity to Urban Core (Competitive HTC Only)**
- n/a Map with the appropriate radius, City Hall location, and evidence of meetings regularly scheduled for City Council, City Commission, or similar. 
- Evidence of Underserved Area (Competitive HTC and Direct Loan Only)**
- n/a For Colonia:  Evidence from Attorney General of boundaries and map showing distance from Rio Grande river border; *and* letter from the appropriate local government official or other evidence that the colonia lacks infrastructure and the Development will enable the current dwellings to connect to such infrastructure.
  - n/a For Economically Distressed Areas: A letter or correspondence from Texas Water Development Board.
- Concerted Revitalization Plan (Competitive HTC Only)**
- Urban:
- n/a Map of target area(s) with location of Development Site clearly identified. 
  - n/a Resolution adopting the Concerted Revitalization Plan or certification
  - n/a Letter from appropriate local official providing documentation of measurable improvements.
- Rural:
- n/a Current rent roll
  - n/a Evidence Development constructed prior to 1985 
  - n/a Evidence Development is public housing or affordable housing supported by USDA, HUD, HOME or CDBG
  - n/a Evidence demolition and relocation of units has been determined locally to be necessary to comply with Affirmatively Furthering Fair Housing Rule or to create acceptable distance from Undesirable Neighborhood Characteristics.
  - n/a Letter from appropriate Governing Body describing concerted revitalization effort and identifying Development as contruting more than any other to such effort.



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EXHIBIT "C"

## Family medicine clinic in Bullard



The ETMC First Physicians clinic in Bullard is designed to meet your entire family's primary care needs, with or without an appointment.

We also offer **Saturday hours** at our South Broadway clinic from 9 a.m. to 3 p.m. A primary care physician will be available to treat patients who have an established relationship with any of our ETMC First Physicians. The address is 6210 South Broadway, right next to our 24-hour emergency center. Walk-ins are welcome.

The clinic is an in-network provider for Medicaid, Medicare and most private insurance plans.

### Services

#### Preventive care

- Physicals
- Immunizations

#### Non-emergency medical care

- Fever
- Sore throats
- Burns
- Sprains

#### Chronic disease management

- Diabetes
- High blood pressure
- High cholesterol

### Our providers

#### ETMC First Physicians



**Gary Babbitt, MD**  
*Family medicine*



**Micah R. Jackson, MPAS, PA-C**  
*Physician assistant*



**Brandi Love, FNP-C**  
*Family nurse practitioner*

### Hours

Monday - Thursday  
8 a.m. - 5 p.m.  
Friday  
8 a.m. - noon

### Contact information

435 N. Doctor M. Roper Parkway  
Bullard, TX 75757  
(maps & directions)

903-894-3991



ETMC is building urgent care around you. No appointment necessary!

ETMC URGENT CARE

Locations: Tyler, Mineola, Lindale, Lake Palestine, Bullard

[LEARN MORE](#)

**Your  
online portal**



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EXHIBIT "D"

## ETMC Urgent Care in Bullard



### Know where to go for urgent medical care in the Bullard area

Going to the doctor for a minor illness or injury should be quick, affordable and easy. You shouldn't have to wait until your doctor is available next week or month to see you or pay an unreasonable amount for emergency care if it's not an emergency. At ETMC Urgent Care in Bullard, you can receive immediate care without an appointment. The urgent care clinic can treat minor, non-emergency illnesses and injuries, including

- broken bones
- colds
- coughs
- earaches
- fevers
- flu-like symptoms
- foreign bodies in the eye
- headaches
- lacerations
- rashes
- sore throats
- sprains
- stomach viruses
- urinary tract infections

*Please keep in mind that urgent care should complement the care offered by your family physician and should not be used for chronic, pre-existing, serious or life-threatening emergencies – if you are experiencing a medical emergency, please call 911 or go to the emergency center immediately.*

### Our providers

#### ETMC First Physicians



**Lori Elizondo, PA-C**  
*Physician assistant*



**Abby Lovell, FNP-C**  
*Family nurse practitioner*



**Roneisa Matero, RN, MSN, FNP-C**  
*Family nurse practitioner*



**Carol G. Price, MN, FNP-BC**  
*Family nurse practitioner*



**Kevin P. Scully, PA-C, MPAS**  
*Physician assistant*



**Jill Wortham, PA-C, MPAS**  
*Physician assistant*

### Hours

Monday - Friday / 8 a.m. - 7 p.m.  
Saturday / 9 a.m. - 4 p.m.

### Contact information

435 N. Doctor M. Roper Parkway  
Bullard, TX 75757  
(maps & directions)

903-590-5478



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EXHIBIT "E"





This storefront shows that these are two practices in the same building.

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EXHIBIT "F"



Bullard Kids' playground looking across the 'common' parking lot to O.L. Ferrell playground





O.L. Ferrell playground looking across the 'common' parking lot to Bullard Kids' playground



'Bridge' crossing over drainage ditch



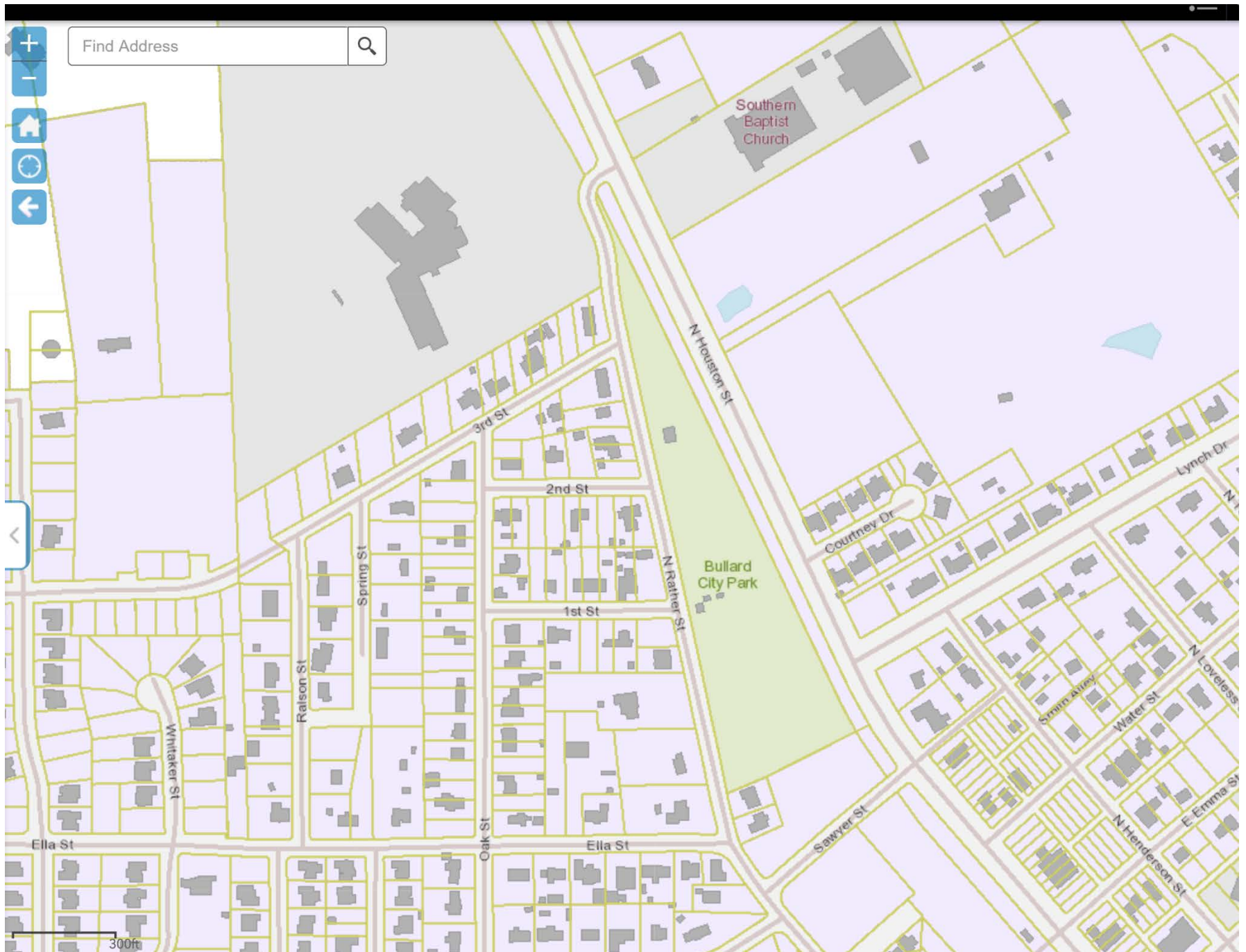


Common facilities : bathrooms and water fountains



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EXHIBIT "G"



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EXHIBIT "H"





Entrance to Brook Hill School campus and the American Freedom Museum



All signage on the campus and in the museum has the School's logo on them



Entrance to the main campus building





- A - American Freedom Museum and Founders Hall
- B - Covered breezeway connecting the museum and school
- C - School's main building



**AMERICAN  
FREEDOM MUSEUM**  
*America's Story. Your Story.*

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HOME ABOUT US PLAN YOUR VISIT FOR EDUCATORS EXHIBITS MEMBERSHIP & GIVING CONTACT US

### Membership & Giving

Membership & Giving

Veteran's Wall

### MEMBERSHIP & GIVING



#### Membership and Donations

The American Freedom Museum is able to operate in part due to generous gifts from people like you. The Museum is owned and operated by The Brook Hill School, a registered 501(c)(3) organization. All financial contributions made to the Museum are tax-deductible. The following levels of membership are available.

#### Membership (for one calendar year) entitles you to:

- Free admission to the Museum for an entire year
- 10% discount in the Museum Shop
- Invitations to "members only" events

#### Donation/Membership categories:

★ **1 STAR MEMBER \$30 (\$20 WITH STUDENT ID)**

- Annual pass for one individual

### Support the AFM

*There are many ways to support the American Freedom Museum!*

*Mail your gift to:  
American Freedom Museum  
Attn: Jan Hommel  
1051 N Houston St.  
Bullard, TX 75757*

*Call our Museum office to donate over the phone (903) 894-5252*

[Download our Donor Brochure](#)

Website page, under 'Members & Giving' states that the museum functions under the School's 501(c)(3)





# AMERICAN FREEDOM MUSEUM

*America's Story. Your Story.*



Facebook icon | WordPress icon | Email icon | BE IN THE KNOW | Search... [input field]

- HOME
- ABOUT US
- PLAN YOUR VISIT
- FOR EDUCATORS
- EXHIBITS
- MEMBERSHIP & GIVING
- CONTACT US

## Welcome to the American Freedom Museum



The American Freedom Museum illuminates the American experience during crucial moments in our nation's history. From the hills and valleys of the American Revolution to the sands of Iraq and Afghanistan, you will step into history and discover the journey of those in our nation's military who have courageously and heroically sacrificed to ensure the many freedoms that we enjoy today. Our mission is to Honor American

veteran's and military personnel for the sacrifices they have made for our freedoms; Educate this and future generations about our rich heritage; and Inspire others to achieve greatness. ***This is America's story. This is your story.***

### Museum Highlight



Saturday, May 13th  
[VIEW ALL HIGHLIGHTS](#)

### News / Events

**MAY MUSEUM HOURS:**  
**Wednesdays: Open to Public**  
3rd, 10th, 17th, 24th & 31st  
10:00 a.m. - 3:00 p.m.  
**Saturdays: Open to Public**  
6th, 13th, 20th, & 27th  
10:00 a.m. - 3:00 p.m.

**MEMORIAL DAY:**  
**10 A.M. - 3:00 P.M.**  
[VIEW ALL NEWS & EVENTS](#)

- » PLAN YOUR VISIT
- » HOURS
- » THIS MONTH IN HISTORY
- » TESTIMONIALS



Whether you are a local resident, an educator wanting to challenge and inspire your students, traveling through on business or visiting family and friends, the American Freedom Museum is a "must see" in the Tyler/East Texas area.

[MORE INFO](#)



The Museum is open to the public on Wednesdays and Saturdays from 10:00 a.m. until 3:00 p.m. Visits on Mondays, Tuesdays, Thursdays and Fridays are by appointment only for groups of 15 or more.

[MORE INFO](#)



### May

**May 1, 1960** - An American U-2 spy plane flying at 60,000 feet was shot down over Sverdlovsk in central Russia the evening before a summit

[LEARN MORE](#)

*"Today I took one of my daughters and her three sons to the Museum. Thank you for the gift of such a meaningful experience. My grandsons are 9, 11, and 13. We stayed nearly two hours and they were completely attentive. They all asked to return for a longer visit. The depth of the message and the consistent Christian thread reminded us of God's hand in our country's story. I love history and have visited many American museums. This is Smithsonian quality with a sense of respect*

[VIEW MORE](#)

The Museum is located on the campus of The Brook Hill School • 1051 N. Houston St. • Bullard, Texas 75757 • 903.894.5252

Shows that the museum is on the campus of the School







The Brook Hill School's website also includes a page about the museum

EXHIBIT "I"

# 2017 Multifamily Application Procedures Manual

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- Answer the question, “Are there Neighborhood Organizations whose boundaries contain the Development Site?” If the answer is no, read the certification. When you submit the Pre-application you are certifying to an understanding of the program requirements and the accuracy of the submission. Continue to the next page by clicking the **Next** button. If yes, then a box will appear in order to list the name of the organization and its address. There are twelve spaces to enter Neighborhood Organizations, after which, a box will appear asking “**More than 12 Neighborhood Organizations?**” If yes, attach additional list in the “Other Pertinent Information” section on the last page of the Pre-application.
- Use the **Next** button to advance to Page 4.

## ❖ **Page 4: Self Score**

- Select points for each scoring item from the yellow drop-down boxes. Subtotals and the total self-score will auto-populate. *Note that the score cannot change by more than 6 points between Pre-application and full application in order to qualify for Pre-application participation points.*
- The Local Government Support, Quantifiable Community Participation, Support from State Representative, Input from Community Organizations, and Concerted Revitalization Plan sections are not available for applicants to Self Score. These scoring items will also not be included in the calculation to determine eligibility for Pre-application participation points in the full Application. **NEW! Indicate points you intend to claim for these items.**
- **NEW! Tie Breaker #3 Selections:** Applicants must indicate those point items from §11.9(c)(4)(B) of the QAP for the which application would be eligible but the Applicant was unable to claim because of the 7 point cap. **These items will not be counted in the self-score. Do not select the items used for points under Opportunity Index!**

Note that tie breaker #3 **will not apply** to CRP applications.

**Note:** There is a point adjustment field prior to the Final Self Score. This can be used to adjust a self score based on a Staff Determination. For example, a scattered site development may have an Opportunity Index score calculated to be six points, which is not an option on the drop-down menu for that scoring item. In this case, an Applicant may need to adjust the final self score. Enter negative numbers to reduce the score. *This field is not intended for manipulation of the self score in order to increase chances of being eligible for Pre-application Participation points*, and Applicants entering information in this field should also upload their Staff Determination or request for such determination under the “Other Pertinent Information” section on the last page of the Pre-application.

- Use the **Next** button to advance to Page 5.

## ❖ **Page 5: Attachments and Certifications:**

- **NEW! For Site Control, Census Tract, and Other Pertinent Information, multiple documents may be attached under each section as needed.**
  - Attach **Site Control Documentation**. By attaching the document(s), the Applicant is certifying that the site control conforms to all applicable rules. Files cannot be larger than 7 MB total.
  - Attach a **Census Tract Map**. The census tract Map(s) will be verified against the census tract(s) entered on the Development Information Page. **Again – be sure to double check your census tract number(s)!** Files cannot be larger than 5 MB total.



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EXHIBIT "J"


## 2017 Competitive HTC Pre-Application

<b>Submission Date</b>	2017-01-08 16:07:22
<b>Application Number</b>	17372
<b>Full Name</b>	Michael Fogel
<b>Address</b>	PO Box 41326 Austin TX 78704
<b>Phone Number</b>	(713) 409-0211
<b>Email</b>	Michael@aqualanddevelopment.com
<b>Full Name</b>	Alyssa Carpenter
<b>Email</b>	ajcarpen@gmail.com
<b>Phone Number</b>	(512) 789-1295
<b>Full Name</b>	Alyssa Carpenter
<b>Email</b>	ajcarpen@gmail.com
<b>Phone Number</b>	(512) 789-1295
<b>Name of Proposed Entity</b>	Bullard Sunset Trails, LP
<b>Development Name</b>	Sunset Trails
<b>Development Type</b>	New Construction
<b>Secondary Type</b>	None
<b>Target Population</b>	Elderly Limitation
<b>Address</b>	E side of US Hwy 69 approx 0.4 miles south of FM 344
<b>City</b>	Bullard
<b>Zip Code</b>	75757
<b>ETJ?</b>	No
<b>County</b>	Cherokee
<b>Region</b>	4
<b>Rural/Urban</b>	Rural
<b>Census Tract</b>	48073950200
<b>Total LI Units</b>	60
<b>Total MR Units</b>	0

<b>Total Units</b>	60
<b>HTC Request</b>	800000
<b>Pre-App Fee Due</b>	600
<b>Has Fee already been submitted?</b>	No
<b>Set-Asides</b>	None
<b>U.S. Representative</b>	Jeb Hensarling
<b>District</b>	5
<b>State Senator</b>	Robert Nichols
<b>District</b>	3
<b>State Representative</b>	Travis Clardy
<b>District</b>	11
<b>School Superintendent</b>	Todd Schneider
<b>District Name</b>	Bullard ISD
<b>Address</b>	PO Box 250 Bullard 75757
<b>Presiding Officer of Board of Trustees</b>	John Alexander
<b>Address</b>	PO Box 250 Bullard 75757
<b>Name</b>	Chris Davis
<b>Office</b>	County Judge
<b>Name 2</b>	Kelly Traylor
<b>Office 2</b>	County Commissioner
<b>Name 3</b>	Steven Norton
<b>Office 3</b>	County Commissioner
<b>Name 4</b>	Patrick Reagan
<b>Office 4</b>	County Commissioner
<b>Name 5</b>	Byron Underwood
<b>Office 5</b>	County Commissioner
<b>Name 6</b>	Pam Frederick



<b>Office 6</b>	Mayor
<b>Name 7</b>	Brent Ratekin
<b>Office 7</b>	City Council Member
<b>Name 8</b>	Shirley Coe
<b>Office 8</b>	City Council Member
<b>Name 9</b>	Dennis Camp
<b>Office 9</b>	City Council Member
<b>Name 10</b>	Shane Neally
<b>Office 10</b>	City Council Member
<b>Name 11</b>	David Rhodes
<b>Office 11</b>	City Council Member
<b>Are there Neighborhood Organizations whose boundaries contain the Development Site?</b>	No
<b>Unit Sizes</b>	8
<b>Unit Features</b>	7
<b>Sponsor Characteristics</b>	1
<b>High Quality Housing Total</b>	16
<b>Income Levels of Tenants</b>	16
<b>Rent Levels of Tenants</b>	11
<b>Tenant Services</b>	10
<b>Opportunity Index</b>	7
<b>Educational Quality</b>	3
<b>Underserved Area</b>	2
<b>Tenant Populations with Special Housing Needs</b>	2
<b>Proximity to the Urban Core</b>	0
<b>Serve and Support Texans Most in Need Total</b>	51
<b>Commitment of Development Funding by Local Political Subdivision</b>	1

<b>Declared Disaster Area</b>	10	
<b>Local Government Support §11.9(d)(1)</b>	17 points	
<b>Quantifiable Community Participation §11.9(d)(4)</b>	4 points	
<b>Support from State Representative §11.9(d)(5)</b>	Yes	
<b>Input from Community Organizations §11.9(d)(6)</b>	4 points	
<b>Concerted Revitalization Plan §11.9(d)(7)</b>	0 points	
<b>Is application eligible to score at least 4 points under Opportunity Index, §11.9(c)(4) (B) (whether points are elected or not)?</b>	Yes	
<b>Community Support and Engagement Total</b>	11	
<b>Financial Feasibility</b>	18	
<b>Cost of Development per Square Foot</b>	12	
<b>Pre-Application Participation</b>	6	
<b>Leveraging Private, State and Federal Resources</b>	3	
<b>Extended Affordability</b>	2	
<b>Historic Preservation</b>	0	
<b>Right of First Refusal</b>	1	
<b>Funding Request Amount</b>	1	
<b>Efficient Use of Limited Resources and Applicant Accountability Total</b>	43	
<b>Total Applicant Self-Score</b>	121	
<b>Do not select items used to score points under Opportunity Index</b>	full-service grocery store or pharmacy	
<b>Site Control Documentation</b>	<a href="#">site_control_Sunset_Trails.pdf</a>	
<b>Census Tract Map</b>	<a href="#">census_bullard.pdf</a>	

Application #17372  
Sunset Trails  
Third Party Request for Administrative  
Deficiency

Administrative Deficiency issued as result of  
the Request



**From:** Sharon Gamble  
**To:** [fogel@texco.land](mailto:fogel@texco.land)  
**Cc:** [Alyssa Carpenter](mailto:Alyssa.Carpenter)  
**Subject:** 17372 - 9% HTC Application Deficiency Notice - TIME SENSITIVE  
**Date:** Tuesday, June 13, 2017 12:48:00 PM

**\*\*All deficiencies must be corrected or clarified by 5 pm Austin local time on JUNE 20, 2017. Please respond to this email as confirmation of receipt.\*\***

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17372 Sunset Trails**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please review the attached.

1. The request asserts that the ETMC Bullard First Physicians Clinic is a physician specialty office and does not count for points under this scoring item. Submit evidence that the clinic is not a physician specialty office.
2. The request asserts that O.L. Ferrell Park and Bullard Kids' Park are the same park. Explain why the park should be considered both a public park and outdoor recreation.
3. The request asserts that the American Freedom Museum is an ancillary part of the Brook Hill School, receiving its funding through the school's status as 501(c)(3) status. Submit evidence that the museum meets all of the requirements of §11.9(c)(4)(B)(ii)(X).

**The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.**

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at [liz.cline@tdhca.state.tx.us](mailto:liz.cline@tdhca.state.tx.us) or by phone at (512)475-3227. You may also contact Jason Burr at [jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us) or by phone at (512)475-3986.

**All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and**

**Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.**

Thanks,

Ben Sheppard  
Specialist, Multifamily Finance  
Texas Department of Housing and Community Affairs  
Ph. 512.475.2122

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in [10 TAC Section 11.1\(b\)](#) there are important limitations and caveats (Also see [10 TAC §10.2\(b\)](#)).*

Application #17372  
Sunset Trails  
Third Party Request for Administrative  
Deficiency

Applicant Response



1. The Application lists EMTC Bullard First Physicians Clinic, which is a Family Medicine Clinic located in Bullard. The Application includes documentation that states that the clinic “is designed to meet your entire family’s primary care needs, with or without an appointment.” The documentation also lists the services offered at the clinic including preventative care and non-emergency medical care. Please also see the attached additional documentation of the medical providers who work at the clinic, which include family medicine doctors and family nurse practitioners. This location meets the QAP requirement which states “The Development is located within 3 miles of a health-related facility, such a full service hospital, community health center, minor emergency center, emergency room or urgent care facility. Physician specialty offices are not considered in this category.” This facility is a “health-related facility” and as a family practice primary care clinic, it is not a “physician specialty office.” While the Third Party confirms that ETMC did open an Urgent Care clinic in the same building at the same address, the ETMC First Physicians Clinic qualifies under the scoring item as a health-related facility that is not a specialty office.

2. The Application lists the O.L. Ferrell Park to qualify as a public park and the Bullard Kids’ Park to qualify as an outdoor recreation facility. The documentation in the Application shows that they are two separate parks: the Reservation Application has a checkbox to specify the park preference and the map is labeled “Bullard Parks Layout” (plural). The map clearly shows that there are different amenities for each park. For example, both parks have their own playground, picnic pavilions, and parking areas. Please see the attached letter from the City of Bullard that confirms that, while located next to each other, they are in fact two separate parks.

3. The Application lists the American Freedom Museum as a museum. The documentation in the Application clearly shows that it is a bona fide museum. While the Third Party questions the museum being “*an ancillary part of an organization,*” the FAQ answer on this topic states that “The carve-out is simply ‘it has to be a museum.’” While the American Freedom Museum is on the campus of The Brook Hill School and might receive funding through the School, it is a stand-alone facility on campus and is a nonprofit permanent institution open to the public. Please see the attached letter from the Museum. Please also see the attached “reviews” of the Museum, which confirm again that this is a legitimate museum and it is also the #1 attraction in Bullard.

9 providers found.

### ETMC First Physicians



**Gary Babbitt, MD**  
City: Bullard, Flint  
Specialties: Family medicine



**Lori Elizondo, PA-C**  
City: Bullard, Lindale, Tyler  
Specialties: Physician assistant



**Micah R. Jackson, MPAS, PA-C**  
City: Bullard  
Specialties: Physician assistant



**Brandi Love, FNP-C**  
City: Bullard  
Specialties: Family nurse practitioner



**Abby Lovell, FNP-C**  
City: Bullard, Lindale, Tyler  
Specialties: Family nurse practitioner



**Roneisa Matero, RN, MSN, FNP-C**  
City: Bullard, Lindale, Tyler  
Specialties: Family nurse practitioner



**Carol G. Price, MN, FNP-BC**  
City: Bullard, Lindale, Tyler  
Specialties: Family nurse practitioner



**Kevin P. Scully, PA-C, MPAS**  
City: Bullard, Lindale, Tyler  
Specialties: Physician assistant



**Jill Wortham, PA-C, MPAS**  
City: Bullard, Lindale, Tyler  
Specialties: Physician assistant



## City of Bullard

P.O. Box 107  
Bullard, TX 75757

903-894-7223 • [www.bullardtexas.net](http://www.bullardtexas.net)

June 19, 2017

Sharon Gamble  
TDHCA  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: Parks in Bullard

Dear Ms. Gamble:

This letter confirms that there are two separate parks in the City of Bullard. The most recent is called Bullard Kids' Park, which was completed in 2013. The Bullard Kid's Park has several playground areas, two small picnic pavilions, restrooms, and a dedicated parking lot. Also regarding our parks there is a current funding campaign headed by our Rotary Club for current walking trail improvements including exercise stations, two additional pavilions and hardtop surface for the parking lot. The second park is called O.L. Ferrell Park, which has its own playground area, large picnic pavilion, and parking area. While the parks are located next to each other, they are separate parks with separate amenities. Residents may reserve either park for events. In addition with the project for widening of FM 2493 (Houston Street) by the State there will be construction of "expanded width" sidewalks along that street for additional walking opportunities within the City.

Please contact me with any questions.

Yours truly,

Doris Crockett  
City Secretary  
903-894-7223 ext. 109





# American Freedom Museum

1051 N Houston St • Bullard, TX 75757-8642  
903-894-5252 • FAX 903-894-6332  
[www.americanfreedommuseum.org](http://www.americanfreedommuseum.org)

June 20, 2017

Sharon Gamble  
TDHCA  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

Dear Ms. Gamble:

This letter is to confirm that the American Freedom Museum is a nonprofit permanent teaching Museum with the primary purpose of the acquisition, conservation, study, and the presentation of historical artifacts along with educating this and future generations about our rich American heritage. The American Freedom Museum is an independent facility with over 15,000 square feet documenting America's story and illuminating the American experience during crucial moments in our nation's history. From the hills and valleys of the American Revolution to the sands of Iraq and Afghanistan, you will discover the journey of those in our nation's military as they have heroically sacrificed to ensure today's freedoms.

The **Hall of Presidents** gallery features an original signed document or artifact by every U.S. President from George Washington to President Donald Trump. Included are biographical summaries and quotations from each. The heart of the museum, the **Hall of American Freedom**, includes fifteen separate galleries tracking the actions of our military in the quest for liberty from the American Revolution through the War on Terror. You will learn the causes of each conflict, experience major events, and understand the results. Over 675 artifacts bring history to life as the story of each era is told.

The American Freedom Museum is located on the campus of The Brook Hill School and is open to the public throughout the year every Wednesday and Saturday from 10:00 a.m. – 3:00 p.m. We are open for scheduled group tours of 15+ each week on Monday, Tuesday, Thursday and Friday. Veterans are admitted free of charge.

Please feel free to contact me with any questions.

Blessings,

*Jan Hammel*  
Museum Director  
1051 North Houston  
Bullard, Texas 75757  
903-894-5252

**AMERICAN FREEDOM MUSEUM**  
America's Story. Your Story.

---

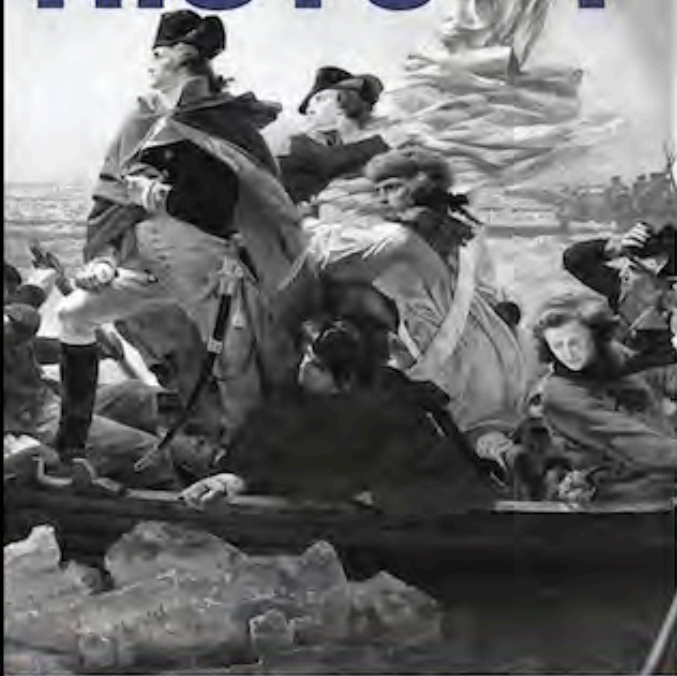
*The mission of American Freedom Museum is  
to honor American veterans and military personnel and the sacrifices they have made to ensure our freedoms,  
to educate this and future generations about our rich heritage,  
and to inspire others to achieve greatness.*



**AMERICAN  
FREEDOM  
MUSEUM**

*America's Story.  
Your Story.*

# STEP INTO HISTORY



Embark on a 250 year journey as you explore the actions of our nation's presidents and military in the quest for liberty.



American Freedom Museum  
1051 N Houston St  
Bullard, TX 75757



**AMERICAN  
FREEDOM MUSEUM**

The American Freedom Museum illuminates the American experience during crucial moments in our nation's history.

From the hills and valleys of the American Revolution to the sands of Iraq and Afghanistan, you will discover the journey of those in our nation's military who have heroically sacrificed to ensure the freedoms we enjoy today.

**This is America's story.  
This is your story.**

1051 N Houston St. Bullard, TX 75757  
*on the campus of The Brook Hill School*

**STEP INTO HISTORY**



## Hall of Presidents

## Hall of Freedom

## Our Mission



### Gallery Features:

- >> Documents signed by each U.S. President
- >> Biographical summaries & audio/visual enhancement
- >> Incredible papers signed by our nation's founders
- >> Senate tally sheet from Andrew Johnson's impeachment trial
- >> Theodore Roosevelt's offer to resurrect the Rough Riders for service in World War I



The heart of the museum includes fifteen separate galleries tracking the actions of our military in the quest for liberty. You will learn the causes of each conflict, experience major events, and understand the results. Over 600 artifacts bring history to life as the story of each era is told.



**HONOR** American veterans and military personnel for the sacrifices they have made to ensure our freedoms.

**EDUCATE** this and future generations about our rich heritage.

**INSPIRE** others to achieve greatness.

*"It is impossible to chart courses for the future without understanding the journeys of the past."*







## HOURS

M, T, TH, FR  
*groups of 15+  
by appointment only*

Wed, Sat  
*10:00 am - 3:00 pm  
Open to the public*

Sunday & Holidays  
*Closed*

## CONTACT

(903) 894-5252  
[americanfreedommuseum.org](http://americanfreedommuseum.org)

## LOCATION

**American Freedom Museum**  
*on the campus of  
The Brook Hill School  
1051 N Houston  
Bullard, Texas 75757  
(10 minutes south of Tyler on  
FM 2493 / Old Jacksonville Hwy)*

## ADMISSION

Veterans.....Free  
Active Military (w/ID).....Free  
Children 5 and under (w/family).....Free  
Children 6 - 17.....\$5.00  
Adults .....\$6.00

**\*Group Tours Also Available**

15,000 square feet of over 600 historical artifacts depicting America's continuous fight for freedom.



## TEACHERS (K - 12TH)

*Grade-level appropriate tours and activities based on current TEKS.*

Our museum tours provide a practical application for all subjects. Teachers will find their area of study throughout history. From reading, writing and literature, to math, science, history and the arts, you will find real life application of the skills your students are learning from the basics to higher level academics in all areas.



# AMERICA'S STORY. YOUR STORY.







# AMERICAN FREEDOM MUSEUM

*America's Story. Your Story.*

- [HOME](#)
- [ABOUT US](#)
- [PLAN YOUR VISIT](#)
- [FOR EDUCATORS](#)
- [EXHIBITS](#)
- [MEMBERSHIP & GIVING](#)
- [CONTACT US](#)

## Plan Your Visit

- [Location, Fees and Hours](#)
- [Group and School Visits](#)
- [Event and Museum Rental](#)

## LOCATION, FEES AND HOURS

### Hours of Operation

**Open to the public:**

- 10:00 a.m. until 3:00 p.m. (Wednesdays and Saturdays)

**Groups of 15+:**

- By appointment only (Mondays, Tuesdays, Thursdays and Fridays)

**Closed:**

- Sundays and most major holidays

### Location & Directions



The Museum is located on the campus of The Brook Hill School, a private college preparatory school in Bullard, Texas, at 1051 N. Houston St. (Old Jacksonville Hwy./FM 2493), about two blocks north of downtown.

From Tyler, travel south from South Loop 323 on the Old Jacksonville Hwy. for 12 miles. The Museum will be on your right just before you enter the town of Bullard. Enter the main entrance of the upper school campus, cross the stone bridge, and turn right. The entrance to the Museum is at the ground level of Founder's Hall, a three-story structure in front of you.

Parking is free and bus parking is available.

### Admissions Fees

Adult	\$6
Youth	\$5
Children (0-5)	Free
Veterans	Free
Active Military (w/ID)	Free

***\*Pre-booked groups of 15 or more will receive \$1.00 off General Admission prices.***

***\*\*ALL CHILDREN under the age of 13 must be accompanied by an adult.***

*The AMERICAN FREEDOM MUSEUM exists to HONOR American veterans and military personnel and the sacrifices they have made to ensure our freedoms; EDUCATE this and future generations about our rich heritage; INSPIRE others to achieve greatness.*





Bullard



- About Bullard
- Hotels
- Vacation Rentals
- Restaurants
- Things to do**
- Flights
- ...

United States > Texas (TX) > Bullard > Things to Do in Bullard > American Freedom Museum, Bullard: Address, Phone Number, Top-Rated Attraction Reviews

All Bullard Restaurants

Restaurants near American Freedom Museum

# American Freedom Museum Is this your business?

26 Reviews #1 of 4 things to do in Bullard Specialty Museums, Museums

22450 Fm 2493, Bullard, TX 75757-8642 +1 903-894-5000 Website

Save

## Review Highlights

**"history mad. interesting"**

displays well done. the war area that tells the reasoning behind each war and the outcome was... [read more](#)



Reviewed April 14, 2017  
Abby95, west plains, missouri  
via mobile

**"Simply a MUST see in the Tyler,T..."**

This is the perfect American war history museum..Esch exhibit gets right to the point and you do... [read more](#)

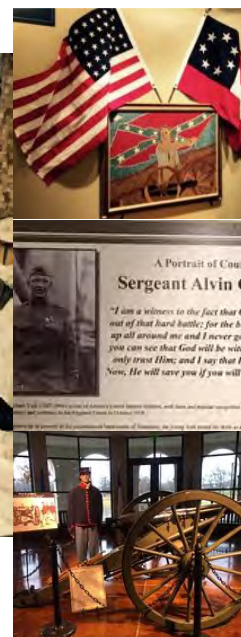


Reviewed April 13, 2017  
tommywommy,  
hendersonville,tennessee

[Read all 26 reviews](#)



All photos (33)



- Overview
- Reviews
- Location
- Q&A

## Overview

5.0

26 reviews

Suggested Duration: 1-2 hours

Excellent	96%
Very good	3%
Average	0%
Poor	0%
Terrible	0%

### LOCATION

22450 Fm 2493, Bullard, TX 75757-8642

### CONTACT

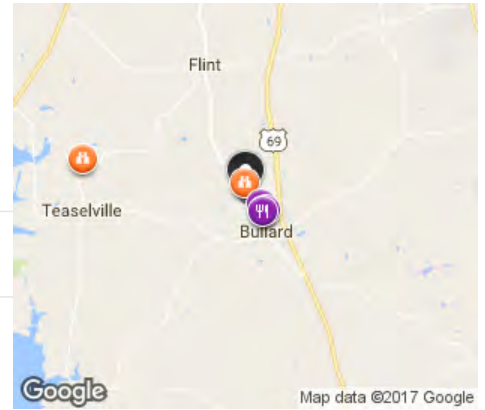
Website +1 903-894-5000

[Improve This Listing](#)

TRAVELERS TALK ABOUT



- "private school" (5 reviews)
- "hall of presidents" (5 reviews)
- "revolutionary war" (4 reviews)



Is this attraction accessible using public transportation?  Yes  No  Unsure

## Reviews (26)

Write a Review

### Traveler rating

- Excellent 25
- Very good 1
- Average 0
- Poor 0
- Terrible 0

### Traveler type

- Families
- Couples
- Solo
- Business
- Friends

### Time of year

- Mar-May
- Jun-Aug
- Sep-Nov
- Dec-Feb

### Language

- All languages
- English (26)

### Show reviews that mention

Search reviews

- All reviews
- private school
- hall of presidents
- revolutionary war
- limited hours
- social studies
- chronological order
- smithsonian quality
- historical artifacts
- open to the public
- worth a trip
- on display
- all ages
- wars
- iraq
- helicopter
- cannon
- veterans

1 - 10 of 26 reviews



Abby95  
west plains,  
missouri  
11 views 1 like

Reviewed April 14, 2017 via mobile

### history mad. interesting

displays well done. the war area that tells the reasoning behind each war and the outcome was unique.

Thank Abby95



tommywommy  
hendersonville,  
tennessee  
13 views 37 likes

Reviewed April 13, 2017

### Simply a MUST see in the Tyler, Texas area..Hugs

This is the perfect American war history museum..Esch exhibit gets right to the point and you do not ever get bored with over kill..It hits the highlights of all of the American conflicts..I highly recommend you drive a few miles out of your way to tour this museum.

Show less

Ask tommywommy about American Freedom Museum

Thank tommywommy

*This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.*



scifi1952  
Nashville,  
Tennessee  
51 14

★★★★★ Reviewed April 12, 2017

### Amazing piece of history

Can't use enough great words to describe this little known jewel in East Texas. I had never heard of this museum, but was certainly well pleased to have gone out of our way to get there. The historical artifacts were truly amazing, to see a rifle that was at the Boston Massacre, revolution, civil war to items of today's warfare was amazing. You must see this place if you are within 500 miles. We are glad we did! Staff was extra nice to make sure we felt welcomed or needed questions answered. They also have signatures of every US president on a wide variety of documents, from formal to those of a more personal nature. To actually see hairs of G. Washington made the back of my hair stand up!

[Show less](#)

[Ask scifi1952 about American Freedom Museum](#)

Thank scifi1952

*This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.*



CKKJA  
La Porte,  
Texas  
9 3

★★★★★ Reviewed March 14, 2017

### Got added to my itinerary as an afterthought.

Popped up on Google maps as I was plotting a course for a Civil War tour through East Texas. I clicked on it on the google map and it had the address and the hours 10am-5pm on Saturdays. I figured, "What the heck? It's on the way. Might as well stop and check it out. It's in Bullard, TX. Probably not a very big museum and it shouldn't take me long to go through it." I didn't even check it's website.

The Museum is on the campus of The Brook Hill School which is a private college prep school. The founder of both the school and the museum is a gentleman named Stephen Dement. It is a large museum of mostly all original military artifacts. There are some on loan from other private owners. The artifacts go from the American Revolution all the way to the Iraq and Afghanistan Wars. The Civil War collection of artifacts on display alone is very impressive. That section of the museum is called the Hall Of Freedom. There is also a Hall of Presidents that has a photo and/or painting of each US President and original documents with original signatures from each President. In January it is only open on Wednesday and Saturday. \$6 admission for adults. No admission fee for veterans.

I went through all of both halls and was there for 2 hours and could easily have stayed 3 or 4 hours.

[Show less](#)

[Ask CKKJA about American Freedom Museum](#)

Thank CKKJA

*This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.*



★★★★★ Reviewed February 14, 2017

### Allow enough time...it's worth it!

The museum has limited hours open to the public so plan accordingly. We



JuliaExplorer  
Renton,  
Washington  
3 3

were amazed at how big it was. The collection is comprehensive. Excellent American history for all ages.

Thank JuliaExplorer



Barbara U  
Indianapolis  
29 13

Reviewed January 18, 2017 via mobile

### Unexpected Find!

While visiting Tyler, Texas, we were told that the Freedom Museum in Bullard is a not-to-be missed stop. With an admission cost of \$6 for adults, I figured we would spend an hour there and then hit a few planetarium shows back in Tyler. Was I wrong! My husband and I spent four enjoyable hours going through this museum's halls. There was an exhibit focusing on our 44 presidents with each of their signature on a different document along with basic info and quotes from each. Then there were artifacts from each war in which the United States has been engaged. We learned many interesting facts which had escaped our notice earlier--and I have a degree in the teaching of Jr and Sr High Social Studies! Extremely worthwhile way to spend some time!

Show less



Ask Barbara U about American Freedom Museum

Thank Barbara U

This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.



Rich P  
Tyler, Texas  
14 1

Reviewed June 27, 2016 via mobile

### Smithsonian Quality

Seriously, I was amazed the first time I went here. The quality of the exhibit and artifacts is great and the layout was well thought out. It takes you through a tour of each of our country's iconic battles in chronological order. You should plan for a couple of hours in order to take it all in but realistically you will stay longer if you're like me and like to read everything. Very educational for kiddos but may not keep little ones engaged because well, it is a museum... I have been a couple of times and found something new each time. Great museum especially for the rural area it's located. You won't regret taking the time to visit.

Show less

Ask Rich P about American Freedom Museum

Thank Rich P

This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.



Arienne M  
2

Reviewed June 11, 2016

### outstanding museum

This is one of the best museums I have ever been to. The attention to detail, the number of artifacts and the presentation of them are absolutely wonderful. There is so much information and it is done so beautifully. I

highly recommend American Freedom Museum.

Thank Arianne M



Kenneth P

6 3

Reviewed June 9, 2016

### Lot of detail, small museum, great staff

The correct address is 1501 N Houston, Bullard, Tx and is located in the bottom floor of the school. The signs to the museum are easy to follow from the street to the museum. The approach has a Huey UH-1C gunship helicopter out front. Veterans are free, others \$6/adult. Memorabilia, photos and videos from all the presidents as well as all the wars from the revolution to Iraq/Afghanistan. Full Huey UH-1D display inside and although not mechanically accurate and the mannequins show infantry but not the door gunners, it was good enough. I was a crew chief/door gunner on one of these in Vietnam, so I am a little more picky, but for soldiers who served and were transported to and from battle in one, it will bring back the memories. I enjoyed the walk through tour which is normally a pain (literally) for me. It is worth the stop but has very limited hours for the general public (Wed and Sat 10-4). Other days for groups with an appointment. Friendly receptionist. Good for all ages. Good geographic displays for a history class.

Show less



Ask Kenneth P about American Freedom Museum

Thank Kenneth P

This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.



Gaye P

34 13

Reviewed May 19, 2016 via mobile

### Outstanding!!

Have always wanted to see this museum in Bullard, TX. Finally stopped last weekend and went inside. It was fascinating as soon as you walked in! A Civil War display was in the entrance, along with a cannon and artifacts.

The fee was \$6.00 and free for veterans and active military. Your journey started with the Revolutionary war in first gallery, then going through each war, ending with Afghanistan.

You read the causes of each war, experience major events of each war and understand the results. Memorabilia and artifacts from each is on display! It is definitely a "must see"!!

I'm glad we went, should have gone sooner!!

Show less

Ask Gaye P about American Freedom Museum

1 Thank Gaye P

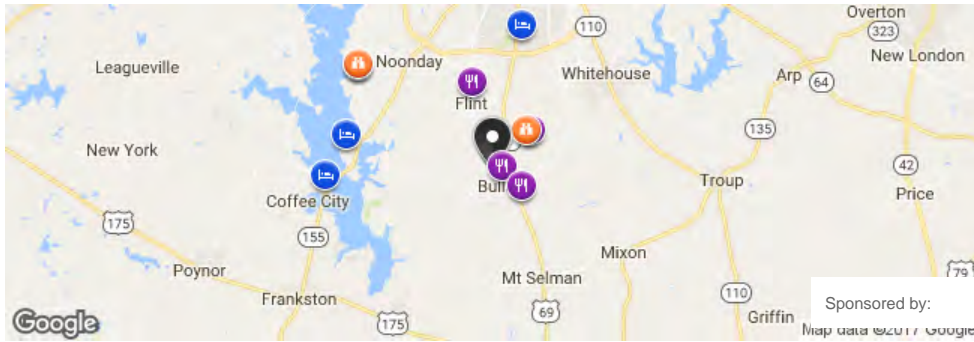
This review is the subjective opinion of a TripAdvisor member and not of TripAdvisor LLC.

Previous

1 2 3

Next

## Nearby



### Nearby Restaurants

Legends Burger Cafe  
 ●●●●● 14 reviews  
 .94 miles away

Kiepersol Restaurant  
 ●●●●● 295 reviews  
 2.30 miles away

4 Way Cafe  
 ●●●●● 42 reviews  
 3.89 miles away



Pit Stop Pizza  
 ●●●●● 13 reviews  
 2.40 miles away

### Nearby Attractions

Water Park at The Villages  
 ●●●●● 93 reviews  
 8.54 miles away

Kiepersol Estates Viney...  
 ●●●●● 83 reviews  
 2.11 miles away

Children's Park  
 ●●●●● 25 reviews  
 9.87 miles away

## Questions & Answers

Get quick answers from American Freedom Museum staff and past visitors.

Note: your question will be posted publicly on the Questions & Answers page.

Hi, what would you like to know about this attraction?



Submit

[Posting guidelines](#)

### You recently viewed...

Hotels

Attractions

Destinations

#### Hotels you've viewed



**Stratosphere Hot...**  
Las Vegas, NV  
4.5/5 (11,793 Reviews)



**ARIA Sky Suites**  
Las Vegas, NV  
4.5/5 (2,089 Reviews)



**ARIA Resort & C...**  
Las Vegas, NV  
4.5/5 (23,520 Reviews)

#### Travelers who viewed these hotels also viewed...



**Mandarin Oriental, ...**  
Las Vegas, NV  
4.5/5 (5,778 Reviews)



**Vdara Hotel & Spa**  
Las Vegas, NV  
4.5/5 (15,664 Reviews)



**The Cosmopolitan ...**  
Las Vegas, NV  
4.5/5 (6,305 Reviews)

Show Prices

Show Prices

Show Prices



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CURRENCY/COUNTRY

\$ USD

United States



ajcarpen . &lt;ajcarpen@gmail.com&gt;

---

**17372 - 9% HTC Application Deficiency Notice - TIME SENSITIVE**

---

**Sharon Gamble** <sharon.gamble@tdhca.state.tx.us>

Tue, Jun 13, 2017 at 1:48 PM

To: "fogel@texco.land" &lt;fogel@texco.land&gt;

Cc: Alyssa Carpenter &lt;ajcarpen@gmail.com&gt;

**\*\*All deficiencies must be corrected or clarified by 5 pm Austin local time on JUNE 20, 2017. Please respond to this email as confirmation of receipt.\*\***

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17372 Sunset Trails**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please review the attached.

1. The request asserts that the ETMC Bullard First Physicians Clinic is a physician specialty office and does not count for points under this scoring item. Submit evidence that the clinic is not a physician specialty office.
2. The request asserts that O.L. Ferrell Park and Bullard Kids' Park are the same park. Explain why the park should be considered both a public park and outdoor recreation.
3. The request asserts that the American Freedom Museum is an ancillary part of the Brook Hill School, receiving its funding through the school's status as 501(c)(3) status. Submit evidence that the museum meets all of the requirements of §11.9(c)(4)(B)(ii)(X).

**The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.**

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at [liz.cline@tdhca.state.tx.us](mailto:liz.cline@tdhca.state.tx.us) or by phone at (512)475-3227. You may also contact Jason Burr at [jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us) or by phone at (512)475-3986.

**All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.**

---

Thanks,

Ben Sheppard

Specialist, Multifamily Finance

Texas Department of Housing and Community Affairs

Ph. [512.475.2122](tel:512.475.2122)

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in [10 TAC Section 11.1\(b\)](#) there are important limitations and caveats (Also see [10 TAC §10.2\(b\)](#)).*



Application #17372  
Sunset Trails  
Third Party Request for Administrative  
Deficiency

Department Determination

Application #17376  
The Bristol  
Third Party Request for Administrative  
Deficiency

June 1, 2017

Attn: Sharon Gamble  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701- 2410

**RE: The Bristol (TDHCA #17376) – Application Challenge**

Dear Ms. Gamble:

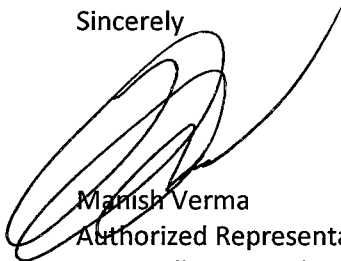
Please accept this letter as a request for a Third Party Request for Administrative Deficiency to The Bristol, TDHCA #17376. In the tax credit application for The Bristol, the applicant has requested consideration for 12 eligible amenities and/or services pursuant to the opportunity index points referenced in 11.9(c)(4)(B)(i) of the QAP. However, The Bristol should only be considered for 10 eligible amenities.

The playground(s) represented in the application are located at a church and at an elementary school. Neither of these playgrounds is in a “public park,” as required by the QAP. As such, the development site is not located “less than ½ mile on an accessible route from a public park with an accessible playground,” making this an ineligible amenity.

Additionally, while there is a bus stop within ½ mile of the site, there is no evidence provided which shows an accessible route to the bus stop (public transportation), as required by the QAP. It does not appear that there are adequate curb cuts and slopes to meet accessibility requirements. Furthermore, any allowance of the applicant to provide additional data would be a material change to the submission.

We therefore request that TDHCA not consider the opportunity index points for these two items as referenced in 11.9(c)(4)(B)(i) of the QAP. A \$500 fee has been submitted for this request.

Sincerely



Manish Verma  
Authorized Representative  
VDC Guilbeau Bandera, LP



**From:** Nicole Fisher  
**To:** [Dan Wilson](#); [Liz Wong](#); [Henry Flores](#)  
**Cc:** [Sharon Gamble](#)  
**Subject:** 17376 - 9% HTC Application Deficiency Notice - TIME SENSITIVE - Please reply immediately acknowledging receipt.  
**Date:** Thursday, June 08, 2017 3:45:00 PM  
**Attachments:** [The Bristol \(TDHCA#17376\)--Application Challenge .pdf](#)

The Department has received a Third Party Request for Administrative Deficiency regarding HTC Application **17376 The Bristol**. The request includes information that was not previously provided to the Department, and, pursuant to §11.10 of the QAP, staff believes that the administrative deficiency should be issued. Please review the attached.

1. The requestor states that the church/school playground is not for the general public. Provide evidence in the form of a certification from the city or from another professional certified to make such a determination that the playground is for the general public.
2. The requestor states that there is not accessible route to the public transportation. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that there is an accessible route to public transportation

**The above list may not include all Administrative Deficiencies such as those that may be identified upon a supervisory review of the application. Notice of additional Administrative Deficiencies may appear in a separate notification.**

All deficiencies must be corrected or otherwise resolved by 5 pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5 pm Austin local time on the fifth business day will have 5 points deducted from the final score. For each additional day beyond the fifth day that any deficiency remains unresolved, the application will be treated in accordance with §10.201(7)(B) of the 2017 Uniform Multifamily Rules. Applications with unresolved deficiencies after 5pm Austin local time on the seventh business day may be terminated.

All deficiencies related to the Direct Loan portion of the Application must be corrected or clarified by 5pm Austin local time on the fifth business day following the date of this deficiency notice. Deficiencies resolved after 5pm Austin local time on the fifth business day will be subject to a \$500 fee for each business day that the deficiency remains unresolved. Applications with unresolved deficiencies after 5pm Austin local time on the tenth day may be terminated.

Unless the person that issued this deficiency notice, named below, specifies otherwise, submit all documentation at the same time and in only one file using the Department's Serv-U HTTPs System. Once the documents are submitted to the Serv-U HTTPs system, please email the staff member issuing this notice. If you have questions regarding the Serv-U HTTPs submission process, contact Liz Cline at [liz.cline@tdhca.state.tx.us](mailto:liz.cline@tdhca.state.tx.us) or by phone at (512)475-3227. You may also contact Jason Burr at [jason.burr@tdhca.state.tx.us](mailto:jason.burr@tdhca.state.tx.us) or by phone at

(512)475-3986.

**All applicants should review §§11.1(b) and 10.2(b) of the 2017 QAP and Uniform Multifamily Rules as they apply to due diligence, applicant responsibility, and the competitive nature of the program for which they are applying.**

**\*\*All deficiencies must be corrected or clarified by 5 pm Austin local time on Thursday, June 15, 2017. Please respond to this email as confirmation of receipt.\*\***

**About TDHCA**

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us).

**Nicole Fisher**

Housing Specialist  
Texas Department of Housing and Community Affairs  
221 E. 11th Street | Austin, TX 78701  
Office: 512.475.2201  
Fax: 512.475.1895

*Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).*

# SA THE BRISTOL, L.P.

---

June 15, 2017

Ms. Nicole Fisher  
Housing Specialist  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

RE: The Bristol  
2017 Application Deficiency Notice for TDHCA #17376

Dear Ms. Fisher:

This letter is in response to your application deficiency email received on June 8, 2017. Below please find our response.

Deficiency 1: *The requestor states that the church/school playground is not for the general public. Provide evidence in the form of a certification from the city or from another professional certified to make such a determination that the playground is for the general public.*


**Response 1:** The requestor's assertion is incorrect, the playground adjacent to Crossroads Baptist Church (the "Church") is available for the general public. We confirmed this fact with Associate Pastor Stuart Clark, the community pastor of Crossroads Baptist Church, prior to our submission of the application for The Bristol. In addition, upon receipt of the administrative deficiency we contacted the Church and obtained the requested certification confirming that the playground is open to the general public. (See Attachment #1)

Deficiency 2: *The requestor states that there is not an accessible route to the public transportation. Provide evidence in the form of certification from the city or from another professional certified to make such a determination that there is an accessible route to public transportation.*

**Response 2:** The requestor is again incorrect, the Development Site is located less than ½ mile on an accessible route from Public Transportation. The accessible routes are shown on the map provided (in aqua blue) in the application for the two bus stops located at Guilbeau Road and Tezel Road. In addition, included behind Attachment #2 is a route survey prepared by Meyer Inspection Services, LLC. Mr. Meyer has verified that the routes to the two bus stops are accessible based on 2010 ADA standards.

Should you have any further questions or comments, please do not hesitate to contact Henry Flores or Dan Wilson.

Sincerely yours,

  
Howard D. Cohen

*attachments*



# **Attachment #1**



Dr. Douglas A. Diehl, Pastor  
Stuart A. Clark, Associate Pastor  
Andy Brown, Minister to Students  
Terry Ghiselli, Minister of Music

---

June 12, 2017

Attention: Enrique Flores  
Authorized Representative of SA The Bristol, L.P.  
5800 Shoal Creek Boulevard, Building 4, Suite 208  
Austin, TX 78757

RE: Crossroads Baptist Church Access to the General Public

Mr. Flores,

As per previous conversations with our Associate Pastor, Stuart Clark, please accept this letter as confirmation that the park and playground next to Crossroads Baptist Church is open to the general public. There is no need for anyone to be a member of the church or pay any kind of fee to enjoy the park and playground. We are happy and proud to share this community asset with anyone.  
If you have any other questions, please don't hesitate to call us.

Best Regards,

Becky Crawford  
Ministry Assistant  
Crossroads Baptist Church  
P: 210.218.7684  
E: sclark@cbcsa.net

bc

## **Attachment #2**





Mr. Ian Wach  
Atlantic Pacific  
2950 SW 27<sup>th</sup> Ave Suite 200  
Miami, Fl. 33133  
June 13, 2017

REF: ADA Bus Stop Survey  
Bristol Apartment Project

Dear Mr. Wach

The route survey has been completed from the project site +/- 9.922 acres near the SEC of Guilbeau Road and Tezel Road, as indicated in The Bristol's application to the accessible Bus Stops.

The accessible route starts at the project site, heading west, along Old Tezel Road, crossing Old Tezel at the Preschool, to the accessible route at Maverick Draw, then further heading west to the intersection of Old Tezel Rd and Tezel Rd. The route then heads north along Tezel Rd to the intersection of Guilbeau Rd,. The route east and west at this intersection provides access to public transportation, by an accessible route with accessible curb ramps.

- A) Guilbeau Rd. Opposite 9085 Bus Stop. This location is located adjacent to the new Walmart Neighborhood Market. It is designated as Bus Stop 77363. It is fully accessible and is covered. This route is on the south side of Guilbeau
- B) Across the street is a new bus stop (north side of Guilbeau Rd), Bus Stop 77379. It is fully accessible but is not covered
- C) Guilbeau & New Tezel Rd Bus Stop. This location is adjacent to a middle school on Guilbeau west of the Guilbeau/Tezel Intersection. This stop is fully accessible, lacks shade cover. Located on the north side of Guilbeau. Bus Stop 77319
- D) On the opposite side of the street is Bus Stop 77313. It is accessible, but is not provided with shade cover.

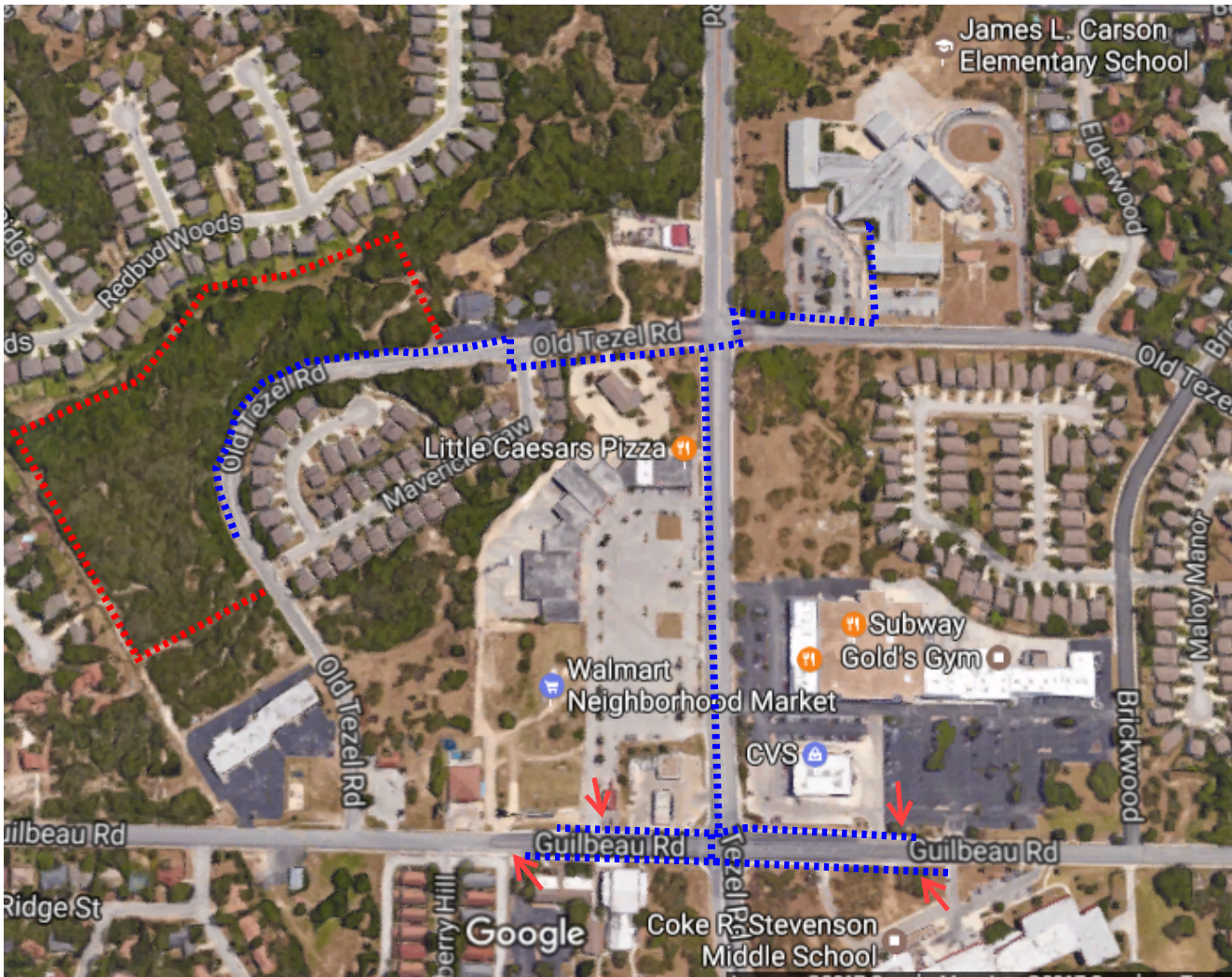
In addition to the accessible fixed routes provided by Via Metropolitan Transit , they have an additional service for individuals where their disability may prevent use of the fixed route system. This service, the VIAtrans Paratransit Service, will qualify individuals for an as needed basis. Both of these programs are within the guidelines of the Americans with Disability Act of 2010.

Based upon my survey and professional experience, your project is provided with an accessible route to the accessible Bus Stops.


If you have any questions, please contact me.


Cordially Yours,

Stephen Meyer  
State of Texas  
Registered Accessibility Specialist



### Legend

Accessible Route  


Accessible Bus Stops  


Site Location  






Opposite Corner of Old Tezel and Tezel

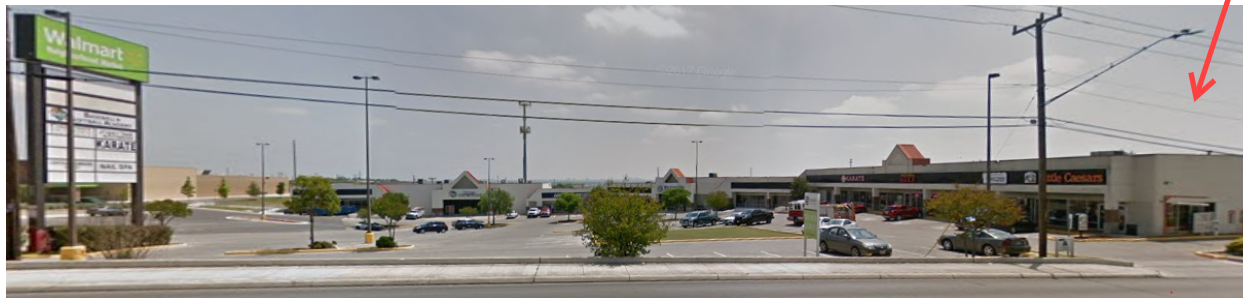
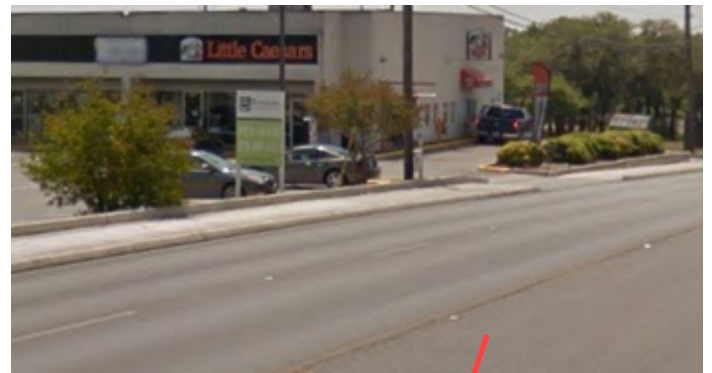


Corner of Old Tezel and Tezel



South look Tezel & Guilbeau (East Corner)

E



East side of Tezel  
Accessible Route







NE Corner of Tezel/Guilbeau

SE Corner of Tezel/Guilbeau



Old Tezel Road across  
from Elementary School

Application #17376  
The Bristol  
Third Party Request for Administrative  
Deficiency

Department Determination



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

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Sharon Thomason, Member  
Leo Vasquez, Member

June 27, 2017

*Writer's direct phone # (512) 475-1676*  
*Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)*

Mr. Dan Wilson  
SA The Bristol, L.P.  
2950 S.W. 27<sup>th</sup> Avenue, Ste 200  
Miami, FL 33133

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17376 THE BRISTOL

Dear Mr. Wilson:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of a Third Party Request for Administrative Deficiency ("RFAD") requesting that the Department review the Application above to determine whether it should be awarded two tie-breaker items under §11.9 (c)(4), related to Opportunity Index. Consistent with similar decisions made by the Department's Governing Board at its May 25, 2017, meeting, an Administrative Deficiency was determined to be appropriate for the Application. The Department issued a deficiency notice on June 8, 2017, and the response was received timely.

After reviewing the response, the Department has determined that the response does not provide sufficient evidence that the Development Site is within ½ mile on an accessible route from a public park with an accessible playground. While the parks at the Crossroads Baptist Church and Carson Elementary School may be open to the general public, they are not public parks as is required by the rules. The Department has determined that the response does not provide sufficient evidence that the Development Site is within ½ mile on an accessible route from public transportation. The route indicated exceeds ½ mile. The provision of private transportation does not negate the requirement for the route between the Development and the amenity to be an accessible route.

I find that the response does not clearly demonstrate that the Application qualifies for the two tie-breakers in question. While the RFAD process does not include a mechanism by which an Applicant can appeal this decision, you will be issued a revised scoring notice that does include such. For purposes of the request, the matter is considered closed. If you have questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Marni Holloway", with a long horizontal flourish extending to the right.

Marni Holloway  
Multifamily Division Director

Cc: Robert Picerne  
Henry Flores  
Lisa Stephens





Application #17388  
West Pecan Village  
Third Party Request for Administrative  
Deficiency



MGROUP

May 31, 2017

via FTP site

Ms. Sharon Gamble  
Texas Department of Housing & Community Affairs  
P.O. Box 13941  
Austin, Texas 78711

Re: Third Party Request for Administrative Deficiency  
West Pecan Village TDHCA # 17388

Sharon,

In connection with the above referenced application, we are unable to verify final staff determination of several representations made in the application that would impact its final ranking based on tie breaker self-scoring related to Opportunity Index Points. Accordingly, we bring to your attention the following items that we believe warrant further review and resolution by staff to ensure the final rankings in Region 11 Urban are accurate and do not rely on self-score.

**1) Playground not located within ½ mile of site.**

The applicant claims that the proposed site is located within ½ mile of a playground. Our review of this information would indicate otherwise and that the application is not eligible for the Playground Opportunity Point.

Staff provided clear guidance during the FAQ process that the actual playground, not the park, has to be located within ½ mile of the proposed site boundary. The playground used in the application at Summer Breeze Park is .54 miles from the proposed site boundary as shown on the attached Exhibits "A-1"- "A-2" and is therefore beyond the maximum ½ mile limit. Accordingly, the playground does not qualify for opportunity points for this deficiency alone.

*The FAQ states "Q: Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long? A: The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable)."*

**2) Route to playground does not meet the 2010 ADA Standards for accessible route.**

Even though the playground is outside the ½ mile distance and therefore not eligible, we would also bring to your attention that the application only shows a route leading up to the park boundary but not how the route would travel and connect to the actual playground. There is no

accessible route that meets the 2010 ADA to the playground which is a prerequisite to meet the opportunity point. The route would have to cross and travel up a steep drive approach into the parking lot for the park that fails to meet multiple sections of the 2010 ADA Standards including specifically:

A) ADA 403.3 Running Slope

The maximum allowed running slope on any accessible route is 1:20 or 5%. This means that for every 20 feet horizontal, the maximum vertical incline (slope) you can travel over the same 20 feet is 1 foot. The running slope on the drive approaches is 12.5%. The horizontal distance of the approaches is measured at 14 feet long and the vertical incline over the 14 foot distance is 21 inches. ( $21 \text{ inches} \div (14' \times 12'') = 12.5\%$ ). The actual running slope is more than two times the allowed.  
Exhibit B-1, B-2

B) ADA 403.3 Cross Slope

The maximum allowed cross slope on any accessible route is 1:48 or 2.08%. Cross slope is the "side to side" slope along a route. Any attempt to traverse the drive approach at an angle to lessen the running slope would result in failure to meet the Cross Slope. The measured cross slope at any point on a diagonal route along the entire driveway is 10.4%, 5 times the maximum allowed.  
Exhibit B-1, B-2

C) ADA 405.2 Ramp Slope

The maximum allowed ramp slope on any accessible route is 1:12 or 8.33%. The route up the drive approach is so steep (12.5%) it exceeds the maximum running slope and does not even meet the maximum slope for a ramp. Once a route exceeds the maximum running slope (1:20), it can then be allowed as a ramp provided the slope does not exceed the maximum ramp slope. In this case, the drives are too steep to meet either the maximum allowed running slope or ramp slope.  
Exhibit B-1, B-3

D) ADA 405.8 Handrails

Handrails are required at any ramp. Even if the route could somehow be shown to be less than the 1:12 maximum ramp slope, it would still require handrails that would be impossible to provide on a driveway approach.  
Exhibit B-1, B-4



The applicant provided a third party letter from an accessibility specialist that stated “*I hereby confirm that there is an accessible route that meets the 2010 ADA accessibility standards from the proposed site location to the park and playground.* (emphasis added). Clearly applicant understood the requirement to provide a route connecting up to the playground (which it failed to do) and not the park. It would also appear any representation of an accessible route to the playground is not factual nor supportable.

§11.9 (c)(4)(B)(i)(I) of the QAP clearly states “... *both of which meet 2010 ADA standards*”. The rules do not allow you to omit sections of the technical standards of the ADA you do not comply with. The ADA standards are concise and exacting and do not allow variances or exceptions unless stated. There are no exceptions to the standards for any of the above deficiencies and only one of the above 4 needs to fail in order to not be in compliance with the standards.

Please see attached Exhibits “A” and “B” for all ADA and playground supporting documentation. We have also provided the full applicable chapters of the 2010 ADA standards in the appendix.

### **3) Public transportation stop does not have ADA accessible route. Path chosen is 1.8 miles long.**

The applicant claims that the proposed site is located within ½ mile on an accessible route from Public Transportation. Our review of this information would indicate otherwise and that the application is not eligible for Public Transportation Opportunity points.

Even though the actual bus stop is located within ½ mile of the proposed site, the sidewalks chosen to reach the bus stop are over 1.8 miles long. Such a long route only increases the likelihood that the route would fail to meet the accessible route design standards at some point. The route must rely on existing public infrastructure that is old, in need of repair and in many locations fails to meet the accessibility standards for compliant paths. Specifically, the route fails to meet:

A) ADA 403.5.3 Passing spaces

Sidewalks less than 60 inches in width must have passing spaces located no more than 200 feet apart. The walks along Vine Ave. are old and installed at a width of 48 inches. The lengths of several walk sections along Vine measure 348 feet, 217 feet and 202 feet without the required passing spaces. None of these walk sections comply with ADA 403.5.3.

Exhibits C-2, C-3

B) ADA 406.2 Curb Ramp Counter Slope

The route chosen must also cross the busy intersection of Pecan and Ware. The existing curb ramps at this location are old and in need of major repair. The curb ramps fail to

meet counter slope and changes in level as the ramp transitions into the street. See attached documentation for further explanation.

Exhibit D-1

C) ADA 406.4 Landings

The curb ramp at Pecan is required to have at least a 36 inch level landing at the top of the sloped curb ramp. The existing ramp does not have the minimum 36 inch and only provides a 27 inch landing.

Exhibit D-2

D) ADA 406.6 Diagonal Curb Ramps.

The curb ramp at Pecan does not provide the required 48 inch clear floor space within the marked cross walk nor does it provide the required 24 inch segment of curb within the marked cross walk.

Exhibit D-3

The applicant provided a third party letter from an accessibility specialist that stated *“I hereby confirm that there is an accessible route that meets the 2010 ADA accessibility standards from the proposed site location to its bus stop”*. By this representation, the Applicant affirmed that the shown route to the bus stop met the 2010 ADA standards. However, it would appear any representation of an accessible route to the bus stop is not factual nor supportable.

The ADA standards are concise and exacting and do not allow variances or exceptions unless stated. There are no exceptions to the standards for any of the above deficiencies and only one of the above 4 needs to fail in order to not be in compliance with the standards. For example, passing spaces per section 403.5.3 is a fundamental element of an accessible route and as documented herein, the route as shown in the application cannot meet this requirement.

Please see attached Exhibits “C” for Passing Space deficiencies and Exhibits “D” for Curb Ramp deficiencies.

**4) Applicant uses the same facility for College, Library and Museum opportunity points**

The applicant claims that the proposed site is eligible for Community College, Library and Museum Opportunity Points. Our review of this information would indicate otherwise and that the application is only eligible for one of these three points, not all three because they are all located at the same college or “learning facility”.

§11.9(c)(4)(B) of the QAP clearly states: *“Each Facility or amenity may only be used once for scoring purposes, regardless of the number of categories it fits.”*

The application is using "South Texas Pecan Campus" for Community College points. Its address is shown as 3201 W. Pecan. This campus is clearly a learning facility where all buildings and components of the facility are located on contiguous property. There is complete connectivity without any physical barrier whatsoever to all buildings throughout the campus facility. Indeed, all of the buildings on the campus must be interconnected and considered as a whole otherwise there could not be a complete learning facility.

The applicant is also using the South Texas Pecan Campus Library, whose address is also 3201 W. Pecan, Building F, as its library. The library for the college is an integral part of the learning facility and cannot be used twice for scoring purposes. Finally, the applicant claims it is eligible for an art museum because of its proximity to the South Texas Pecan Campus Library Art Gallery. The physical address for the Library Art Gallery is also 3201 W. Pecan, Building F. The library art gallery and the book library are one in the same. All public information related to the library art gallery refers back to the campus book library including same operating hours. Both co-exist and are located in the same building F.

Please see attached Exhibits "E" for same facility documentation. Note that all literature for all three claimed amenities includes "South Texas Pecan Campus" in the name, title or description of the amenity.

**5) Applicant failed to provide local crime data specific to the application census tract.**

The applicant claims that the proposed site is located within a census tract that has a property crime rate less than 26 per 1000 persons. The applicant does not use Neighborhoodscout but rather attempts to use local data from the city wide crime report that is not specific to the proposed census tract. Our review of the applicant's crime data would indicate the census tract does not meet the required threshold for Opportunity Points and that the applicant has failed to provide crime data specific to the census tract.

First, Neighborhoodscout indicates that the proposed census tract does not meet the maximum allowed rate of 26/1000 therefore the applicant attempts to arrive at a successful conclusion by using the overall city wide crime data and then extrapolating the citywide data on a linear basis to suggest that the crime in the census tract must be lower since the property crime citywide has trended lower. This analysis is holistic and therefore cannot document with any certainty the property crime data specific to a census tract. The applicant had every opportunity to obtain local police department property crime data specific to the actual census tract just as other applicants were able to do in the same city when not using Neighborhoodscout. Applicant is unable to further supplement its application with this specific data now.

The QAP rule is specific to a census tract for logical reasons. Municipalities can be large in size therefore an understanding of what property crime has occurred in a targeted area (such as a



census tract for TDHCA purposes) must be known otherwise the crime data based on a citywide area can be inaccurate and misleading. For example, just as the citywide property crime rate may be declining as the applicant suggests, the property crime could be increasing in a certain census tract at the same time the overall citywide crime rate may be going down. Moreover, the Neighborhoodscout report for property crime for the census tract directly south from the applicant's proposed site is 51.03/1000, almost twice the number of property crimes of the applicant's census tract and allowed by TDHCA. Clearly, crime data is not uniform across the city as evident by the two adjoining census tracts for the proposed site. Finally, a single retail store location such as the HEB in close proximity to the applicants proposed site can have high numbers of larceny crimes in any given year that can easily skew the property crime data adversely for a census tract.

The only way to know for certain is to have specific property crime data for the census tract which the applicant could have obtained but failed to do in the application.

Please see attached exhibits "E" for property crime data.

If you have any questions or should you wish to discuss this RFAD in further detail, please contact me at 713-522-4141.

Sincerely,

MGROUP HOLDINGS, INC.



Mark D. Musemeche

MDM/oe

cc: Arnold Padilla – apadilla@mcaha.org

## Playground Documentation

Exhibits A-1, A-2

Exhibits B-1, B-2, B-3, B-4, B-5



**Proposed site boundary location**



Google Earth - Edit Path

Name:

Description | Style, Color | View | Altitude | Measurements

Length: 0.54 Miles

OK

Cancel

W Maple Ave

Bentson Heights

Kendlewood Ave

W Jasmine Ave

W Ivy Ave

Briarwood

N 47th Ln

N 47th St

Hickory Ave

N 43rd St

N 42nd St

Eucalyptus Ave

Summer Breeze

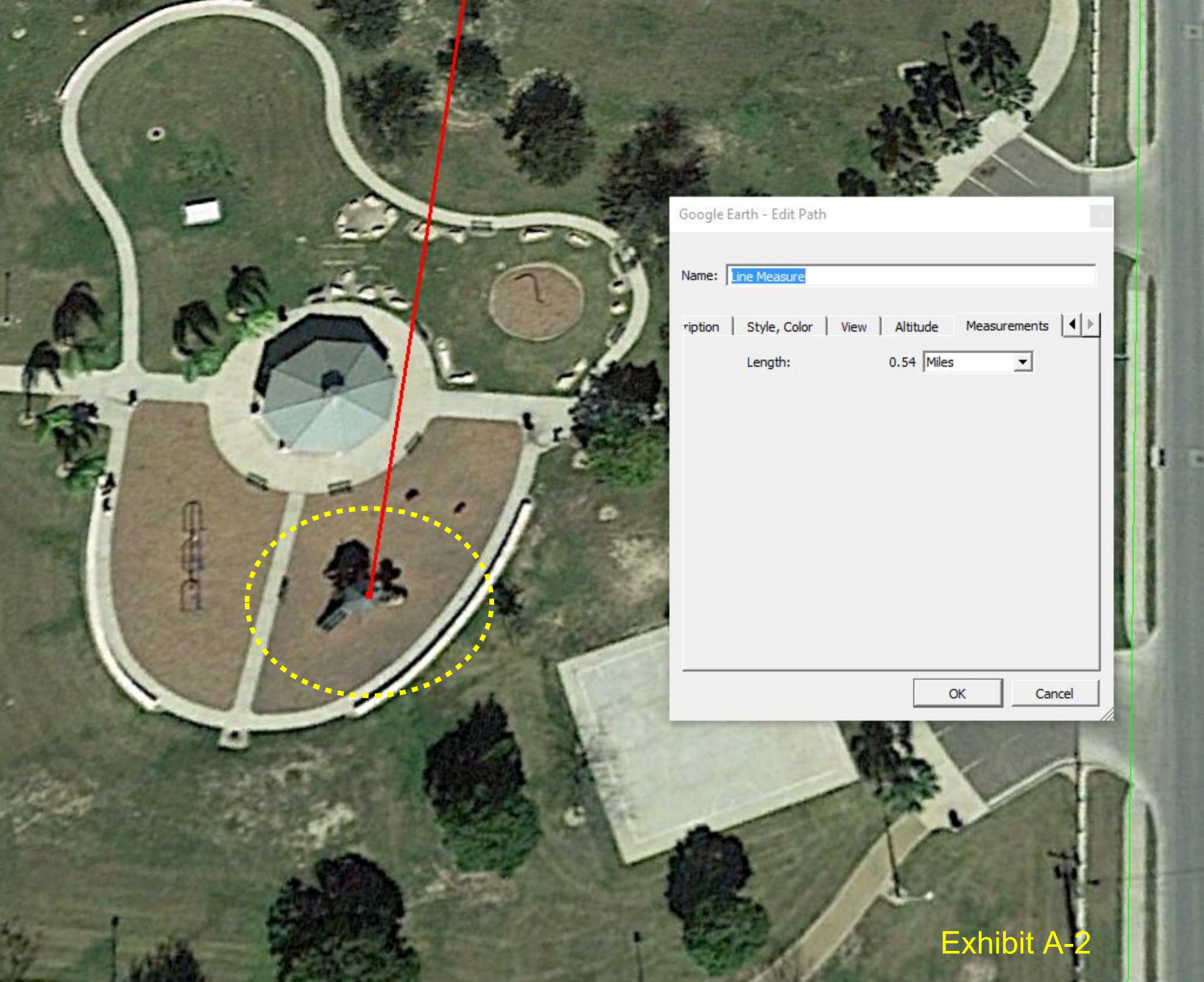
playground

Exhibit A-1

© 2016 Google  
© 2016 INEGI

N 40th St





Google Earth - Edit Path

Name:

Description | Style, Color | View | Altitude | Measurements

Length: 0.54 Miles

OK Cancel

Exhibit A-2



**The path shown in the application stops at the park boundary and does not show how the path would continue to the playground. The assumption is the only way it could connect is over the drive approaches which fail to meet multiple sections of the 2010 ADA.**

**no connection**

**actual playground  
.54 miles from proposed site boundary**

**This section of walk is 4 feet wide and is over 200 feet long without passing space thus does not meet 403.5.3 and cannot be used as park access point.**

**several driveways exceed cross slope maximum**

Google Earth - Edit Path

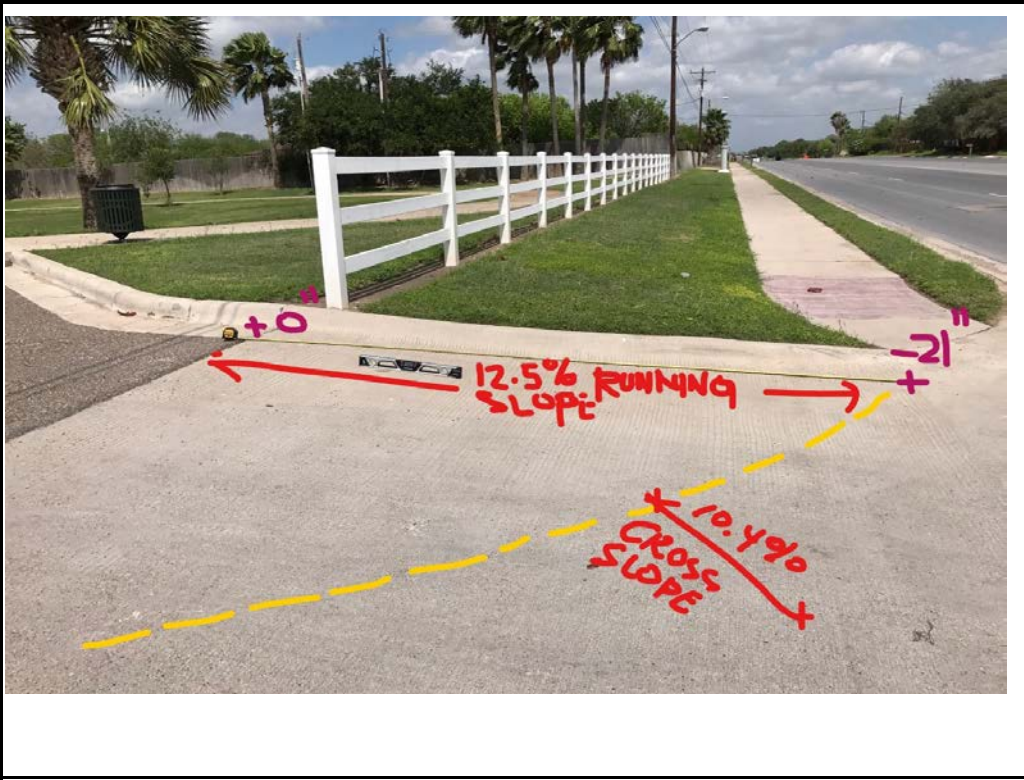
Name: Line Measure

Description | Style, Color | View | Altitude | Measurements

Length: 221 Feet

OK Cancel

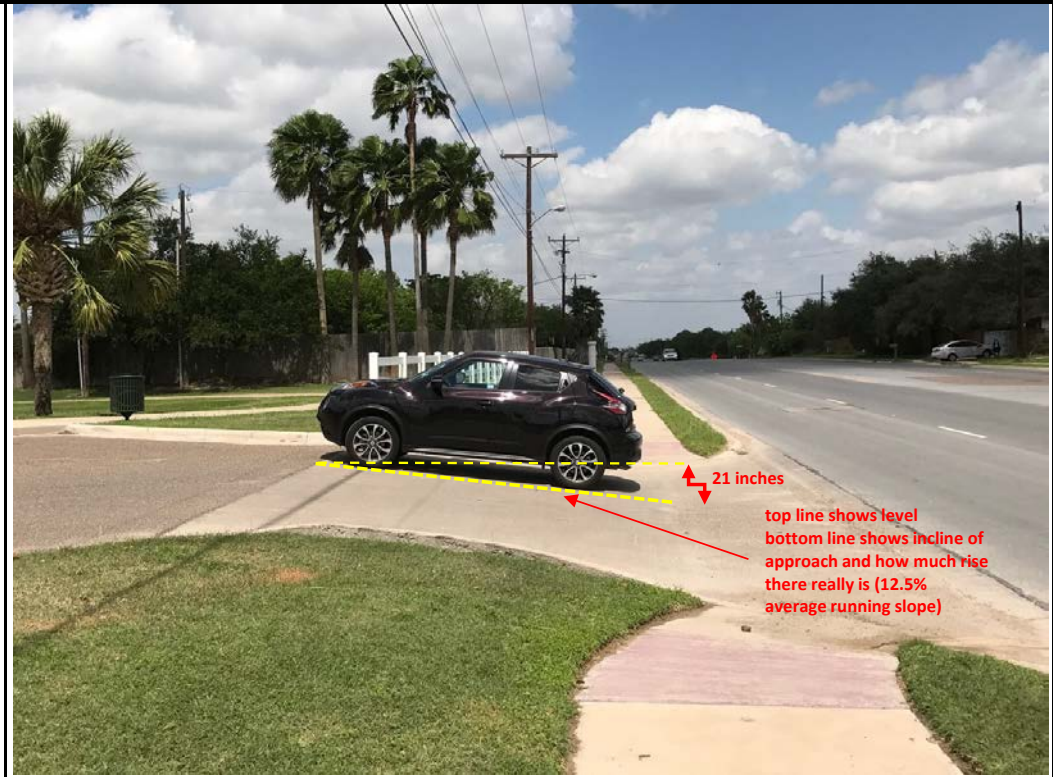


<p><b>Violation</b></p>	<p>The running slope at the drive approach into Summer Breeze park exceeds 1:20 ( 5% maximum without being a ramp) The running slope is so steep it exceeds even the maximum ramp slope allowed under any provision of the standards. The measured vertical incline is 21 inches over 14 feet or 12.5% running slope. If the path is attempted to traverse up the steep pitch at an angle to lesson the running slope, the resultant cross slope would then exceed the maximum allowed of 1:48 ( or 2.08%). Measured cross slope at any point along a diagonal path is 10.4% or 5 times the maximum allowed.</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.3 Slope.</b> <i>The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48.</i></p>	



**Violation**

The drive approach into Summer Breeze City park is the only path that can be used into the park. The running slope of the approach does not meet section 403.3 Slope and section 405.2 Ramp Slope. The running slope exceeds the maximum ramp slope allowed per 405.2 and table 405.2. The ramp length is 14 feet long and has a verified incline of 21 inches. Ramp slope in some places measures 12.7% when maximum allowed is 8.33% ( 1:12 slope). The exception to allow slopes greater than 1:12 is not applicable because there are no space limitations and even if there were space, the maximum allowed rise is only 3 inches when 21 inches is the actual rise. There is no alternative path into the park that meets the 2010 ADA and there is no way to mitigate the slope. Furthermore- see handrail section 405.8 because even if there was a way to make the slope within the maximum allowed, there would still be handrails required which are not possible in a drive approach.



**ADA Ref.**

**405.2 Slope.** Ramp runs shall have a running slope not steeper than 1:12  
*EXCEPTION: In existing sites, buildings, and facilities, ramps shall be permitted to have running slopes steeper than 1:12 complying with Table 405.2 where such slopes are necessary due to space limitations.*

**Table 405.2 Maximum Ramp Slope and Rise for Existing Sites, Buildings, and Facilities**

Slope <sup>1</sup>	Maximum Rise
1. A slope steeper than 1:8 is prohibited.	
Steeper than 1:10 but not steeper than 1:8	3 inches (75 mm)
Steeper than 1:12 but not steeper than 1:10	6 inches (150 mm)

<b>Violation</b>	If the ramp is attempted to run at an angle up the drive approach in order to reduce the running slope to within the maximum allowed, the result would be a violation of the cross slope which cannot exceed 1:48. The field verified actual cross slope at any point along a diagonal path is 10.4% , or 5 times the maximum allowed.	
<b>ADA Ref.</b>	<b>405.3 Cross Slope.</b> <i>Cross slope of ramp runs shall not be steeper than 1:48.</i>	

<b>Violation</b>	The drive approach running slope used as part of the accessible path exceeds section 403.3 Slope. Therefore the path over the drive approach would have to have handrails if somehow it could be shown that the running slope meets section 405. Handrails cannot be installed on the approach and are not provided.	
<b>ADA Ref.</b>	<b>405.8 Handrails.</b> <i>Ramp runs with a rise greater than 6 inches (150 mm) shall have handrails complying with 505.</i>	

**Alejandro (ALEX) Arreguin**  
REGISTERED ACCESSIBILITY SPECIALIST

**1901 Convent Ave**

*Laredo, TX 78040-4852*

**(956) 285-4091 Fax (956) 602-0340**



February 21, 2017

MHA West Pecan Village, Ltd.  
Attn: Arnold Padilla, Executive Director of McAllen Housing Authority  
2301 Jasmine Avenue  
McAllen, TX 78501

RE: **ADA accessibility** to Summer Breeze Park/Playground for the proposed West Pecan Village located at the SW corner of Pecan Blvd. and N. Bentsen Rd. in McAllen, Texas

Mr. Padilla,

I hereby confirm that there is an accessible route that **meets the 2010 ADA accessibility** standards from the proposed site location **to the park and playground**. See attached map.

The sidewalks and route along the west-side of N. Bentsen Rd. from the proposed West Pecan Village development site to Summer Breeze Park meet the above accessibility standards. In addition, the playground located at this park also meets these standards.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Alejandro Arreguin

TDLR Lic # 396



## Public Transportation Documentation

Exhibits C-1, C-2, C-3, C-4

Exhibits D-1, D-2, D-3, D-4

**1.8 mile long path as shown in application**

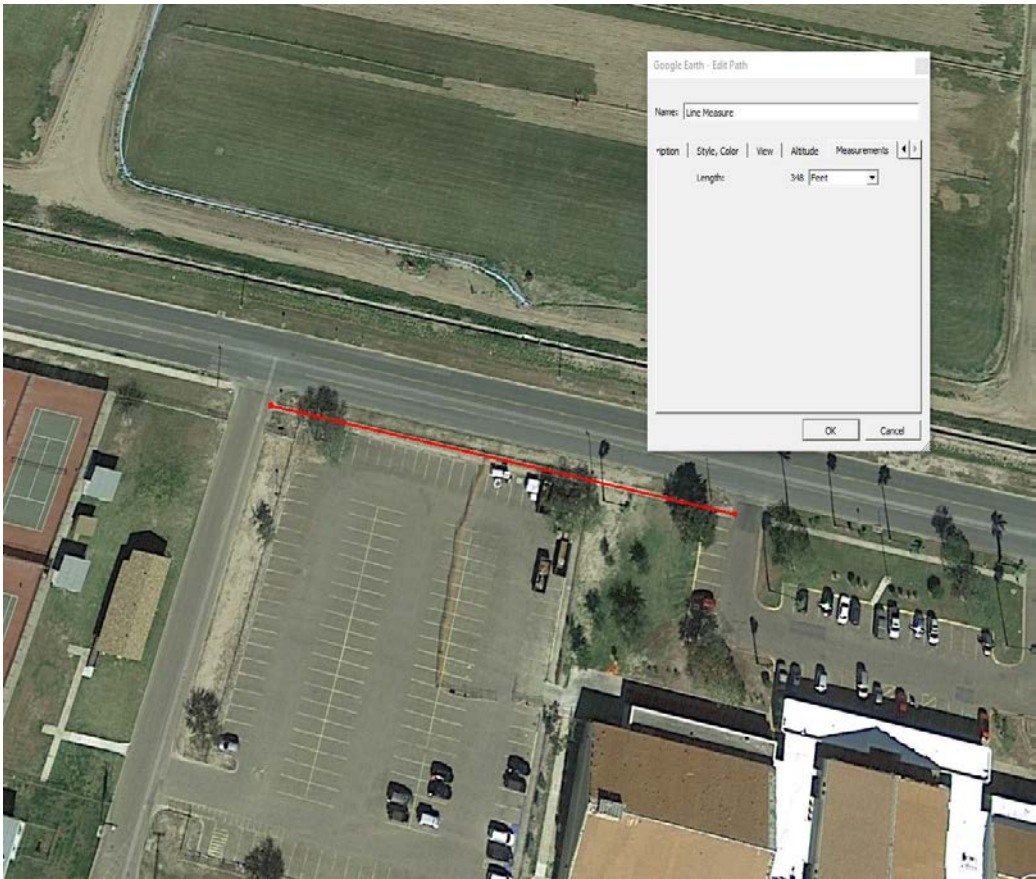
**multiple sections along Vine Ave do not meet sec 403.5.3 passing spaces. The existing walks are less than 60 inches in width and exceed 200 feet in length**



**the existing curb ramp at Pecan and Ware does not meet multiple curb ramp sections per 406**

**map from application**



<p><b>Violation</b></p>	<p>The application shows a path <u>1.8 miles long</u> in order to connect the site to the closest bus stop. A path chosen this long must travel extensive distances over existing walks and curb ramps. The existing walks all along Vine Ave are old and installed at 48" in width. Section 403.5.3 requires Passing Spaces at not more than 200 feet maximum for any path less than 60 inches in width. Multiple sections of the existing sidewalk along Vine exceed 200 feet in length without the required passing spaces. Therefore the path fails to meet the requirements of an accessible path.</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.5.3 Passing Spaces.</b> <i>An accessible route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.</i></p>	



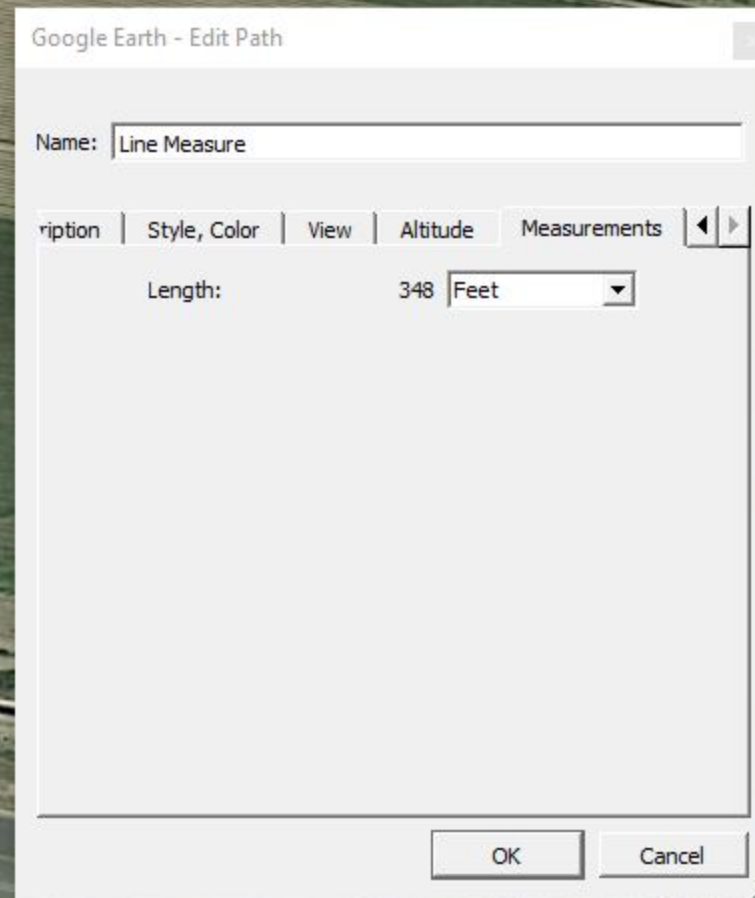





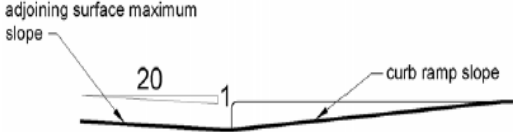
**new city walk- 60 inches wide  
and is compliant with ADA passing  
spaces**

**old walk begins here  
and is 48 inches wide**


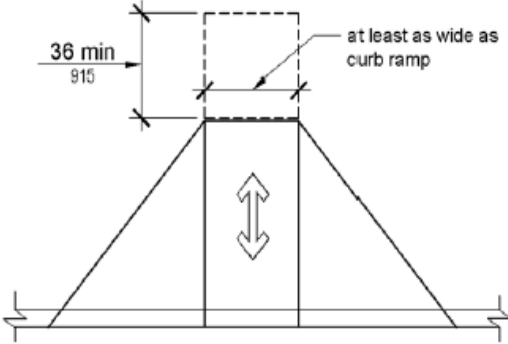
**This section is 348 feet  
long without passing spaces.  
several other sections east on Vine  
fail to meet 200 foot maximum per 403.5.3  
as well**


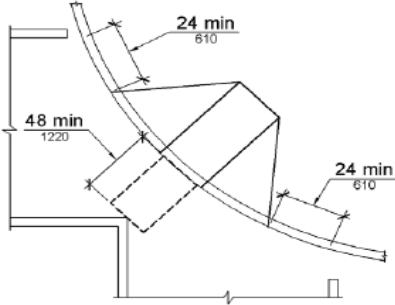




<p><b>Violation</b></p>	<p>The path chosen must cross the major intersection of Pecan and Ware. The existing curb ramp at the intersection does not provide transitions at the same level as required by 406.2 Counter Slope.</p>	
<p><b>ADA Ref.</b></p>	<p><b>406.2 Counter Slope.</b> Counter slopes of adjoining gutters and road surfaces immediately adjacent to the curb ramp shall not be steeper than 1:20. The adjacent surfaces at transitions at curb ramps to walks, gutters, and streets shall be at the same level.</p>	



<p><b>Violation</b></p>	<p>The curb ramp at Pecan and Ware does not provide the required 36" min landing at the top of the curb ramp.</p>	
<p><b>ADA Ref.</b></p>	<p><b>406.4 Landings.</b> Landings shall be provided at the tops of curb ramps. The landing clear length shall be 36 inches (915 mm) minimum. The landing clear width shall be at least as wide as the curb ramp, excluding flared sides, leading to the landing.  <i>EXCEPTION:</i> In alterations, where there is no landing at the top of curb ramps, curb ramp flares shall be provided and shall not be steeper than 1:12.</p>	

<p><b>Violation</b></p>	<p>The curb ramp at Pecan and Ware does not provide the required 48" clear floor space within the marked cross walk per 406.6 nor does it provide the required 24" segment of curb within the marked crossing.</p>	
<p><b>ADA Ref.</b></p>	<p><b>406.6 Diagonal Curb Ramps.</b> <i>Diagonal or corner type curb ramps with returned curbs or other well-defined edges shall have the edges parallel to the direction of pedestrian flow. The bottom of diagonal curb ramps shall have a clear space 48 inches (1220 mm) minimum outside active traffic lanes of the roadway. Diagonal curb ramps provided at marked crossings shall provide the 48 inches (1220 mm) minimum clear space within the markings. Diagonal curb ramps with flared sides shall have a segment of curb 24 inches (610 mm) long minimum located on each side of the curb ramp and within the marked crossing.</i></p>	



**Alejandro (ALEX) Arreguin**  
REGISTERED ACCESSIBILITY SPECIALIST  
**1901 Convent Ave**  
*Laredo, TX 78040-4852*  
**(956) 285-4091 Fax (956) 602-0340**



February 23, 2017


MHA West Pecan Village, Ltd.  
Attn: Arnold Padilla, Executive Director of McAllen Housing Authority  
2301 Jasmine Avenue  
McAllen, TX 78501

RE: **ADA accessibility** to Public Transportation for the proposed West Pecan Village located at the SW corner of Pecan Blvd. and N. Bentsen Rd. in McAllen, Texas

Mr. Padilla,

I hereby confirm that there is an accessible route that **meets the 2010 ADA accessibility standards** from the proposed site location **to its bus stop**. See attached map. If you have any questions, please do not hesitate to contact me.

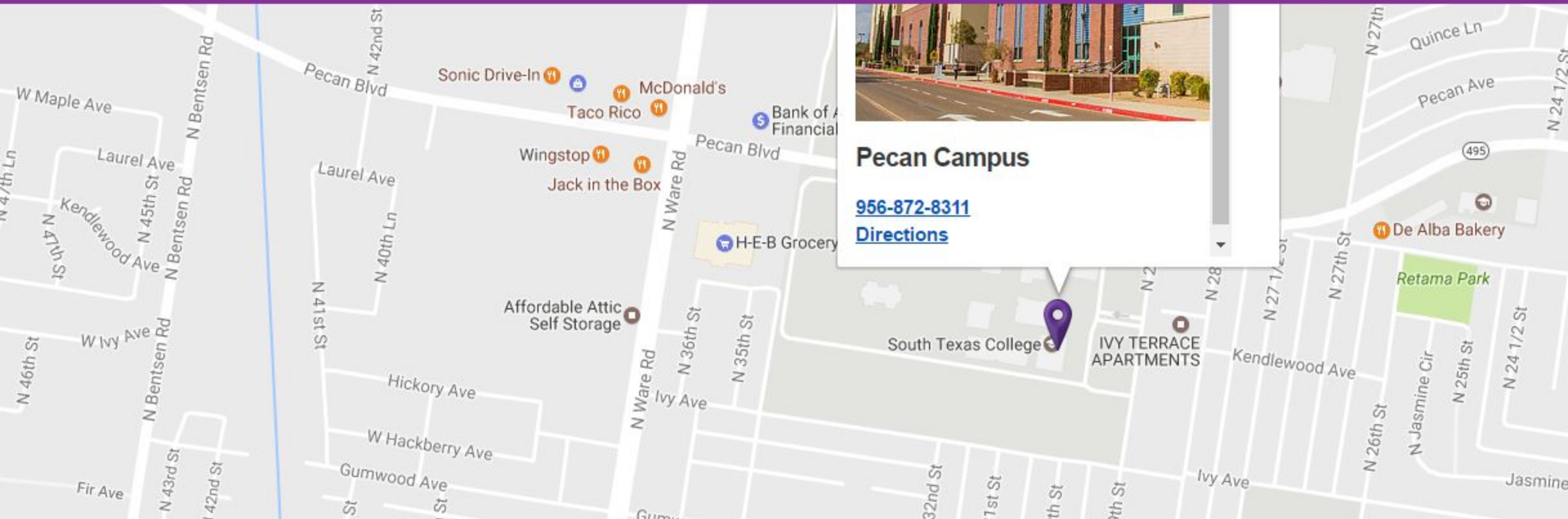
Sincerely,

  
**Alejandro Arreguin**  
TDLR Lic # 396



# College, Library and Museum Documentation

Exhibits E-1, E-2, E-3

[View All](#)[Mid-Valley](#)[Nursing & Allied Health](#)[Pecan](#)[Starr County](#)[Technology](#)

## Pecan Campus

**Address:**

3201 W. Pecan

McAllen, TX 78501

956-872-8311

[Pecan Campus \(PDF\)](#)

**address provided for main campus facility  
when using visitor tabs on website**

Although located in Hidalgo County, the Pecan Campus services students from the entire Rio Grande Valley. The campus offers comprehensive courses for college transfer to four-year institutions as well as vocational, technical and continuing education courses.

**Exhibit E-1** Traffic an

Hours of

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Cam

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**Quick Links**

- Locations & Hours
- Research/Subject Guides
- Library Tutorials
- Open Computer Labs
- Library Catalog ?
- Accounts & Renewals
- For Faculty
- Course Reserves ?
- Interlibrary Loan ?
- Cite Sources
- Journal Locator ?
- Library & Lab Rules
- FAQs
- Sitemap

 The Mid-Valley Library at Building E has been relocated. Find out more.

## Locations & Hours

**Intersession Hours:** From May 13th to June 4th, all libraries will be open 8 a.m. – 5 p.m. on Monday through Friday, except for the Mid-Valley Library, which will close at 4 p.m. on Friday. All libraries will be closed on Saturday and Sunday during this time.

Select a campus to view its location and hours of operation.

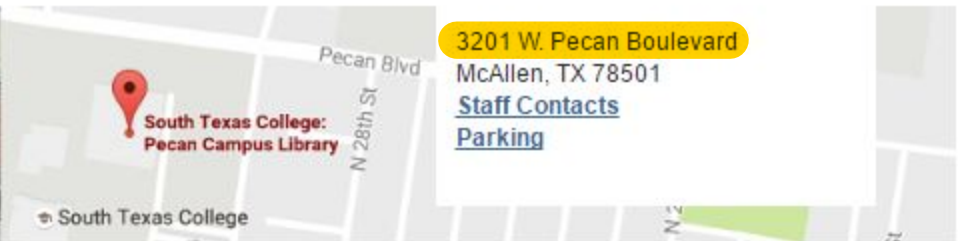
**Show All +**

**La Joya Teaching Center**

**Mid-Valley Campus**

**Nursing & Allied Health Campus**

**Pecan Campus**



**3201 W. Pecan Boulevard**  
McAllen, TX 78501  
[Staff Contacts](#)  
[Parking](#)

**Library**  
Room F-122  
[\(956\) 872-8330](tel:9568728330)

Mon – Thur: 7:00 AM – 10:00 PM  
Fri: 7:00 AM – 5:00 PM  
Sat: 9:00 AM – 6:00 PM  
Sun: 1:00 PM – 6:00 PM

**Open Lab**  
Room F-130  
[\(956\) 872-7208](tel:9568727208)

Mon – Thur: 6:30 AM – 9:30 PM  
Fri: 8:00 AM – 7:00 PM  
Sat – Sun: CLOSED

**Exhibit E-2**



### Quick Links

- Locations & Hours
- Research/Subject Guides
- Library Tutorials
- Open Computer Labs
- Library Catalog ?
- Accounts & Renewals
- For Faculty
- Course Reserves ?
- Interlibrary Loan ?
- Cite Sources
- Journal Locator ?
- Library & Lab Rules
- FAQs
- Sitemap

 The Mid-Valley Library at Building E has been relocated. Find out more.

## Art Galleries

Select a campus to view the **Library** Art Gallery.

[Show All +](#)

### Pecan Campus



#### Pecan Campus

**3201 W. Pecan Blvd, Building F, McAllen, TX** • [Location & Hours](#) • [Parking](#)

### Starr County Campus

### Technology Campus

**everything related to "art gallery" refers to library for the "library art gallery". Same location and same operating hours for both**



**THE UNEXAMINED PORTRAIT**  
Mixed media artwork by Len Davis and Jessie Burciaga  
**ART TALK: February 22, 1 PM**  
**RECEPTION: February 22, 5-7 PM**

On display:  
Jan 17 - Feb 26  
STC Pecan Library

Music by  
STC Guitar  
Ensemble

everything related to the "art gallery" refers to the "library"

## Current & Upcoming Exhibits



**STC Alumna: Yesenia Salinas**  
March 23 - May 11, 2017  
**Art Talk & Reception: April 20, 6PM**  
On display at the Technology Library



**The Unexamined Portrait**  
Artwork by **Len Davis** and **Jessie Burciaga**  
January 17 - February 26, 2017  
**Art Talk: February 22, 1-2 pm**  
**Reception: February 22, 5-7 pm**

## About Us

The South Texas College Library Art Gallery Program exhibits regional, national and international artwork, explores new visions and theories of creativity, and introduces innovative artistic expressions to the South Texas region.



## Property Crime Documentation

Exhibits F-1, F-2, F-3, F-4



✓ McAllen, TX (Bentsen Colonia / South Texas College) is now unlocked. The report will expire on 06/15/17.



# MCALLEN, TX (BENTSEN COLONIA / SOUTH TEXAS COLLEGE)

✓ UNLOCKED REPORT

✓ SAVE



OVERVIEW

REAL ESTATE

DEMOGRAPHICS

CRIME

SCHOOLS

TRENDS & FORECASTS

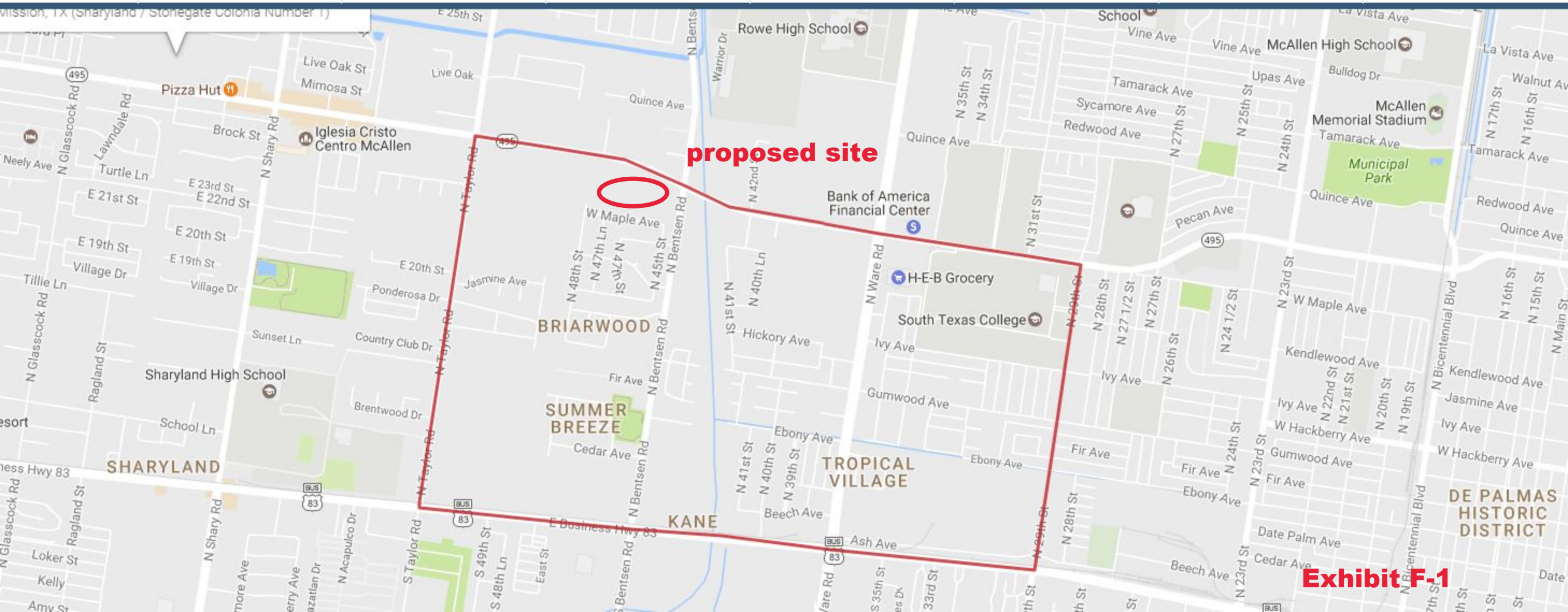


Exhibit F-1

# MCALLEN, TX (BENTSEN COLONIA / SOUTH TEXAS COLLEGE) ℹ

✓ UNLOCKED REPORT

✓ SAVE



OVERVIEW

REAL ESTATE

DEMOGRAPHICS

CRIME

SCHOOLS

TRENDS & FORECASTS

## NEIGHBORHOOD CRIME DATA

[About Scout's Crime Data](#)

67 Vital Statistics. 2 Condition Alerts found.

WHAT IS A CONDITION ALERT?

## NEIGHBORHOOD CRIME DATA ℹ

### TOTAL CRIME INDEX

43

(100 is safest)

Safer than 43% of U.S. neighborhoods.

### NEIGHBORHOOD ANNUAL CRIMES

	VIOLENT	PROPERTY	TOTAL
Number of Crimes	5	107	112
Crime Rate (per 1,000 residents)	1.27	27.28	28.55



✓ McAllen, TX (Mata Colonia) is now unlocked. The report will expire on 06/16/17.

# MCALLEN, TX (MATA COLONIA)

✓ UN

✓ SAVE



OVERVIEW



REAL ESTATE



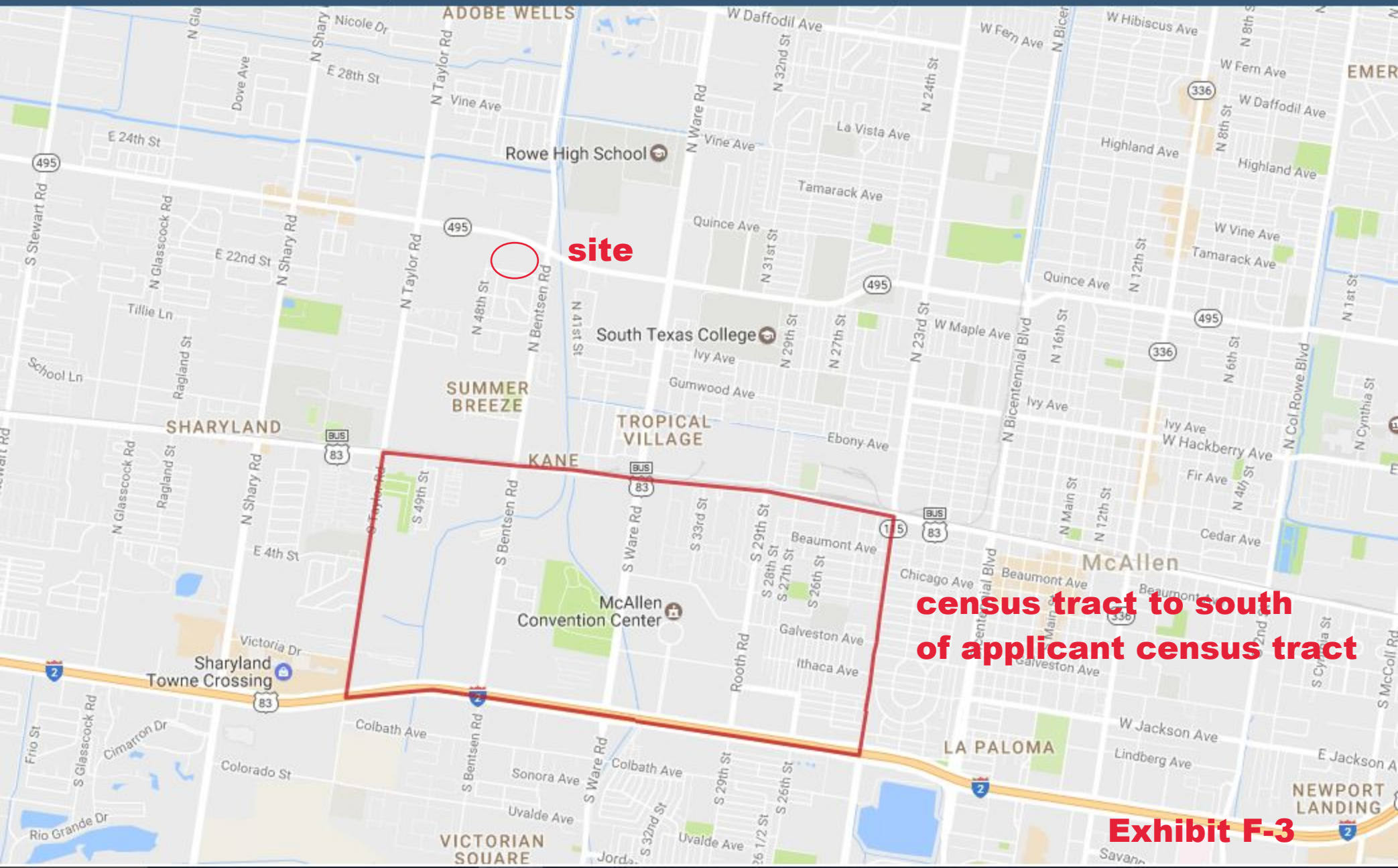
DEMOGRAPHICS



CRIME



SCHOOLS



**census tract to south  
of applicant census tract**

**Exhibit F-3**



## NEIGHBORHOOD CRIME DATA

[About Scout's Crime Data](#)

67 Vital Statistics. 3 Condition Alerts found.

[WHAT IS A CONDITION ALERT?](#) 

## NEIGHBORHOOD CRIME DATA

### TOTAL CRIME INDEX

17

(100 is safest) 

Safer than 17% of U.S. neighborhoods.

### NEIGHBORHOOD ANNUAL CRIMES

	VIOLENT	PROPERTY	TOTAL
Number of Crimes	9	267	276
Crime Rate (per 1,000 residents)	1.72	51.03	52.75

**property crime almost twice census tract adjacent where applicant site is located**

2010 ADA Standards



Figure 307.2  
of Protruding Objects

# 2010 ADA Standards for Accessible Design

Department of Justice  
September 15, 2010

Figure 703.2.1  
Height of Raised Characters

2.0 in



## 2010 Standards for Titles II and III Facilities: 2004 ADAAG

The following section applies to **both** State and local government facilities (Title II) and public accommodations and commercial facilities (Title III). The section consists of (ADA) Chapters 1 and 2 and Chapters 3 through 10, of the 2004 ADAAG (36 CFR part 1191, appendices B and D, adopted as part of both the Title II and Title III 2010 Standards).

State and local government facilities must follow the requirements of the 2010 Standards, including both the Title II regulations at 28 CFR 35.151; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

Public accommodations and commercial facilities must follow the requirements of the 2010 Standards, including both the Title III regulations at 28 CFR part 36, subpart D; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

In the few places where requirements between the regulation and the 2004 ADAAG differ, the requirements of 28 CFR 35.151 or 28 CFR part 36, subpart D, prevail.

for example when passing spaces 403.5.3 states 200 feet maximum, there is no tolerance or exception to the distance. 200 feet is the absolute maximum a path may travel without a passing space if such path is less than 60 inches in width.

**104.1.1 Construction and Manufacturing Tolerances.** All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.

**Advisory 104.1.1 Construction and Manufacturing Tolerances.** Conventional industry tolerances recognized by this provision include those for field conditions and those that may be a necessary consequence of a particular manufacturing process. Recognized tolerances are not intended to apply to design work.

It is good practice when specifying dimensions to avoid specifying a tolerance where dimensions are absolute. For example, if this document requires "1½ inches," avoid specifying "1½ inches plus or minus X inches."

Where the requirement states a specified range, such as in Section 609.4 where grab bars must be installed between 33 inches and 36 inches above the floor, the range provides an adequate tolerance and therefore no tolerance outside of the range at either end point is permitted.

Where a requirement is a minimum or a maximum dimension that does not have two specific minimum and maximum end points, tolerances may apply. Where an element is to be installed at the minimum or maximum permitted dimension, such as "15 inches minimum" or "5 pounds maximum", it would not be good practice to specify "5 pounds (plus X pounds) or 15 inches (minus X inches)." Rather, it would be good practice to specify a dimension less than the required maximum (or more than the required minimum) by the amount of the expected field or manufacturing tolerance and not to state any tolerance in conjunction with the specified dimension.

Specifying dimensions in design in the manner described above will better ensure that facilities and elements accomplish the level of accessibility intended by these requirements. It will also more often produce an end result of strict and literal compliance with the stated requirements and eliminate enforcement difficulties and issues that might otherwise arise. Information on specific tolerances may be available from industry or trade organizations, code groups and building officials, and published references.

**104.2 Calculation of Percentages.** Where the required number of *elements* or *facilities* to be provided is determined by calculations of ratios or percentages and remainders or fractions result, the next greater whole number of such *elements* or *facilities* shall be provided. Where the determination of the required size or dimension of an *element* or *facility* involves ratios or percentages, rounding down for values less than one half shall be permitted.

**104.3 Figures.** Unless specifically stated otherwise, figures are provided for informational purposes only.

Convention	Description
	dimension showing English units (in inches unless otherwise specified) above the line and SI units (in millimeters unless otherwise specified) below the line
	dimension for small measurements
	dimension showing a range with minimum - maximum
min	minimum
max	maximum
$>$	greater than
$\geq$	greater than or equal to
$<$	less than
$\leq$	less than or equal to
	boundary of clear floor space or maneuvering clearance
	centerline
	a permitted element or its extension
	direction of travel or approach
	a wall, floor, ceiling or other element cut in section or plan
	a highlighted element in elevation or plan
	location zone of element, control or feature

Figure 104  
Graphic Convention for Figures



## CHAPTER 3: BUILDING BLOCKS

### 301 General

**301.1 Scope.** The provisions of Chapter 3 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

### 302 Floor or Ground Surfaces

**302.1 General.** Floor and ground surfaces shall be stable, firm, and slip resistant and shall comply with 302.

- EXCEPTIONS:**
1. Within animal containment areas, floor and ground surfaces shall not be required to be stable, firm, and slip resistant.
  2. Areas of sport activity shall not be required to comply with 302.

**Advisory 302.1 General.** A stable surface is one that remains unchanged by contaminants or applied force, so that when the contaminant or force is removed, the surface returns to its original condition. A firm surface resists deformation by either indentations or particles moving on its surface. A slip-resistant surface provides sufficient frictional counterforce to the forces exerted in walking to permit safe ambulation.

**302.2 Carpet.** Carpet or carpet tile shall be securely attached and shall have a firm cushion, pad, or backing or no cushion or pad. Carpet or carpet tile shall have a level loop, textured loop, level cut pile, or level cut/uncut pile texture. Pile height shall be  $\frac{1}{2}$  inch (13 mm) maximum. Exposed edges of carpet shall be fastened to floor surfaces and shall have trim on the entire length of the exposed edge. Carpet edge trim shall comply with 303.

**Advisory 302.2 Carpet.** Carpets and permanently affixed mats can significantly increase the amount of force (roll resistance) needed to propel a wheelchair over a surface. The firmer the carpeting and backing, the lower the roll resistance. A pile thickness up to  $\frac{1}{2}$  inch (13 mm) (measured to the backing, cushion, or pad) is allowed, although a lower pile provides easier wheelchair maneuvering. If a backing, cushion or pad is used, it must be firm. Preferably, carpet pad should not be used because the soft padding increases roll resistance.

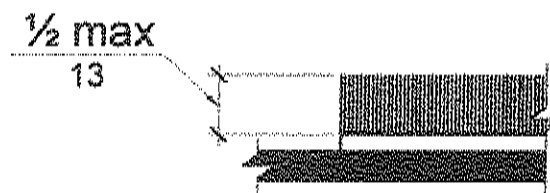


Figure 302.2  
Carpet Pile Height

**242.4 Spas.** At least one *accessible* means of entry shall be provided for spas. *Accessible* means of entry shall comply with swimming pool lifts complying with 1009.2; transfer walls complying with 1009.4; or transfer systems complying with 1009.5.

**EXCEPTION:** Where spas are provided in a cluster, no more than 5 percent, but no fewer than one, spa in each cluster shall be required to comply with 242.4.

#### **243 Shooting Facilities with Firing Positions**

**243.1 General.** Where shooting *facilities* with firing positions are designed and constructed at a *site*, at least 5 percent, but no fewer than one, of each type of firing position shall comply with 1010.

**302.3 Openings.** Openings in floor or ground surfaces shall not allow passage of a sphere more than  $\frac{1}{2}$  inch (13 mm) diameter except as allowed in 407.4.3, 409.4.3, 410.4, 810.5.3 and 810.10. Elongated openings shall be placed so that the long dimension is perpendicular to the dominant direction of travel.

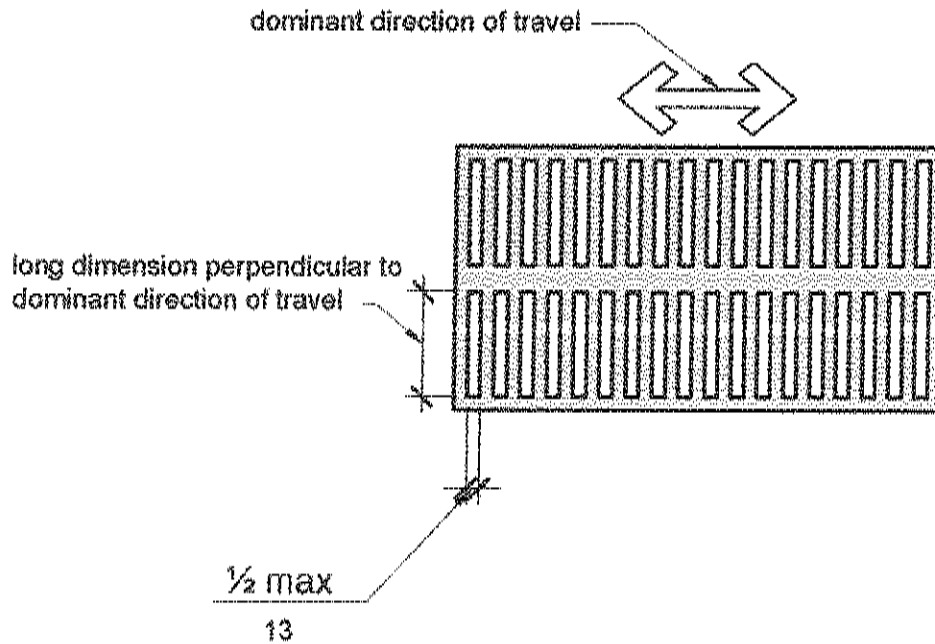


Figure 302.3  
Elongated Openings in Floor or Ground Surfaces

### 303 Changes in Level

**303.1 General.** Where changes in level are permitted in floor or ground surfaces, they shall comply with 303.

- EXCEPTIONS:** 1. Animal containment areas shall not be required to comply with 303.  
2. Areas of sport activity shall not be required to comply with 303.

**303.2 Vertical.** Changes in level of  $\frac{1}{4}$  inch (6.4 mm) high maximum shall be permitted to be vertical.



Figure 303.2  
Vertical Change in Level



**303.3 Beveled.** Changes in level between  $\frac{1}{4}$  inch (6.4 mm) high minimum and  $\frac{1}{2}$  inch (13 mm) high maximum shall be beveled with a slope not steeper than 1:2.

**Advisory 303.3 Beveled.** A change in level of  $\frac{1}{2}$  inch (13 mm) is permitted to be  $\frac{1}{4}$  inch (6.4 mm) vertical plus  $\frac{1}{4}$  inch (6.4 mm) beveled. However, in no case may the combined change in level exceed  $\frac{1}{2}$  inch (13 mm). Changes in level exceeding  $\frac{1}{2}$  inch (13 mm) must comply with 405 (Ramps) or 406 (Curb Ramps).

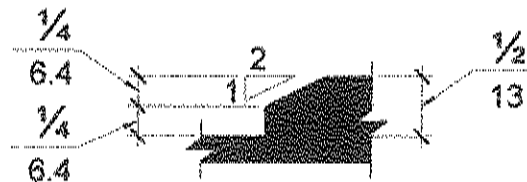


Figure 303.3  
Beveled Change in Level

**303.4 Ramps.** Changes in level greater than  $\frac{1}{2}$  inch (13 mm) high shall be *ramped*, and shall comply with 405 or 406.

### 304 Turning Space

**304.1 General.** Turning *space* shall comply with 304.

**304.2 Floor or Ground Surfaces.** Floor or ground surfaces of a turning *space* shall comply with 302. Changes in level are not permitted.

**EXCEPTION:** Slopes not steeper than 1:48 shall be permitted.

**Advisory 304.2 Floor or Ground Surface Exception.** As used in this section, the phrase "changes in level" refers to surfaces with slopes and to surfaces with abrupt rise exceeding that permitted in Section 303.3. Such changes in level are prohibited in required clear floor and ground spaces, turning spaces, and in similar spaces where people using wheelchairs and other mobility devices must park their mobility aids such as in wheelchair spaces, or maneuver to use elements such as at doors, fixtures, and telephones. The exception permits slopes not steeper than 1:48.

**304.3 Size.** Turning *space* shall comply with 304.3.1 or 304.3.2.

**304.3.1 Circular Space.** The turning *space* shall be a *space* of 60 inches (1525 mm) diameter minimum. The *space* shall be permitted to include knee and toe clearance complying with 306.

**304.3.2 T-Shaped Space.** The turning *space* shall be a T-shaped *space* within a 60 inch (1525 mm) square minimum with arms and base 36 inches (915 mm) wide minimum. Each arm of the T shall be clear of obstructions 12 inches (305 mm) minimum in each direction and the base shall be clear of

## CHAPTER 4: ACCESSIBLE ROUTES

### 401 General

**401.1 Scope.** The provisions of Chapter 4 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

### 402 Accessible Routes

**402.1 General.** Accessible routes shall comply with 402.

**402.2 Components.** Accessible routes shall consist of one or more of the following components: walking surfaces with a *running slope* not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4.

**Advisory 402.2 Components.** Walking surfaces must have running slopes not steeper than 1:20, see 403.3. Other components of accessible routes, such as ramps (405) and curb ramps (406), are permitted to be more steeply sloped.

### 403 Walking Surfaces

**403.1 General.** Walking surfaces that are a part of an accessible route shall comply with 403.

**403.2 Floor or Ground Surface.** Floor or ground surfaces shall comply with 302.

**403.3 Slope.** The *running slope* of walking surfaces shall not be steeper than 1:20. The *cross slope* of walking surfaces shall not be steeper than 1:48.

**403.4 Changes in Level.** Changes in level shall comply with 303.

**403.5 Clearances.** Walking surfaces shall provide clearances complying with 403.5.

**EXCEPTION:** Within *employee work areas*, clearances on *common use circulation paths* shall be permitted to be decreased by *work area equipment* provided that the decrease is essential to the function of the work being performed.

**403.5.1 Clear Width.** Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.

**EXCEPTION:** The clear width shall be permitted to be reduced to 32 inches (815 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum.

**When paths are shown to cross private driveways or entrances into retail or commercial parking lots along a public street, this section 403.3 is often very difficult to meet because the paths at these locations are not public sidewalks- they transition from a public walk to over a private drive or private entrance, then back to a public walk. The private drive is not regulated by ADA thus most often fails to meet the ADA.**

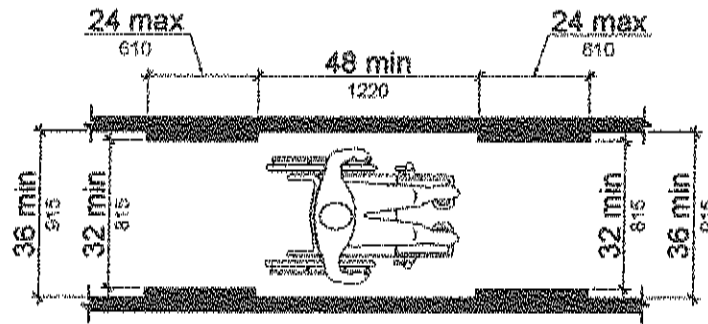


Figure 403.5.1  
Clear Width of an Accessible Route

**403.5.2 Clear Width at Turn.** Where the *accessible* route makes a 180 degree turn around an *element* which is less than 48 inches (1220 mm) wide, clear width shall be 42 inches (1065 mm) minimum approaching the turn, 48 inches (1220 mm) minimum at the turn and 42 inches (1065 mm) minimum leaving the turn.

**EXCEPTION:** Where the clear width at the turn is 60 inches (1525 mm) minimum compliance with 403.5.2 shall not be required.

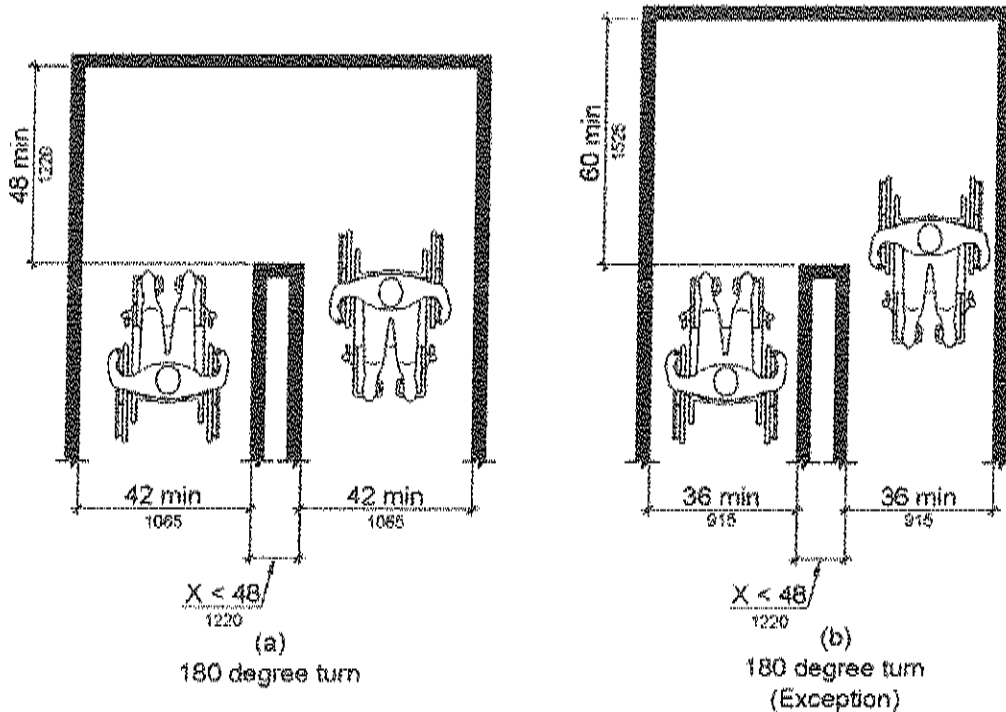


Figure 403.5.2  
Clear Width at Turn



**many old walks do not meet this section because the walks were built with widths less than 60 inches. New city walk and path projects typically require 60 inch wide walks thus this section is met.**

**403.5.3 Passing Spaces.** An *accessible* route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.

**403.6 Handrails.** Where handrails are provided along walking surfaces with *running slopes* not steeper than 1:20 they shall comply with 505.

**Advisory 403.6 Handrails.** Handrails provided in elevator cabs and platform lifts are not required to comply with the requirements for handrails on walking surfaces.

#### 404 Doors, Doorways, and Gates

**404.1 General.** Doors, doorways, and gates that are part of an *accessible* route shall comply with 404.

**EXCEPTION:** Doors, doorways, and gates designed to be operated only by security personnel shall not be required to comply with 404.2.7, 404.2.8, 404.2.9, 404.3.2 and 404.3.4 through 404.3.7.

**Advisory 404.1 General Exception.** Security personnel must have sole control of doors that are eligible for the Exception at 404.1. It would not be acceptable for security personnel to operate the doors for people with disabilities while allowing others to have independent access.

**404.2 Manual Doors, Doorways, and Manual Gates.** Manual doors and doorways and manual gates intended for user passage shall comply with 404.2.

**404.2.1 Revolving Doors, Gates, and Turnstiles.** Revolving doors, revolving gates, and turnstiles shall not be part of an *accessible* route.

**404.2.2 Double-Leaf Doors and Gates.** At least one of the active leaves of doorways with two leaves shall comply with 404.2.3 and 404.2.4.

**404.2.3 Clear Width.** Door openings shall provide a clear width of 32 inches (815 mm) minimum. Clear openings of doorways with swinging doors shall be measured between the face of the door and the stop, with the door open 90 degrees. Openings more than 24 inches (610 mm) deep shall provide a clear opening of 36 inches (915 mm) minimum. There shall be no projections into the required clear opening width lower than 34 inches (865 mm) above the finish floor or ground. Projections into the clear opening width between 34 inches (865 mm) and 80 inches (2030 mm) above the finish floor or ground shall not exceed 4 inches (100 mm).

**EXCEPTIONS:** 1. In *alterations*, a projection of 5/8 inch (16 mm) maximum into the required clear width shall be permitted for the latch side stop.

2. Door closers and door stops shall be permitted to be 78 inches (1980 mm) minimum above the finish floor or ground.

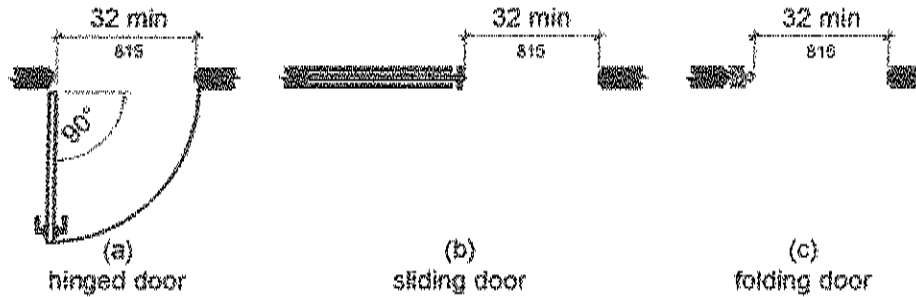


Figure 404.2.3  
Clear Width of Doorways

**404.2.4 Maneuvering Clearances.** Minimum maneuvering clearances at doors and gates shall comply with 404.2.4. Maneuvering clearances shall extend the full width of the doorway and the required latch side or hinge side clearance.

**EXCEPTION:** Entry doors to hospital patient rooms shall not be required to provide the clearance beyond the latch side of the door.

**404.2.4.1 Swinging Doors and Gates.** Swinging doors and gates shall have maneuvering clearances complying with Table 404.2.4.1.

Table 404.2.4.1 Maneuvering Clearances at Manual Swinging Doors and Gates

Type of Use		Minimum Maneuvering Clearance	
Approach Direction	Door or Gate Side	Perpendicular to Doorway	Parallel to Doorway (beyond latch side unless noted)
From front	Pull	60 inches (1525 mm)	18 inches (455 mm)
From front	Push	48 inches (1220 mm)	0 inches (0 mm) <sup>1</sup>
From hinge side	Pull	60 inches (1525 mm)	36 inches (915 mm)
From hinge side	Pull	54 inches (1370 mm)	42 inches (1065 mm)
From hinge side	Push	42 inches (1065 mm) <sup>2</sup>	22 inches (560 mm) <sup>3</sup>
From latch side	Pull	48 inches (1220 mm) <sup>4</sup>	24 inches (610 mm)
From latch side	Push	42 inches (1065 mm) <sup>4</sup>	24 inches (610 mm)

1. Add 12 inches (305 mm) if closer and latch are provided.
2. Add 6 inches (150 mm) if closer and latch are provided.
3. Beyond hinge side.
4. Add 6 inches (150 mm) if closer is provided.

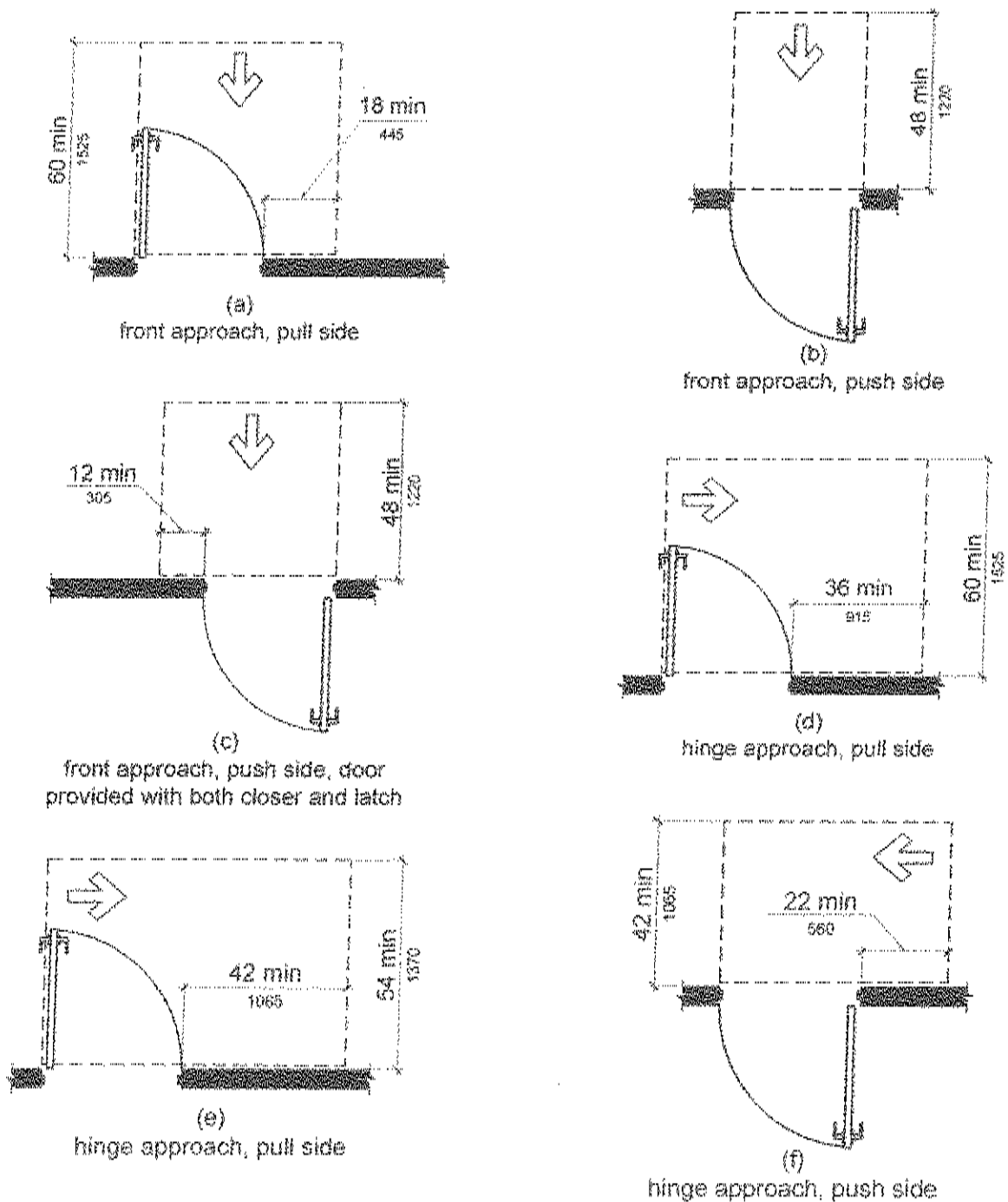


Figure 404.2.4.1  
 Maneuvering Clearances at Manual Swinging Doors and Gates



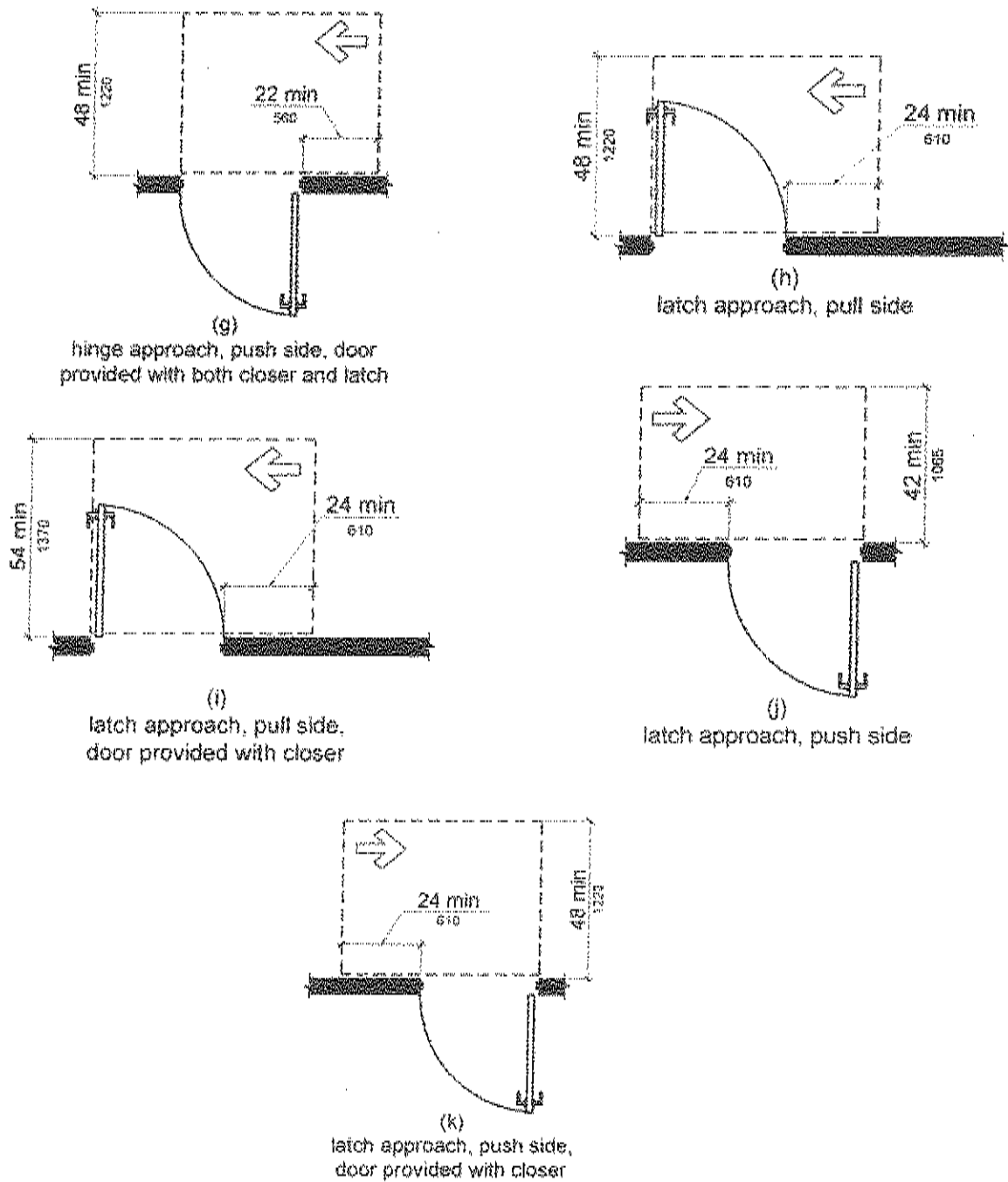


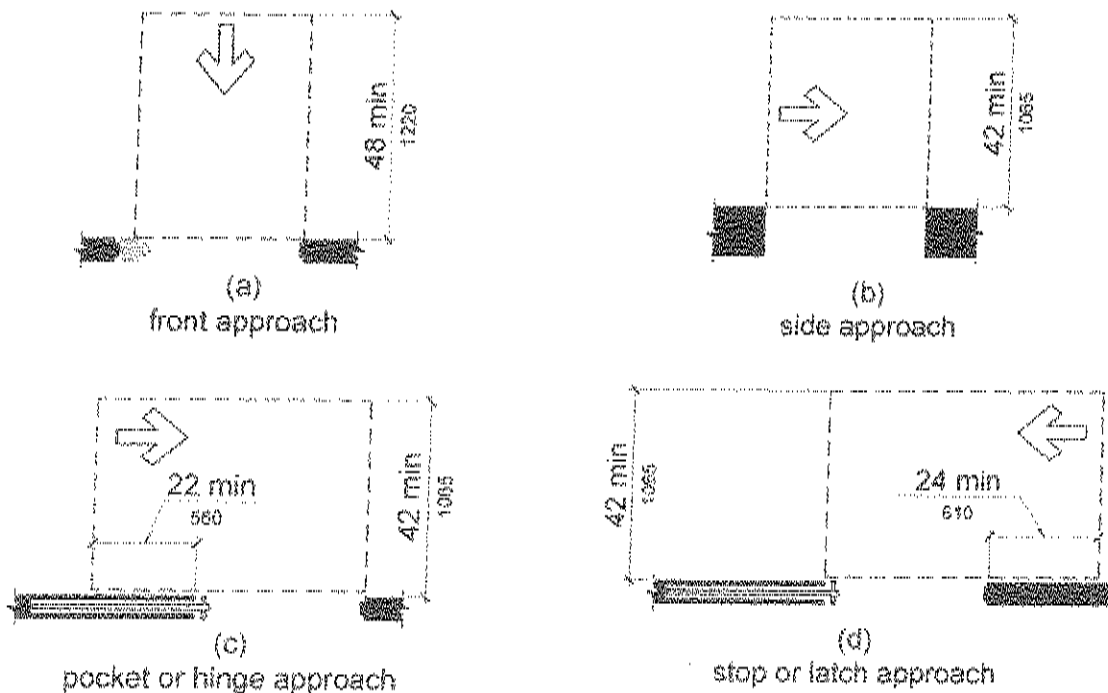
Figure 404.2.4.1  
Maneuvering Clearances at Manual Swinging Doors and Gates

**404.2.4.2 Doorways without Doors or Gates, Sliding Doors, and Folding Doors.** Doorways less than 36 inches (915 mm) wide without doors or gates, sliding doors, or folding doors shall have maneuvering clearances complying with Table 404.2.4.2.

**Table 404.2.4.2 Maneuvering Clearances at Doorways without Doors or Gates, Manual Sliding Doors, and Manual Folding Doors**

Approach Direction	Minimum Maneuvering Clearance	
	Perpendicular to Doorway	Parallel to Doorway (beyond stop/latch side unless noted)
From Front	48 inches (1220 mm)	0 inches (0 mm)
From side <sup>1</sup>	42 inches (1065 mm)	0 inches (0 mm)
From pocket/hinge side	42 inches (1065 mm)	22 inches (560 mm) <sup>2</sup>
From stop/latch side	42 inches (1065 mm)	24 inches (610 mm)

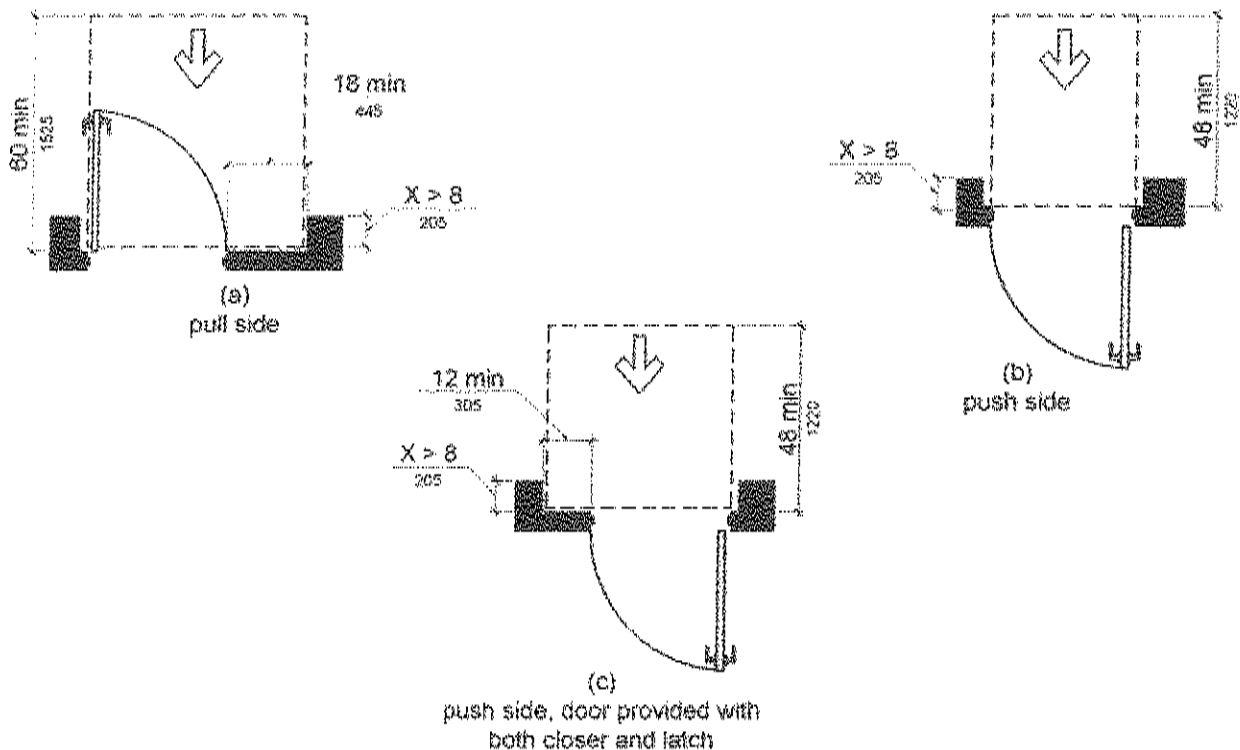
- 1. Doorway with no door only.
- 2. Beyond pocket/hinge side.



**Figure 404.2.4.2**  
**Maneuvering Clearances at Doorways without Doors, Sliding Doors, Gates, and Folding Doors**

**404.2.4.3 Recessed Doors and Gates.** Maneuvering clearances for forward approach shall be provided when any obstruction within 18 inches (455 mm) of the latch side of a doorway projects more than 8 inches (205 mm) beyond the face of the door, measured perpendicular to the face of the door or gate.

**Advisory 404.2.4.3 Recessed Doors and Gates.** A door can be recessed due to wall thickness or because of the placement of casework and other fixed elements adjacent to the doorway. This provision must be applied wherever doors are recessed.



**Figure 404.2.4.3**  
**Maneuvering Clearances at Recessed Doors and Gates**

**404.2.4.4 Floor or Ground Surface.** Floor or ground surface within required maneuvering clearances shall comply with 302. Changes in level are not permitted.

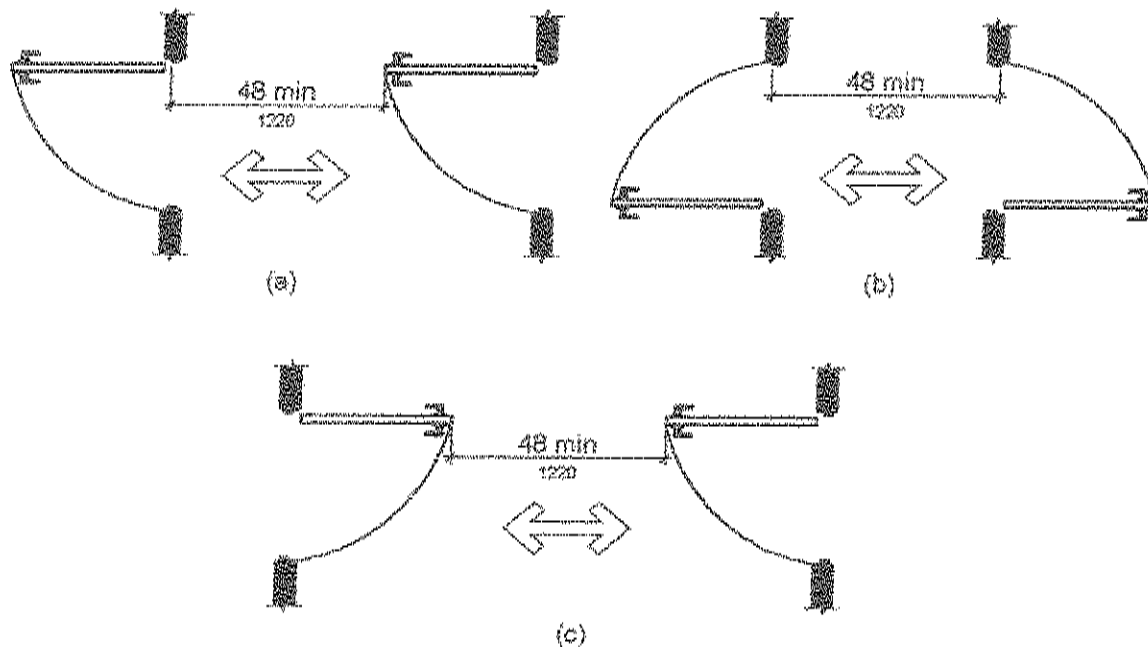
- EXCEPTIONS:**
1. Slopes not steeper than 1:48 shall be permitted.
  2. Changes in level at thresholds complying with 404.2.5 shall be permitted.

**404.2.5 Thresholds.** Thresholds, if provided at doorways, shall be ½ inch (13 mm) high maximum. Raised thresholds and changes in level at doorways shall comply with 302 and 303.

**EXCEPTION:** Existing or altered thresholds ¾ inch (19 mm) high maximum that have a beveled edge on each side with a slope not steeper than 1:2 shall not be required to comply with 404.2.5.



**404.2.6 Doors in Series and Gates in Series.** The distance between two hinged or pivoted doors in series and gates in series shall be 48 inches (1220 mm) minimum plus the width of doors or gates swinging into the space.



**Figure 404.2.6**  
Doors in Series and Gates in Series

**404.2.7 Door and Gate Hardware.** Handles, pulls, latches, locks, and other *operable parts* on doors and gates shall comply with 309.4. *Operable parts* of such hardware shall be 34 inches (865 mm) minimum and 48 inches (1220 mm) maximum above the finish floor or ground. Where sliding doors are in the fully open position, operating hardware shall be exposed and usable from both sides.

**EXCEPTIONS:** 1. Existing locks shall be permitted in any location at existing glazed doors without stiles, existing overhead rolling doors or grilles, and similar existing doors or grilles that are designed with locks that are activated only at the top or bottom rail.

2. Access gates in barrier walls and fences protecting pools, spas, and hot tubs shall be permitted to have *operable parts* of the release of latch on self-latching devices at 54 inches (1370 mm) maximum above the finish floor or ground provided the self-latching devices are not also self-locking devices and operated by means of a key, electronic opener, or integral combination lock.

**Advisory 404.2.7 Door and Gate Hardware.** Door hardware that can be operated with a closed fist or a loose grip accommodates the greatest range of users. Hardware that requires simultaneous hand and finger movements require greater dexterity and coordination, and is not recommended.

**404.2.8 Closing Speed.** Door and gate closing speed shall comply with 404.2.8.

**404.2.8.1 Door Closers and Gate Closers.** Door closers and gate closers shall be adjusted so that from an open position of 90 degrees, the time required to move the door to a position of 12 degrees from the latch is 5 seconds minimum.

**404.2.8.2 Spring Hinges.** Door and gate spring hinges shall be adjusted so that from the open position of 70 degrees, the door or gate shall move to the closed position in 1.5 seconds minimum.

**404.2.9 Door and Gate Opening Force.** Fire doors shall have a minimum opening force allowable by the appropriate *administrative authority*. The force for pushing or pulling open a door or gate other than fire doors shall be as follows:

1. Interior hinged doors and gates: 5 pounds (22.2 N) maximum.
2. Sliding or folding doors: 5 pounds (22.2 N) maximum.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door or gate in a closed position.

**Advisory 404.2.9 Door and Gate Opening Force.** The maximum force pertains to the continuous application of force necessary to fully open a door, not the initial force needed to overcome the inertia of the door. It does not apply to the force required to retract bolts or to disengage other devices used to keep the door in a closed position.

**404.2.10 Door and Gate Surfaces.** Swinging door and gate surfaces within 10 inches (255 mm) of the finish floor or ground measured vertically shall have a smooth surface on the push side extending the full width of the door or gate. Parts creating horizontal or vertical joints in these surfaces shall be within 1/16 inch (1.6 mm) of the same plane as the other. Cavities created by added kick plates shall be capped.

- EXCEPTIONS:**
1. Sliding doors shall not be required to comply with 404.2.10.
  2. Tempered glass doors without stiles and having a bottom rail or shoe with the top leading edge tapered at 60 degrees minimum from the horizontal shall not be required to meet the 10 inch (255 mm) bottom smooth surface height requirement.
  3. Doors and gates that do not extend to within 10 inches (255 mm) of the finish floor or ground shall not be required to comply with 404.2.10.
  4. Existing doors and gates without smooth surfaces within 10 inches (255 mm) of the finish floor or ground shall not be required to provide smooth surfaces complying with 404.2.10 provided that if added kick plates are installed, cavities created by such kick plates are capped.

**404.2.11 Vision Lights.** Doors, gates, and side lights adjacent to doors or gates, containing one or more glazing panels that permit viewing through the panels shall have the bottom of at least one glazed panel located 43 inches (1090 mm) maximum above the finish floor.

**EXCEPTION:** Vision lights with the lowest part more than 66 inches (1675 mm) from the finish floor or ground shall not be required to comply with 404.2.11.

**404.3 Automatic and Power-Assisted Doors and Gates.** Automatic doors and automatic gates shall comply with 404.3. Full-powered automatic doors shall comply with ANSI/BHMA A156.10 (incorporated

by reference, see “Referenced Standards” in Chapter 1). Low-energy and power-assisted doors shall comply with ANSI/BHMA A156.19 (1997 or 2002 edition) (incorporated by reference, see “Referenced Standards” in Chapter 1).

**404.3.1 Clear Width.** Doorways shall provide a clear opening of 32 inches (815 mm) minimum in power-on and power-off mode. The minimum clear width for automatic door systems in a doorway shall be based on the clear opening provided by all leaves in the open position.

**404.3.2 Maneuvering Clearance.** Clearances at power-assisted doors and gates shall comply with 404.2.4. Clearances at automatic doors and gates without standby power and serving an *accessible means of egress* shall comply with 404.2.4.

**EXCEPTION:** Where automatic doors and gates remain open in the power-off condition, compliance with 404.2.4 shall not be required.

**404.3.3 Thresholds.** Thresholds and changes in level at doorways shall comply with 404.2.5.

**404.3.4 Doors in Series and Gates in Series.** Doors in series and gates in series shall comply with 404.2.6.

**404.3.5 Controls.** Manually operated controls shall comply with 309. The clear floor space adjacent to the control shall be located beyond the arc of the door swing.

**404.3.6 Break Out Opening.** Where doors and gates without standby power are a part of a means of egress, the clear break out opening at swinging or sliding doors and gates shall be 32 inches (815 mm) minimum when operated in emergency mode.

**EXCEPTION:** Where manual swinging doors and gates comply with 404.2 and serve the same means of egress compliance with 404.3.6 shall not be required.

**404.3.7 Revolving Doors, Revolving Gates, and Turnstiles.** Revolving doors, revolving gates, and turnstiles shall not be part of an *accessible* route.

## 405 Ramps

**405.1 General.** *Ramps on accessible routes shall comply with 405.*

**EXCEPTION:** In *assembly areas*, aisle ramps adjacent to seating and not serving *elements* required to be on an *accessible* route shall not be required to comply with 405.

**405.2 Slope.** *Ramp runs shall have a running slope not steeper than 1:12.*

**EXCEPTION:** In existing *sites, buildings, and facilities*, ramps shall be permitted to have *running slopes* steeper than 1:12 complying with Table 405.2 where such slopes are necessary due to *space* limitations.

**405 Ramps- As applicable. It is rare to see walks in public right of ways trigger this section but some cases where an applicant has shown a path to enter into a park over a driveway could exceed or trigger ramp slopes.**



Table 405.2 Maximum Ramp Slope and Rise for Existing Sites, Buildings, and Facilities

Slope <sup>1</sup>	Maximum Rise
Steeper than 1:10 but not steeper than 1:8	3 inches (75 mm)
Steeper than 1:12 but not steeper than 1:10	6 inches (150 mm)

1. A slope steeper than 1:8 is prohibited.

**Advisory 405.2 Slope.** To accommodate the widest range of users, provide ramps with the least possible running slope and, wherever possible, accompany ramps with stairs for use by those individuals for whom distance presents a greater barrier than steps, e.g., people with heart disease or limited stamina.

**405.3 Cross Slope.** *Cross slope of ramp runs shall not be steeper than 1:48.*

**Advisory 405.3 Cross Slope.** Cross slope is the slope of the surface perpendicular to the direction of travel. Cross slope is measured the same way as slope is measured (i.e., the rise over the run).

**405.4 Floor or Ground Surfaces.** Floor or ground surfaces of *ramp runs* shall comply with 302. Changes in level other than the *running slope* and *cross slope* are not permitted on *ramp runs*.

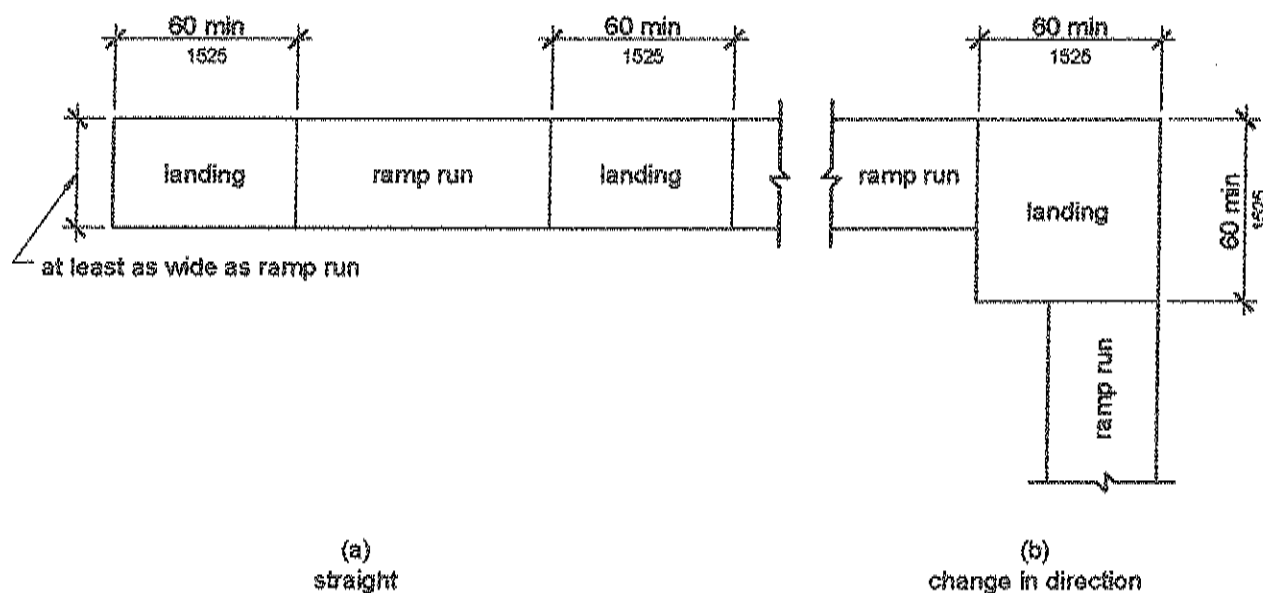
**405.5 Clear Width.** The clear width of a *ramp run* and, where handrails are provided, the clear width between handrails shall be 36 inches (915 mm) minimum.

**EXCEPTION:** Within *employee work areas*, the required clear width of *ramps* that are a part of *common use circulation paths* shall be permitted to be decreased by *work area equipment* provided that the decrease is essential to the function of the work being performed.

**405.6 Rise.** The rise for any *ramp run* shall be 30 inches (760 mm) maximum.

**405.7 Landings.** *Ramps* shall have landings at the top and the bottom of each *ramp run*. Landings shall comply with 405.7.

**Advisory 405.7 Landings.** Ramps that do not have level landings at changes in direction can create a compound slope that will not meet the requirements of this document. Circular or curved ramps continually change direction. Curvilinear ramps with small radii also can create compound cross slopes and cannot, by their nature, meet the requirements for accessible routes. A level landing is needed at the accessible door to permit maneuvering and simultaneously door operation.



**Figure 405.7**  
**Ramp Landings**

**405.7.1 Slope.** Landings shall comply with 302. Changes in level are not permitted.

**EXCEPTION:** Slopes not steeper than 1:48 shall be permitted.

**405.7.2 Width.** The landing clear width shall be at least as wide as the widest *ramp* run leading to the landing.

**405.7.3 Length.** The landing clear length shall be 60 inches (1525 mm) long minimum.

**405.7.4 Change in Direction.** *Ramps* that change direction between runs at landings shall have a clear landing 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum.

**405.7.5 Doorways.** Where doorways are located adjacent to a *ramp* landing, maneuvering clearances required by 404.2.4 and 404.3.2 shall be permitted to overlap the required landing area.

**405.8 Handrails.** *Ramp* runs with a rise greater than 6 inches (150 mm) shall have handrails complying with 505.

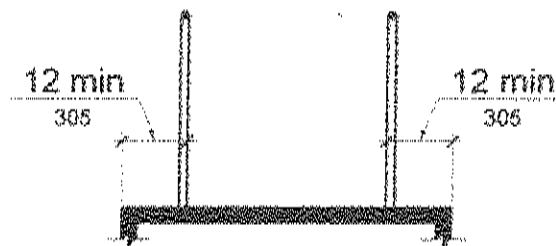
**EXCEPTION:** Within *employee work areas*, handrails shall not be required where *ramps* that are part of *common use circulation paths* are designed to permit the installation of handrails complying with 505. *Ramps* not subject to the exception to 405.5 shall be designed to maintain a 36 inch (915 mm) minimum clear width when handrails are installed.

**405.9 Edge Protection.** Edge protection complying with 405.9.1 or 405.9.2 shall be provided on each side of *ramp* runs and at each side of *ramp* landings.

- EXCEPTIONS:**
1. Edge protection shall not be required on *ramps* that are not required to have handrails and have sides complying with 406.3.
  2. Edge protection shall not be required on the sides of *ramp* landings serving an adjoining *ramp* run or stairway.
  3. Edge protection shall not be required on the sides of *ramp* landings having a vertical drop-off of  $\frac{1}{2}$  inch (13 mm) maximum within 10 inches (255 mm) horizontally of the minimum landing area specified in 405.7.

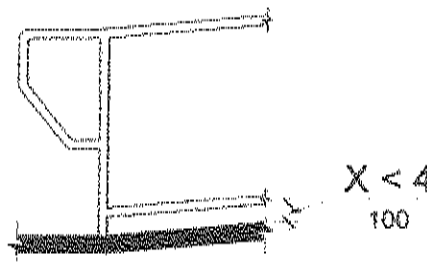
**405.9.1 Extended Floor or Ground Surface.** The floor or ground surface of the *ramp* run or landing shall extend 12 inches (305 mm) minimum beyond the inside face of a handrail complying with 505.

**Advisory 405.9.1 Extended Floor or Ground Surface.** The extended surface prevents wheelchair casters and crutch tips from slipping off the ramp surface.



**Figure 405.9.1**  
Extended Floor or Ground Surface Edge Protection

**405.9.2 Curb or Barrier.** A curb or barrier shall be provided that prevents the passage of a 4 inch (100 mm) diameter sphere, where any portion of the sphere is within 4 inches (100 mm) of the finish floor or ground surface.



**Figure 405.9.2**  
Curb or Barrier Edge Protection

**405.10 Wet Conditions.** Landings subject to wet conditions shall be designed to prevent the accumulation of water.



**406 Curb Ramps**

**406.1 General.** *Curb ramps* on *accessible routes* shall comply with 406, 405.2 through 405.5, and 405.10.

**406.2 Counter Slope.** Counter slopes of adjoining gutters and road surfaces immediately adjacent to the *curb ramp* shall not be steeper than 1:20. The adjacent surfaces at transitions at *curb ramps* to *walks*, *gutters*, and *streets* shall be at the same level.

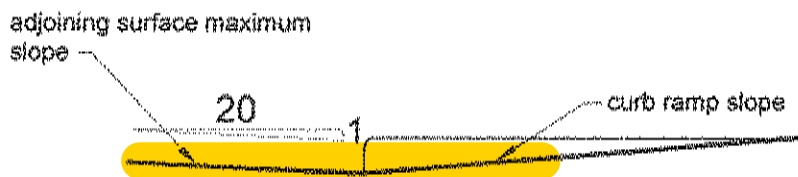


Figure 406.2  
Counter Slope of Surfaces Adjacent to Curb Ramps

**406.3 Sides of Curb Ramps.** Where provided, *curb ramp* flares shall not be steeper than 1:10.

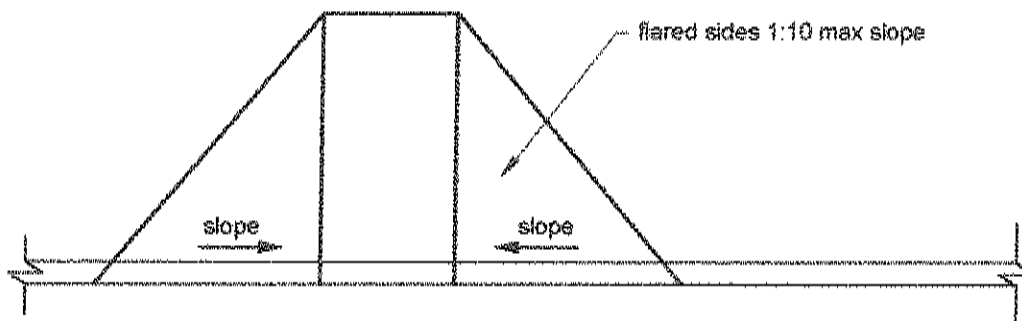
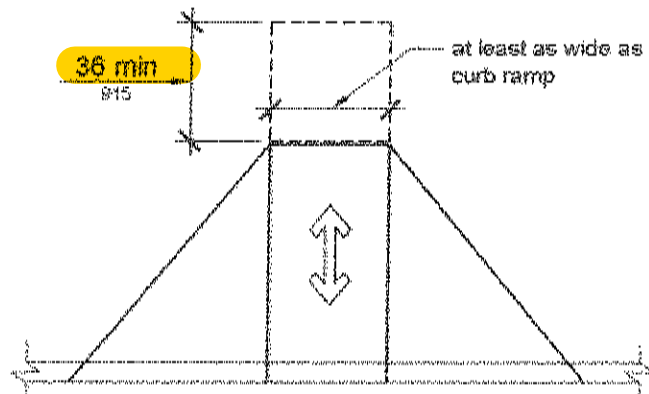


Figure 406.3  
Sides of Curb Ramps

**406.4 Landings.** Landings shall be provided at the tops of *curb ramps*. The landing clear length shall be 36 inches (915 mm) minimum. The landing clear width shall be at least as wide as the *curb ramp*, excluding flared sides, leading to the landing.

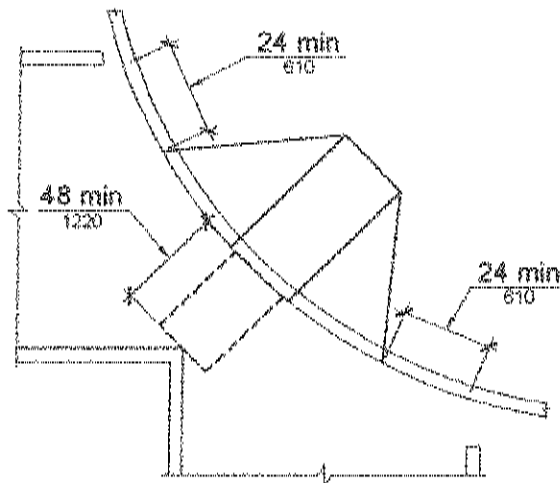
**EXCEPTION:** In *alterations*, where there is no landing at the top of *curb ramps*, *curb ramp* flares shall be provided and shall not be steeper than 1:12.



**Figure 406.4**  
Landings at the Top of Curb Ramps

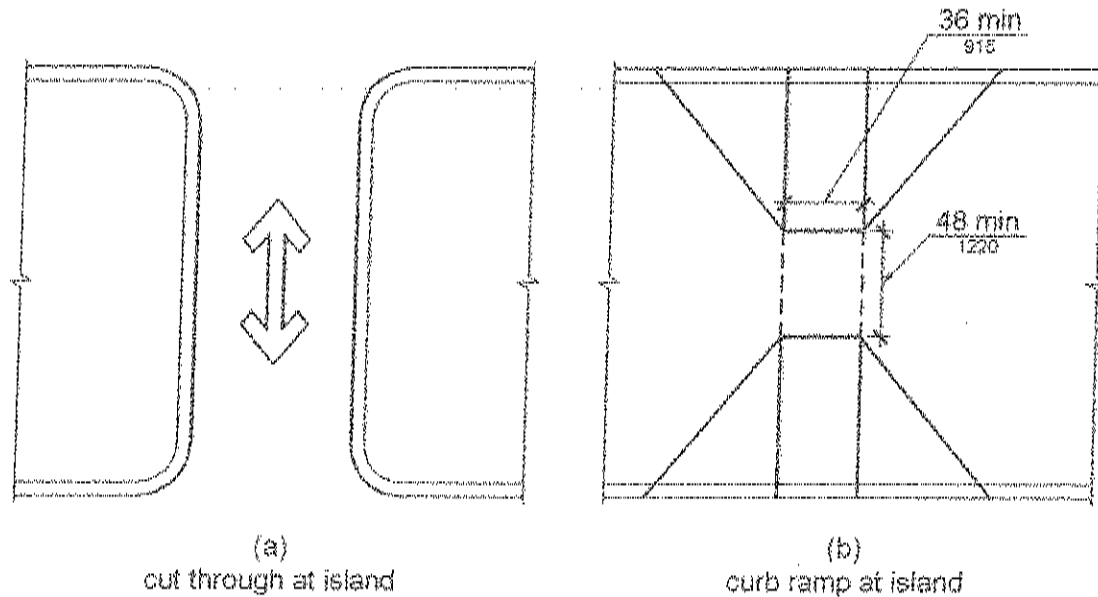
**406.5 Location.** *Curb ramps* and the flared sides of *curb ramps* shall be located so that they do not project into vehicular traffic lanes, parking spaces, or parking access aisles. *Curb ramps* at *marked crossings* shall be wholly contained within the markings, excluding any flared sides.

**406.6 Diagonal Curb Ramps.** Diagonal or corner type *curb ramps* with returned curbs or other well-defined edges shall have the edges parallel to the direction of pedestrian flow. The bottom of diagonal *curb ramps* shall have a clear space 48 inches (1220 mm) minimum outside active traffic lanes of the roadway. Diagonal *curb ramps* provided at *marked crossings* shall provide the 48 inches (1220 mm) minimum clear space within the markings. Diagonal *curb ramps* with flared sides shall have a segment of curb 24 inches (610 mm) long minimum located on each side of the *curb ramp* and within the *marked crossing*.



**Figure 406.6**  
Diagonal or Corner Type Curb Ramps

**406.7 Islands.** Raised islands in crossings shall be cut through level with the street or have *curb ramps* at both sides. Each *curb ramp* shall have a level area 48 inches (1220 mm) long minimum by 36 inches (915 mm) wide minimum at the top of the *curb ramp* in the part of the island intersected by the crossings. Each 48 inch (1220 mm) minimum by 36 inch (915 mm) minimum area shall be oriented so that the 48 inch (1220 mm) minimum length is in the direction of the *running slope* of the *curb ramp* it serves. The 48 inch (1220 mm) minimum by 36 inch (915 mm) minimum areas and the *accessible* route shall be permitted to overlap.



**Figure 406.7**  
**Islands in Crossings**

#### 407 Elevators

**407.1 General.** Elevators shall comply with 407 and with ASME A17.1 (incorporated by reference, see "Referenced Standards" in Chapter 1). They shall be passenger elevators as classified by ASME A17.1. Elevator operation shall be automatic.

**Advisory 407.1 General.** The ADA and other Federal civil rights laws require that accessible features be maintained in working order so that they are accessible to and usable by those people they are intended to benefit. Building owners should note that the ASME Safety Code for Elevators and Escalators requires routine maintenance and inspections. Isolated or temporary interruptions in service due to maintenance or repairs may be unavoidable; however, failure to take prompt action to effect repairs could constitute a violation of Federal laws and these requirements.

**407.2 Elevator Landing Requirements.** Elevator landings shall comply with 407.2.



Application #17388  
West Pecan Village  
Third Party Request for Administrative  
Deficiency

Department Determination



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July 5, 2017

*Writer's direct phone # (512) 475-1676*  
*Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)*

Mr. Doak D. Brown  
Vice President  
The Brownstone Group  
6517 Mapleridge  
Houston, TX 77081

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17388 WEST PECAN VILLAGE

Dear Mr. Brown:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of two Third Party Requests for Administrative Deficiency ("RFAD") requesting that the Department review the application above to determine whether it should be awarded several tie-breakers under 10 TAC §11.9 (c)(4) related to Opportunity Index. The requests assert that the Application did not contain sufficient evidence that the Development Site is located less than ½ mile on an accessible route from a public park with an accessible playground and that the route is accessible, that the site is located less than ½ mile on an accessible route from public transportation, that the college, library, and museum are the same facility, that the museum is part of the library and does not qualify, and that crime data provided is not specific to the census tract.

Consistent with similar decisions made by the Department's Governing Board at its May 25, 2017, meeting, an Administrative Deficiency was issued on June 13, 2017, and a response was received timely.

The response asserts the park and public transit must be less than ½ mile "as the crow flies" from the site. The response states that "(e)very reference to the measurement of distance indicates measuring boundary-to boundary 'unless otherwise noted' " In this case the measurement is "otherwise noted;" the distance from the public park or transit must be "less than ½ mile on an accessible route." The route to the park indicated in the Application is less than ½ mile; however, the requester provided specific evidence of why the route is not accessible. Your response did not address this specific evidence. The route to public transportation indicated in the Application is approximately 1.73 miles long, nearly three times the allowed distance.

The response asserts that "all the crime data supplied to date has indeed included data that is specific to the census tract of the Development Site." The explanation for the "projected trend" for the census tract states that:



“Because Neighborhood Scout is only showing a census tract property crime rate in its reports utilizing old 2014 data, then it stands to reason that the 2015 and 2016 census tract property crime rates need to be projected for census tract 207.24 as per the downward percentage (%) trends evidenced in the current McAllen Police Reports for those same years. For example, if NS indicates a 2014 census tract rate of 27.28, then in 2015 it would be decreased by 8.3%, and then in 2016 it would decrease by 5.7% in the same fashion that the City of McAllen is trending.”

This assumes that as crime decreases in the City of McAllen, one can apply that same percentage decrease to the census tract, which is not a valid assumption. The response did not address the email from the Chief of Police which states:

“Please know that these (McAllen and FBI) UCR reports are a reflection of city-wide data. These reports are not prepared or are reflective of any census tract or census block. Therefore, “extrapolation” for the purposes of determining the UCR crime activity of any census tract or census block is not an accurate analysis of UCR crime activity for any census tract or census block”

The response included entirely new data from data submitted in the Application. As such, the response to the deficiency does not provide sufficient clarification or correction of information submitted in the Application to resolve the administrative deficiency as required by 10 TAC §10.201(7):

**(7) Administrative Deficiency Process.** The purpose of the Administrative Deficiency process is to allow an Applicant to provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. ...

Regarding the college, library, and museum, the Department has determined that it is a reasonable expectation that since this is a college campus, these places or amenities would be close to each other or even linked in some way. The Department has determined that the Application qualifies for the college and library amenities. The response states that “there are guided tours of the museum itself that have nothing to do with the library or college.” However, review of the library web page yielded a “FAQ” with the following question and answer:

“When is the Library Art Gallery open?”

“The Library Art Gallery is open whenever the library is open.”

It is clear from the letters included in the response that the gallery is an asset to the community. However, the fact that the art gallery can only be accessed if the library is open indicates that the gallery is an ancillary part of the library and is not an independent institution.

I do not find that the points raised in your request clearly demonstrate that the Application qualifies for the accessible routes to a park or to public transit, or that it qualifies for having a crime rate within the given threshold. The Application does qualify for the college and the library; however the gallery appears to be an ancillary part of the library.

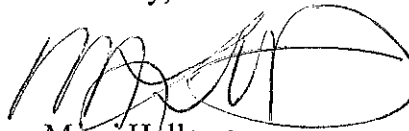


July 5, 2017

Page 3

For purposes of the request the matter is considered resolved. The Applicant will receive a scoring notice indicating the loss of four tie-breaker selections. If you have questions or require further information, please contact me

Sincerely,

A handwritten signature in black ink, appearing to read 'Marni Holloway', written over a large, faint circular stamp or watermark.

Marni Holloway  
Multifamily Division Director

Cc: Mark Musemeche  
Steve Lollis

Application #17388  
West Pecan Village  
Third Party Request for Administrative  
Deficiency

Applicant Response



6517 Mapleridge  
Houston, TX 77081  
T. 713.432.7727  
F. 713.432.0120

June 20, 2017

Marni Holloway, Director of Multifamily Finance  
Texas Department of Housing and Community Affairs (TDHCA)  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: 17388 – 9% HTC Application Deficiency Notice / Response

Dear Ms. Holloway,

The following is our timely response to the Application Deficiency Notice issued to #17388 West Pecan Village (the “Application”) on June 13, 2017. For reference, the capitalized terms used but not defined in this letter will have the meanings given them in the 2017 State of Texas Qualified Allocation Plan (“QAP”).

**Deficiencies.** The four (4) Administrative Deficiencies pertaining to the Application are listed as follows:

1. While the rule states that “The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground”, and not from the playground as the requester asserts, the accessible route to the park entrance (not the boundary) appears to be slightly longer than 1/2 mile. Provide evidence that the route is less than 1/2 mile and that the entire route to the playground is accessible.
2. Explain how the route to public transportation meets the requirement that that “The Development Site is located *less than 1/2 mile on an accessible route* from Public Transportation...”.
3. The South Texas Pecan Campus Art Library appears to be an ancillary part of the South Texas Pecan Campus Library. Provide evidence that the South Texas Pecan Campus Art Library meets the requirement that a museum not be “an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.”
4. The crime data supplied appears to extrapolate from data that is associated with city-wide data, not from data that is specific to the census tract. Provide evidence that the Application is eligible to score points under this item.




**Responses.** The four (4) responses to the aforementioned Administrative Deficiencies are enclosed hereto and presented in order for your convenience. (See, *Responses & Exhibits*). For the reasons stated in each response herein, we firmly believe the Application should retain all scoring points at issue.

If there is any additional information or further clarification needed, please do not hesitate to contact our office at your earliest convenience.

Kind Regards,

Brownstone Affordable Housing, Ltd., a Texas limited partnership

By: Three B Ventures, Inc., a Texas corporation, its general partner

By:   
Doak D. Brown, Vice President  
doak@thebrownstonegroup.net

Enclosure: *Responses & Exhibits*

## **Responses & Exhibits**

## DEFICIENCY #1

*While the rule states that “The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground”, and not from the playground as the requester asserts, the accessible route to the park entrance (not the boundary) appears to be slightly longer than 1/2 mile. Provide evidence that the route is less than 1/2 mile and that the entire route to the playground is accessible.*

### Summary

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To claim this menu item, it is not the route that must be less than 1/2 mile. Rather, it is the distance (*as a crow flies*) that must be less than 1/2 mile. And while it is true that the entire route to the playground is required to be accessible, we provided a letter from a Registered Accessibility Specialist that attests to this requirement in our Application.

### Response

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**Primary Issue** - *Provide evidence that the route is less than 1/2 mile and that the entire route to the playground is accessible.*

To better understand this menu item, it is best to break down the QAP language into its three major components that are applicable to our purposes – **distance**, **route**, and **amenity**.

DISTANCE

ROUTE

*(I) The Development site is located **less than 1/2 mile** on an **accessible route** from a **public park** with an accessible playground, both of which meet 2010 ADA standards. --- **Opportunity Index §11.9(c)(4)(B)(i)(I).***

AMENITY



**Distance.** As it applies to distance, developers are only required to measure from the boundary of the amenity (public park) to the boundary of the property (Development Site). This boundary-to-boundary measuring technique is both part of precedent and it has been clearly stated by staff:

How is **distance measured**?

- I assume the playground's distance away is measured as a crow flies from the nearest point of the proposed development site to the playground.
- What is the point of measurement for the playground? Is it the edge of the play area or the edge of the park in which the playground is located?
- I assume there is no distance requirement for the accessible route as it may be longer than the ½ mile requirement given the winding of streets etc.

--- Commenter 57 / TDHCA Board Book, November 10, 2016

*In response to commenters (57) and (58), staff clarifies that distance is measured as linear distance, or “as the crow flies” from the closest points of the boundaries of the amenity and Development Site.* --- Staff / TDHCA Board Book, November 10, 2016

*Every reference to the measurement of distance indicates measuring boundary-to-boundary “unless otherwise noted”* --- QAP & Multifamily Rules / §11.3(c)(1) One Mile Three Year Rule; §11.7(6) Distance Tie-break Factor; §11.9(c)(8) Proximity to the Urban Core; §10.101(a)(2) Undesirable Site Features; §10.101(a)(3) Undesirable Neighborhood Characteristics; and §10.302(g)(2) Proximity to Other Development

The Opportunity Index is silent on how distances are to be measured and therefore, a reasonable person should be able to rely on the same measuring technique codified in every other section of the Rules, when measuring for amenity distances. To date, the Opportunity Index distance measurement has never been otherwise noted, neither in the FAQ or the QAP. The only clarification by staff simply confirms that the amenity must be within ½ mile of the site – i.e., measured – but the entire route only needs to be accessible – i.e., not measured.

**Q:** *Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long?* **A:** *The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable).* --- 2017 FAQ

DISTANCE TO AMENITY MEASURED

ROUTE NOT MEASURED, ONLY ACCESSIBLE

By answering the FAQ question in this manner, staff expressly applies the ½ mile requirement to the distance component and the accessibility requirement to the route component. In other words, a developer is only required to measure one component – i.e., the distance, which is consistently defined *as the crow flies boundary-to-boundary from the Development Site to the amenity*.

As a prudent note, there was never a requirement that developers were to provide staff with three measurement distances in order to claim this menu item – e.g., 1) distance to the park entrance; 2) distance to the playground; and 3) distance of the entire ADA accessible route. On the contrary, it would be reasonable to conclude that staff was only looking for one measured distance on this menu item and stated as much on the record, especially when they implied that static boundaries are the proper means to measure any distance requirement found in the scoring criteria of the QAP. [Note, again: “*as the crow flies*” from the closest points of the boundaries of the amenity and Development Site. --- Staff / TDHCA Board Book, November 10, 2016].

In conclusion, we complied with the rules and measured the distance from the boundary point of the amenity (Summer Breeze Park) to the boundary point of our Development Site (West Pecan Village), despite the fact that a park entrance to Summer Breeze Park was still within a ½ mile. This boundary-to-boundary measurement is precisely 0.486 miles which is indeed less than ½ mile and is evidenced by a professional surveyor. See, *Exhibit 1A*. In essence, since this is fully in compliance with the distance component of menu item §11.9(c)(4)(B)(i)(I), we should maintain the point that staff confirmed in our scoring notice.

**Route.** As it applies to route, the only requirement within the QAP is that the route must be accessible using 2010 ADA standards. In addition, staff extended this to mean the “entire route”.

*The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards. --- §11.9(c)(4)(B)(i)(I).*

*[...] the entire route must be accessible (including transit as applicable). --- 2017*  
**FAQ**

Evidenced already in the Application is our letter from a Registered Accessibility Specialist, licensed by the State of Texas, which specifically states that the route from the Development Site “to the park and playground”...“meets the 2010 ADA accessibility standards”. See, *Exhibit 1B*. This same letter further states that “the playground located at this park also meets these standards.”

By having included this letter from a third-party accessibility expert who both confirmed that the entire route from the Development Site to the park and playground meets the 2010 ADA accessibility standards, as well as, confirmed that the playground equipment itself meets the 2010

ADA accessibility standards, then we are in full evidentiary compliance with menu item §11.9(c)(4)(B)(i)(I) both now and at the time of full application.

It is also important to note that at the TDHCA Board Meeting on May 25, 2017, Marni Holloway was asked by the Board what type of documentation would be accepted as evidence of accessibility. On the record she replied, “a letter from the local official regarding the design of that public path or a report from a third-party accessibility expert.” See, *Exhibit 1C*.

In conclusion, since we submitted a report from a third-party accessibility expert in the form of a confirmation letter that clearly states we are in full compliance with the QAP, we should maintain the point that staff confirmed in our scoring notice to the extent that this ADA accessible route component is both clarified and achieved.

**Amenity.** Regarding the amenity component for this menu item, staff correctly points out in the deficiency notice that it is not the playground, but rather the park itself that is the amenity.

*While the rule states that “The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground”, and **not from the playground as the requester asserts**, the accessible route to the **park entrance (not the boundary)** appears to be slightly longer than 1/2 mile. Provide evidence that the route is less than 1/2 mile and that the entire route to the playground is accessible. --- **Deficiency #1***

Because the park is the primary amenity, it becomes the measuring point for this menu item. The only requirement concerning the playground is that it is completely ADA accessible. In other words, it is a required feature within the park amenity, but it is not the amenity to measure distance from.

Importantly, if staff were to now require a measured distance to the *park entrance*, then staff would effectively be changing the spirit of the Rule. As already mentioned, historical precedent and the plain language of the Rule states the measurement uses the “*boundaries of the amenity to the Development Site*”. In this instance, the park entrance is not a boundary.

Ultimately, it is critical to draw this distinction between the park “amenity” and the park “entrance”. It is also important to understand that the playground is a feature within the park amenity, but it is not required that we measure a distance specifically to the playground itself, as staff expressly points out in the deficiency notice language.



In conclusion, since the park is the amenity and the boundary from which distance is measured, we should maintain the point that staff confirmed in our scoring notice to the extent that the amenity component is achieved.

### **Conclusion**

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The Application is eligible to score points under this menu item because the entire route to the playground is ADA accessible and the measured distance as the crow flies from boundary-to-boundary is less than ½ mile. It is not required that the distance from the Development Site to the playground be measured, nor is it required that the distance to the park entrance be measured. Rather, it is the closest point of the park amenity itself that creates the boundary measurement for this scoring item. As the evidence submitted in the Application and further attachments hereto indicate, we are in compliance with Opportunity Index §11.9(c)(4)(B)(i)(I) and should maintain the point that staff confirmed in our scoring notice.

**Exhibit 1A**

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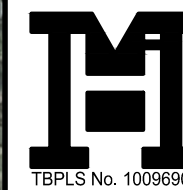




BEARING BASIS AS PER TEXAS STATE  
 PLANE GRID COORDINATE SYSTEM NAD 83  
 TEXAS SOUTH 4205  
 SCALE: 1" = 400'

**LEGEND**  
 FT. - FEET  
 MI. - MILE  
 N.E. COR. - NORTH EAST CORNER

## WEST PECAN VILLAGE AMENITIES DISTANCES



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 PH: (956) 487-8256 FAX: (956) 488-8591  
 www.meldenandhunt.com



**Exhibit 1B**

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**Alejandro (ALEX) Arreguin**  
**REGISTERED ACCESSIBILITY SPECIALIST**

**1901 Convent Ave**

*Laredo, TX 78040-4852*

(956) 285-4091 Fax (956) 602-0340



February 21, 2017

MHA West Pecan Village, Ltd.  
Attn: Arnold Padilla, Executive Director of McAllen Housing Authority  
2301 Jasmine Avenue  
McAllen, TX 78501

RE: ADA accessibility to Summer Breeze Park/Playground for the proposed West Pecan Village located at the SW corner of Pecan Blvd. and N. Bentsen Rd. in McAllen, Texas

Mr. Padilla,

I hereby confirm that there is an accessible route that meets the 2010 ADA accessibility standards from the proposed site location to the park and playground. See attached map.

\* \* \* \* \*

The sidewalks and route along the west-side of N. Bentsen Rd. from the proposed West Pecan Village development site to Summer Breeze Park meet the above accessibility standards. In addition, the playground located at this park also meets these standards.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Arreguin'.

Alejandro Arreguin

TDLR Lic # 396

**Exhibit 1C**

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

The University of Texas at Austin  
Thompson Conference Center  
Room 3.102  
2405 Robert Dedman Drive  
Austin, Texas

May 25, 2017  
9:02 a.m.

BOARD MEMBERS:

J.B. GOODWIN, Chair  
LESLIE BINGHAM ESCAREÑO, Vice Chair  
PAUL BRADEN, Member  
TOM H. GANN, Member  
ASUSENA RESÉNDIZ Member  
LEO VASQUEZ, Member

TIMOTHY K. IRVINE, Executive Director

1           But so my understanding, Marni, it is like on  
2 the application, it is a checkbox, right? And so when you  
3 have your tiebreaker points, I am looking at it.

4           It has the list of all the different additional  
5 tiebreaker attributes. And then you just check the box  
6 saying yes, it has got some of these.

7           MS. HOLLOWAY: And provide evidence that --

8           MS. BINGHAM ESCAREÑO: And then in a tab back,  
9 you provide the evidence. Okay. I have got you. Do you  
10 have any idea like, what that looks like, to meet the  
11 say -- the half mile within a playground.

12           MS. HOLLOWAY: Had I received the question, I  
13 would have said a letter from the local official regarding  
14 the design of that public path --

15           MS. BINGHAM ESCAREÑO: I have got you.

16           MS. HOLLOWAY: -- or a report from a third  
17 party accessibility expert.

18           MS. BINGHAM ESCAREÑO: I have got you. Great.

19           MR. GOODWIN: Okay. Any other questions?

20           (No response.)

21           MR. GOODWIN: More comment?

22           (No response.)

23           MS. ANDERSON: Good afternoon. Terri Anderson,  
24 Anderson Development and Construction. I am not  
25 affiliated with the Applicant, nor am I affiliated with S.

## DEFICIENCY #2

*Explain how the route to public transportation meets the requirement that that “The Development Site is located less than ½ mile on an accessible route from Public Transportation...”*

### Summary

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To claim this menu item, it is not the route that must be less than ½ mile. Rather, it is the distance (*as a crow flies*) that must be less than ½ mile. And while it is true that the entire route to the bus stop is required to be accessible, we provided a letter from a Registered Accessibility Specialist that attests to this requirement in our Application.

### Response

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**Primary Issue** - *Explain how the route to public transportation meets the requirement that that “The Development Site is located less than ½ mile on an accessible route from Public Transportation...”*

To better understand this menu item, it is best to break down the QAP language into its two major components that are applicable to our purposes – **distance** and **route**.

DISTANCE

ROUTE

*(II) The Development Site is located less than ½ mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service. --- Opportunity Index §11.9(c)(4)(B)(i)(II).*



**Distance.** As it applies to distance, developers are only required to measure from the boundary of the amenity (bus stop) to the boundary of the property (Development Site). This boundary-to-boundary measuring technique is both part of precedent and it has been clearly stated by staff:

How is **distance measured**?

- I assume the playground's distance away is measured as a crow flies from the nearest point of the proposed development site to the playground.
- What is the point of measurement for the playground? Is it the edge of the play area or the edge of the park in which the playground is located?
- I assume there is no distance requirement for the accessible route as it may be longer than the ½ mile requirement given the winding of streets etc.

--- **Commenter 57 / TDHCA Board Book, November 10, 2016**

*Clause (B)(i)(I): What is meant by "accessible route" in this context. If you mean drivable rather than as the crow flies, please so clarify. Clause (B)(i)(II): Same comment re "accessible route."* --- **Commenter 58 / TDHCA Board Book, November 10, 2016**

*In response to commenters (57) and (58), staff clarifies that distance is measured as linear distance, or "as the crow flies" from the closest points of the boundaries of the amenity and Development Site.* --- **Staff / TDHCA Board Book, November 10, 2016**

*Every reference to the measurement of distance indicates measuring boundary-to-boundary "unless otherwise noted" --- **QAP & Multifamily Rules / §11.3(c)(1) One Mile Three Year Rule; §11.7(6) Distance Tie-break Factor; §11.9(c)(8) Proximity to the Urban Core; §10.101(a)(2) Undesirable Site Features; §10.101(a)(3) Undesirable Neighborhood Characteristics; and §10.302(g)(2) Proximity to Other Development***

The Opportunity Index is silent on how distances are to be measured and therefore, a reasonable person should be able to rely on the same measuring technique codified in every other section of the Rules, when measuring for amenity distances. To date, the Opportunity Index distance measurement has never been otherwise noted, neither in the FAQ or the QAP. The only

clarification by staff simply confirms that the amenity must be within ½ mile of the site – i.e., measured – but the entire route only needs to be accessible – i.e., not measured.

*Q: Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long? A: The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable). --- 2017 FAQ*

DISTANCE TO AMENITY MEASURED

ROUTE NOT MEASURED, ONLY ACCESSIBLE

By answering the FAQ question in this manner, staff expressly applies the ½ mile requirement to the distance component and the accessibility requirement to the route component. In other words, a developer is only required to measure one component – i.e., the distance, which is consistently defined as *the crow flies boundary-to-boundary from the Development Site to the amenity*.

It would be reasonable to conclude that staff was only looking for one measured distance on this menu item and stated as much on the record, especially when they implied that closest points of boundaries are the proper means to measure any distance requirement found in the scoring criteria of the QAP. [Note, again: “as the crow flies” from the closest points of the boundaries of the amenity and Development Site. --- TDHCA Board Book, November 10, 2016].

In conclusion, we measured the distance from the closest boundary point of the amenity (#6 Bus Route Stop) to the closest boundary point of our development (West Pecan Village). This measured precisely 0.495 miles which is indeed less than ½ mile and is evidenced by a professional surveyor. See *infra*, Exhibit 1A. In essence, since this is fully in compliance with the distance component of menu item §11.9(c)(4)(B)(i)(II), we should maintain the point that staff confirmed in our scoring notice.

**Route.** As it applies to route, the only requirement within the QAP is that the route must be accessible using 2010 ADA standards. In addition, staff extended this to mean the “entire route”.

*II) The Development Site is located less than ½ mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service. ---*

**Opportunity Index §11.9(c)(4)(B)(i)(II).**

*[...] the entire route must be accessible (including transit as applicable).* --- 2017  
**FAQ**

Evidenced already in the Application is our letter from a Registered Accessibility Specialist, licensed by the State of Texas, which specifically states that the route from the Development Site “to its bus stop” is a fully accessible route. See, *Exhibit 2A*.

By having included this letter from a third-party accessibility expert, which confirms that the route from the Development Site to the bus stop meets the 2010 ADA accessibility standards, we are in compliance with menu item §11.9(c)(4)(B)(i)(II).

It is also important to note that at the TDHCA Board Meeting on May 25, 2017, Marni Holloway was asked by the Board what type of documentation would be accepted as evidence of accessibility. On the record she replied, “a letter from the local official regarding the design of that public path or a report from a third-party accessibility expert.” See *infra*, Exhibit 1C.

In conclusion, since we submitted a report from a third-party accessibility expert in the form of a confirmation letter that clearly states we are in full compliance with the QAP, we should maintain the point that staff confirmed in our scoring notice to the extent that this ADA accessible route component is both clarified and achieved.

**Public Transportation Amenity.** Despite this component not being at issue in the deficiency, the #6 Bus Stop evidenced in the Application is clearly the amenity in question for this menu item.

**Regular Route Schedule.** Despite this component not being at issue in the deficiency, the regular service bus schedule providing weekday and weekend service is fully evidenced in the Application.

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### **Conclusion**

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The Application is eligible to score points under this menu item because the entire route to the bus stop is ADA accessible and the measured distance as the crow flies from boundary-to-boundary is less than ½ mile. It is not required that the entire accessible route to the bus stop be measured and total less than ½ mile. As the evidence submitted in the Application and further attachments hereto indicate, we are in compliance with Opportunity Index §11.9(c)(4)(B)(i)(II) and should maintain the point that staff confirmed in our scoring notice.



**Exhibit 2A**

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**Alejandro (ALEX) Arreguin**  
REGISTERED ACCESSIBILITY SPECIALIST  
**1901 Convent Ave**  
*Laredo, TX 78040-4852*  
(956) 285-4091 Fax (956) 602-0340



February 23, 2017


MHA West Pecan Village, Ltd.  
Attn: Arnold Padilla, Executive Director of McAllen Housing Authority  
2301 Jasmine Avenue  
McAllen, TX 78501

RE: ADA accessibility to Public Transportation for the proposed West Pecan Village located at the SW corner of Pecan Blvd. and N. Bentsen Rd. in McAllen, Texas

Mr. Padilla,

I hereby confirm that there is an accessible route that meets the 2010 ADA accessibility standards from the proposed site location to its bus stop. See attached map. If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Alejandro Arreguin  
TDLR Lic # 396

### DEFICIENCY #3

*The South Texas Pecan Campus Art Library appears to be an ancillary part of the South Texas Pecan Campus Library. Provide evidence that the South Texas Pecan Campus Art Library meets the requirement that a museum not be “an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.”*

#### Summary

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The Application is eligible to score points under this menu item because the South Texas College Library Art Gallery (STCLAG) meets the requirement that a museum not be an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value. As the evidence in the Application indicated, STCLAG is a separate museum from both South Texas College and its library. It is an active non-profit member of the Texas Association of Museums and the American Alliance of Museums. In addition, it functions as a museum according to the mayor and other city organizations. Further evidence attached now indicates how South Texas College views STCLAG as a separate amenity that is not an ancillary part to the library or college, since STCLAG provides its own museum benefits to both the community residents and students.

#### Response

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**Primary Issue** – *Provide evidence that the South Texas Pecan Campus Art Library meets the requirement that a museum not be “an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.”*

The following information includes evidence that again proves how the Application is eligible to receive points under this scoring item. In order to respond both clearly and effectively to the primary issue of this deficiency, we felt that it was best to contact the City of McAllen, South Texas College, and an additional museum organization in the city – i.e., the McAllen Heritage Center. In doing so, we received three (3) letters that effectively respond to this deficiency and assist staff in determining that we are deserving of the opportunity index menu item point found within §11.9(c)(4)(B)(i)(X). For our purposes here, the one applicable component of the rule is:



*(X) Development site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is **not an ancillary part** of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value. --- Opportunity Index §11.9(c)(4)(B)(i)(X).*

**Not an ancillary part.** As the above rule states, STCLAG cannot be an ancillary part of an organization who has a different primary purpose than that of the museum itself. In the email from the President of South Texas College, Dr. Shirley A. Reed, we received a revised letter from Library Dean Cody Gregg that now states that STCLAG and the library do indeed operate separately and provide their own individual benefits to the community. See, *Exhibit 3A*. In short, STCLAG is not an ancillary part despite the term *library* being in its name. This carve-out is important, since the FAQ gives just one example of clarification regarding the term ancillary:

***Q:** The rule states that the museum cannot be “an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value”. Please explain this carve-out and if possible specific examples of museums that would not qualify based on this provision. **A:** The carve-out is simply “it has to be a museum”. If you tour a bakery, and at some point in the tour there is a room that has all of the bread-making equipment since 1943 on display, that does not make the bakery a museum. It is a bakery that has a room where they display things. However, a free-standing “The Museum of 20th Century Baking” that operates as an independent organization would qualify as a museum for this point item. --- 2017 FAQ*

Applying this carve-out to our situation, STCLAG would have to be displaying strictly library or college items in the same way that the bakery is displaying strictly bread-making bakery equipment. According to Cody Gregg’s revised letter, this is not the case. STCLAG is not a room where the library displays things. The distinction here is that STCLAG is its own museum; it has its own museum space; it operates as an independent organization towards its fellow members in the American Alliance of Museums and the Texas Association of Museums; there are guided tours of the museum itself that have nothing to do with the library or college; one does not need to be a college student or pay an admission fee to enter the museum; and STCLAG exhibits regional, national, and international pieces of artwork as its primary purpose. In terms of purpose, the library and college do nothing of the sort, and as such, STCLAG would not be considered an ancillary part of the library.

To further underscore this point, Mayor Jim Darling – speaking on behalf of his city – concurs with Mr. Gregg’s observation of STCLAG. See, *Exhibit 3B*. He believes that STCLAG functions

as a great community amenity for all citizens to enjoy, and confirms that as a multi-functional facility, his expectations of STCLAG are one of a museum located in McAllen, which would not be ancillary to the library or college.

Finally, the McAllen Heritage Center (MHC), which has developed a productive partnership with STCLAG as a fellow museum in the community, expresses how STCLAG does not function in ancillary fashion to the library or college. See, *Exhibit 3C*. On the contrary, it contributes to festivals and adds significant value to the Rio Grande Valley community on its own. According to MHC, they are hoping to collaborate with STCLAG on exhibiting a portion of McAllen history at the STCLAG facility itself, not the library. In essence, despite its name having the terms *gallery* and *library*, the South Texas College Library Art Gallery stands alone as an independent museum organization, whose primary purpose is the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value, just like MHC.

**Museum.** Despite this component not being part of the deficiency, STCLAG is a museum and functions as such according to the Mayor, South Texas College, the McAllen Heritage Center, the American Alliance of Museums, and the Texas Association of Museums. This was addressed in the full application, but it is again evidenced in Exhibits 3A, 3B, and 3C.

**Non-Profit.** Despite this component not being part of the deficiency, STCLAG holds non-profit status. This was addressed in the full application, but it is again evidenced in Exhibit 3C.

**Permanent institution open to the public.** Despite this component not being part of the deficiency, STCLAG is a permanent institution that is open to the public. This was addressed in the full application, but it is again evidenced in Exhibit 3A.

**Within 2 miles.** Despite this component not being part of the deficiency, STCLAG is within 2 miles of the Development Site. This was clearly addressed in the full application.

### **Conclusion**

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The Application is eligible to score points under this menu item because STCLAG is not considered by the college, city, or other museum organizations to be an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value. As the evidence submitted in the Application and the attached letters now indicate, STCLAG is a separate museum from both South Texas College and its library. We are therefore in compliance with Opportunity Index §11.9(c)(4)(B)(i)(X) and should maintain the point that staff confirmed in our scoring notice.

**Exhibit 3A**

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**From:** Dr. Shirley A. Reed [<mailto:sareed@southtexascollege.edu>]  
**Sent:** Friday, June 16, 2017 12:18 PM  
**To:** Arnold padilla <[Apadilla@mcaha.org](mailto:Apadilla@mcaha.org)>  
**Subject:** FW: South Texas College Library Art Gallery Information

Good afternoon Mr. Padilla,

Please see the following email, and attached letter.

Kind regards,

Dr. Reed

**From:** Cody Gregg [<mailto:cgregg@southtexascollege.edu>]  
**Sent:** Friday, June 16, 2017 12:06 PM  
**To:** [tim.irvine@tdhca.state.tx.us](mailto:tim.irvine@tdhca.state.tx.us)  
**Cc:** Dr. Shirley A. Reed <[sareed@southtexascollege.edu](mailto:sareed@southtexascollege.edu)>  
**Subject:** South Texas College Library Art Gallery Information

Good afternoon, Mr. Irvine.

I hope you are doing well. I am attaching a letter with information on the South Texas Library Art Gallery. In addition to this scanned copy, I am also mailing you the original for your records. If you have any further questions or need additional information, please do not hesitate to contact me.

Best regards,

*Cody A. Gregg*

Dean of Library & Learning Support Services  
South Texas College

v: (956) 872-2645  
f: (956) 872-2594



P.O. Box 9701  
McAllen, TX 78502-9701

Library Services/Instructional Technologies  
3201 W. Pecan Blvd. • McAllen, TX 78501

(956) 872-2528  
Fax (956) 872-2594

June 16, 2017

Mr. Tim Irvine, Executive Director  
Texas Department of Housing & Community Affairs  
221 E. 11th Street  
Austin, Texas 78701

RE: South Texas College Library Art Gallery - Museum Memberships

Dear Mr. Irvine,

On behalf of South Texas College Library Art Gallery (STCLAG), I would like to take this opportunity to share with you some information about STCLAG and how it is a great amenity to the City of McAllen, community residents, and college students.

STCLAG is a member of the American Alliance of Museums and the Texas Association of Museums. It does not charge admission to view its exhibits, and it is open to the public. STCLAG provides guided tours of the art it exhibits to both high school students and others, and in addition, provides artists talks, demonstrations, and other educational programming. One does not need to be a student of the college to enter the gallery or attend a programming event. STCLAG is open to the public for all community members.

The exhibits include regional, national, and international artwork that introduce innovative artistic expressions to the South Texas region. So far this year, STCLAG has featured the work of mixed-media artists, painters, and photographers ranging from Texas to California. Although it exhibits works from artists all over the country in temporary displays and exhibits, it solicits donated artwork for its permanent art collection.

Ultimately, STCLAG is an integral amenity to the learning experience here at South Texas College, and it is viewed as a benefit to our community beyond our students and faculty. In essence, both the library and STCLAG provide their own benefits for community residents while also contributing to an enriched educational and work experience for all our students and faculty.

If there are any additional questions about STCLAG, please do not hesitate to contact me at 956-872-2528.

Sincerely,

A handwritten signature in blue ink that reads "CAG 7/7".

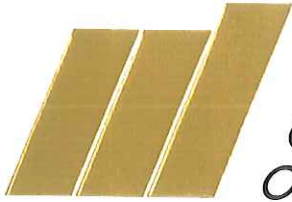
Cody A. Gregg

Dean of Library and Learning Support Services

**Exhibit 3B**

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*City of McAllen*  
*Office of the Mayor*

JAMES E. DARLING  
MAYOR

June 16, 2017

Mr. Tim Irvine, Executive Director  
Texas Department of Housing & Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

**RE: South Texas College Library Art Gallery – Museum Memberships**

Dear Mr. Irvine:

I received a copy of the letter sent to you from Cody A. Gregg, Dean of Library and Learning Support Services, regarding to the South Texas College Library Art Gallery (STCLAG) located at STC. After having been to various functions at the STCLAG including art exhibits which have been featured from time to time, I certainly agree on Mr. Gregg's observation that it functions as a great community asset including the permanent and visiting displays which citizens of all ages have enjoyed.

I agree that the South Texas College Library Art Gallery is a multi-functional facility and that the art display and other similar displays are the type that I would expect and enjoy at our main museum located in McAllen.

I am very proud as Mayor to have such a fine institution located in our City.

Sincerely,

Jim Darling  
Mayor

**Exhibit 3C**

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June 6, 2017

Mr. Tim Irvine, Executive Director  
Texas Department of Housing & Community Affairs  
221 E. 11th Street  
Austin, Texas 78701

RE: South Texas College Library Art Gallery – Museum in McAllen

Dear Mr. Irvine,

I wanted to take this opportunity on behalf of the McAllen Heritage Center (MHC) to share with you our connection to another exhibitor in McAllen – the *South Texas College Library Art Gallery (STCLAG)* – and express why non-profit museums are a benefit to the affordable housing programs here in Texas.

First, STCLAG and MHC are both members of the Texas Association of Museums and the American Alliance of Museums, and there has been a productive partnership for many years with STCLAG at city functions and museum gatherings such as PalmFest Folklife Celebration. Over the years, it has been a great pleasure witnessing the growth of STCLAG, particularly because it serves our community by exhibiting local, regional, national, and international works of art that are educational for the public. We have also worked directly with STC for production of the inside exhibits at the annual Folklife festival in McAllen for many years.

In addition, we consider STCLAG to be an important exhibitor for the City of McAllen and our residents. Despite its name, STCLAG does not operate like a gallery, but rather, it functions as a much like a non-profit museum hosting art exhibits and other exhibits of cultural and artistic value. It is our hope that we will work towards creating a satellite exhibit covering a portion of McAllen history at the STCLAG in the very near future. That is, we are both free to the public and provide viewing environments that promote the interpretation of objects having either scientific, historical, or artistic value.

Ultimately, by charging no admission fee, we can remain accessible to residents and families on fixed-incomes here in McAllen. Art that has historical, traditional, and cultural merit adds significant value to the development community here in the Rio Grande Valley. In short, that is why museums like the MHC and STCLAG can be viewed as great amenities to the state's housing program.

Thank you for your time, and if there are any additional questions about the contents of this letter, please do not hesitate to call me at (956) 687-1904.

Sincerely,

Dr. Nedra S. Kinerk  
MHC Board President



## DEFICIENCY #4

*The crime data supplied appears to extrapolate from data that is associated with city-wide data, not from data that is specific to the census tract. Provide evidence that the Application is eligible to score points under this item.*

### Summary

The Application is eligible to score points under this menu item because the data provided in the full application and the data provided in this deficiency both prove that the Development Site is located in a census tract with a property crime rate of less than 26 per 1,000 persons. This data is a combination of crime data and population data, which comes from local data sources. The crime data is sourced from the City of McAllen Police Department (MPD), Neighborhood Scout (NS), and the FBI. The population data is sourced from the U.S. Census Bureau's 2010-2014 American Community Survey (ACS) and is specific to our census tract. In summary, the property crime rate of census tract 207.24 is approximately 20.56 per 1,000 persons in 2017.

### Response

#### I.

**Primary Issue** – *Provide evidence that the Application is eligible to score points under this item.*

The following information includes evidence that again proves how the Application is eligible to receive points under this scoring item. In order to respond both clearly and effectively to the primary issue of this deficiency, we feel that it is best to break down the menu item into its four main scoring components:

*(VI) The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources. --- **Opportunity Index §11.9(c)(4)(B)(i)(VI).***

When the menu item is applied to our Development Site, we get the following for our purposes:

1. The census tract is 48215020724 (“**207.24**”)
2. The property crime is defined by Neighborhood Scout as being **burglary, larceny, and vehicle theft**.
3. The rate is approximately **20.56 per 1000**, which is substantially less than 26 per 1000; and
4. The local data sources are the MPD's **Crime Records Bureau** (for crime data) and the **U.S. Census Bureau – 2010 to 2014 (ACS) American Community Survey** (for population data).

**1. Census Tract.** The development site is located within census tract 207.24. See, *Exhibit 4A*. Being inside a specified census tract allows us to determine the exact population of that census tract, which is one of the key elements of any rate calculation for this menu item. Staff requires developers to use one consistent local data source to determine population data, which is defined as the U.S. Census Bureau 2010-2014 ACS data.

*Q: For the opportunity index property crime item ... What population figure should we use? A: ... For consistency, use the population data included in the Site Demographics Report, which is based on 2010-2014 ACS. --- 2017 FAQ*

We have determined that census tract 207.24 has an approximate population of 4,277 persons based on the 2010-2014 ACS. See, *Exhibit 4B*.

**2. Property Crime.** Staff requires that the property crime categories within our local data source reflect the subject data categories of Neighborhood Scout.

*Q: For the opportunity index property crime item, are you going to specify the data to be used for the "or local data sources"? Should the "local data sources" be 2015 data or can it be 2016 data? A: We will not specify which local data to use; though the subject data should mirror as much as possible that of Neighborhood Scout. --- 2017 FAQ*

We have determined that the subject data that mirrors as much as possible that of Neighborhood Scout is indeed **burglary, larceny, and motor vehicle theft**. See, *Exhibit 4C*.

**3. Rate.** The current property crime rate within our census tract can only be calculated using the following: population data and crime data. Our population data is defined as 4,277 persons and our crime data is defined as the burglary, larceny, and motor vehicle theft categories. The final element of crime data is the total number of offenses. In our case, the MPD logged 88 property crime offenses in these categories from 01/25/16 to 01/25/17. See, *Exhibit 4D*. These offenses were 207.24 census tract specific, as highlighted in Exhibit 4D. Taken as a whole, our census tract population data (4,277 persons) and our census tract crime data (88 offenses of burglary, larceny, and motor vehicle theft) result in a **rate of 20.56 per 1,000 persons**. See below calculation:

Population Data = 4,277 persons

Crime Data  
7 burglary + 80 larceny + 1 motor vehicle = 88 total offenses

Calculated Rate:

$4,277 \text{ persons} / 1000 = 4.277$

$88 / 4.27 = \boxed{20.56 \text{ offenses per 1000}}$

For the purposes of complying with this deficiency and scoring this menu item, we have again determined that our property crime rate is less than 26 per 1,000 persons.

**4. Local Data Sources.** As previously mentioned, our local data sources are the MPD's Crime Records Bureau (for crime data) and the U.S. Census Bureau's 2010 - 2014 ACS (for population data). Regarding our crime data, the MPD Crime Records Bureau is directed by Lieutenant Joel A. Morales. In his attached letter, he confirms that the Crime Records Bureau is indeed a local data source that makes available its crime data to the public. See, *Exhibit 4E*. Regarding our population data, again we turn to the U.S. Census Bureau's 2010 - 2014 ACS as our local data source that makes available to the public the specific population of a census tract. In the FAQ, staff confirmed that the 2010 – 2014 ACS was indeed the local data source required for achieving consistency in population data.

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To conclude, the foregoing information again provides more evidence that the Application is eligible to score points under this item, which is the primary issue of Deficiency #4. It details the census tract, the property crime, the rate, and the local data sources. In no instance is this strictly city-wide crime data or city-wide population data. On the contrary, it is crime data and population data specific to the census tract that can be confirmed by the MPD Crime Records Bureau and the 2010-2014 ACS. In sum, this evidence concludes unequivocally that census tract 207.24 is 20.56 per 1000 persons, which is significantly lower than threshold. To that end, we are deserving of the opportunity index menu item point found within §11.9(c)(4)(B)(i)(VI).

## II.

**Secondary Issue** – *The crime data supplied appears to extrapolate from data that is associated with city-wide data, not from data that is specific to the census tract.*



The following information explains how the crime data supplied in the Application was not merely an extrapolation from data associated with city-wide data. On the contrary, the data was specific to the census tract, census block, and city, which all serve as the **area** where the Development Site is located. In other words, we opted to provide staff with as much detail as possible, so that one could see how our Development Site is positioned in one of the safest property crime areas in all of Region 11.

In order to respond both clearly and effectively to this secondary issue within the deficiency notice, we feel that it is best to inspect the term “area” and the term “local data”:

***Q:** Please confirm comments made in QAP training that if a site address (or in the case where such address is not available a closest street intersection or similar description) is provided from neighborhood scout that such data generated for the address would qualify for the “Census tract”. **A:** Neighborhood Scout uses a broad area to get to a score, so when you put in an address, you aren’t getting data that is pinpointed to that address. You may use the neighborhood scout score of less than 26 per 1,000 or local data that indicates a rate of less than 26 per 1,000 for the area in which the site is located. --- 2017 FAQ*

***Q:** For the opportunity index property crime item, are you going to specify the data to be used for the "or local data sources"? Should the "local data sources" be 2015 data or can it be 2016 data? **A:** We will not specify which local data to use; though the subject data should mirror as much as possible that of Neighborhood Scout. -- - 2017 FAQ*

**Area.** According to Neighborhood Scout, the area in which our site is located has the second lowest property crime rate for all new construction developments competing in Region 11. See, chart below. We have always viewed Neighborhood Scout as a reference tool or area guide to indicate

Region 11/Urban (Neighborhood Scout Census Tract Property Crime Rates per 1000)				
17390	Las Palomas	NC	McAllen	26.66
17388	West Pecan Village	NC	McAllen	27.28
17120	Vista Laredo Apartment Homes	NC	Brownsville	34.02
17042	Huntington at Paseo de la Resaca	NC	Brownsville	41.72
17094	Catalon at Paseo de la Resaca	NC	Brownsville	41.72
17360	Paseo Plaza, Phase II	NC	Brownsville	41.72
17221	Twin Oaks	NC	Mission	47.94
17267	Industrial Lofts	NC	McAllen	48.69
17368	Cielo	NC	McAllen	48.69
17024	Dove Ranch	NC	McAllen	48.69
17230	The Oasis on McColl	NC	McAllen	56.88
17287	Jackson Place	NC	Edinburg	60.80

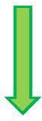
crime rates for census tracts, and even though it does have merit, the City of McAllen Police Department’s Crime Records Bureau would be a more accurate and consistent source. To that point, it is clear that NS is capable of changing at a moment’s notice, so it can only be relied on to a certain degree. In fact, staff has admitted as much at roundtable discussions to date, and all developers have felt this impact

when NS shifted its ratings (in some cases dramatically) after the QAP was approved by the governor. Despite that past situation and the fact that NS has a reputation for supplying old and dynamic data to the public, we still felt it was necessary to use the NS scoring as a guide for our calculations in our Application, particularly since TDHCA also relies heavily on it as their local data source, not just for this menu item but for undesirable neighborhood characteristics as well. In short, NS provided our Application with not just city-wide data, but census-tract-wide data that served as a guide too.

At a minimum, our Application used this census tract data simply as a blueprint to illuminate for staff that not only is our Development Site in a great opportunity area to achieve this menu item, but that the property crime rate is undeniably trending downward in the McAllen area. To that end, the MPD Crime Records Bureau data – listed in Part I above – has literally confirmed this. That is, while NS data could provide a guided starting point for our census tract score (27.28), in reality it has now trended downward to 20.56 per 1000 persons in 2017 according to the MPD data.

Again, we essentially evidenced this precise downward trend in our Application, and we broadened it from census-block to census-tract and then to city-wide using a combination of local data sources which were all associated to property crime, population, census tract, census block, and city. See below, Application Excerpt.

Therefore for our purposes, the local data source provided by the MPD is put forth in the following extrapolated calculations that best mirror the older Neighborhood Scout rate and its property crime categories. By comparing and contrasting the assumed 2014 NS data and 2014 FBI data with the current MPD data from 2014, 2015, and 2016, the overall result is:

West Pecan Village -	Census Tract	=	<u>23.59</u> per 1000	residents (2016)	
West Pecan Village -	Census Block	=	<u>21.99</u> per 1000	residents (2016)	
City of McAllen -	City Limits	=	<u>25.93</u> per 1000	residents (2014)	
			<u>23.78</u> per 1000	residents (2015)	
			<u>22.42</u> per 1000	residents (2016)	
(decreasing annually)					

Ultimately, our crime data supplied in the full application totaled three (3) City of McAllen Crime Reports for 2014; 2015; and 2016, one (1) Uniform Crime Report from the FBI, one (1) Neighborhood Scout score specific to census tract 207.24, and three (3) categories – larceny, burglary, and motor vehicle theft – which are all specific to our census tract and to the uniform categories used to calculate property crime by the McAllen Police Department, Neighborhood Scout, and the FBI.

Therefore in sum, it is not accurate to claim that our full application did not have crime data for our census tract because we were using a combination of crime data that specifically included our Neighborhood Scout census tract score. This was strictly to provide staff with the best possible snapshot of the area in which our Development Site is located. What held true in our full application still holds true today, which is that census tract 207.24 has a property crime rate that is less than 26 per 1,000 persons.

**Local Data.** Staff never specified what local data to use, but clarified that *the subject data should mirror as much as possible that of Neighborhood Scout*. We believe we achieved this by obtaining and submitting: McAllen’s city crime data; its city, census tract, and census block population data; the Neighborhood Scout data for census tract 207.24; an FBI Crime Records Report; and evidence categorized as burglary, larceny, and motor vehicle theft. Below describes the NS subject data:

[NS is] ... *using identified relationships between criminal activity and population characteristics (excluding any data on race, ethnicity, ancestry, language, or religion) to build crime data for census tracts, zip codes, neighborhoods, address vicinities, and other spatial units where appropriate geographic and demographic data are available.* --- **[www.neighborhoodscout.com](http://www.neighborhoodscout.com)**

Despite not knowing what local data to use, we offered in our Application the best reflection of Neighborhood Scout’s subject data above. Moreover, by using the NS categories for property crimes – see infra, Exhibit 4C – we not only specified exactly what our local data was, but we further specified precisely who our local data sources were going to be – i.e., the City of McAllen Police Department, the FBI, the U.S. Census Bureau, and Neighborhood Scout itself.

---

To conclude, the foregoing information indicates how the crime data supplied in the Application was not merely an extrapolation from data associated with city-wide data. Rather, it was a collective combination of city, census tract, and census block data (all in the form of either crime data or population data) that rendered the calculated outcomes. Because the QAP references *census tract* in this menu item language, and because staff attempted to make a clarification in the FAQ that stated they were looking for an “area”, we opted in good faith to interpret all of this to mean city, census tract, and census block. In essence, to be on the safe side we gave staff more data and area calculations than what they probably were looking for; however, we did this so that there would be more accurate numbers and projections for staff to rely on. At the end of the day, our Application did indeed include data specific to a census tract, which was a large part of the rate calculations and conclusions we made. In sum, as it stood both then and now, we are still in



compliance with Opportunity Index §11.9(c)(4)(B)(i)(VI) and deserve award of this menu item's scoring point.

### **Conclusion**

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The Application is eligible to score points under this menu item because the property crime rate of census tract 207.24 is 20.56 per 1,000 persons. Moreover, all the crime data supplied to date has indeed included data that is specific to the census tract of the Development Site. We are therefore in compliance with Opportunity Index §11.9(c)(4)(B)(i)(VI) and should maintain the point that staff confirmed in our scoring notice.



## QUALIFIED CENSUS TRACTS

The 2015 Qualified Census Tracts (QCTs) are effective January 1, 2015. The 2015 designation uses data from the 2010 Decennial Census and three releases of 5-year tabulations from the American Community Survey (ACS): 2006–2010; 2007–2011; and 2007–2012. The revised designation methodology using three years of ACS data is explained in the Federal Register notice published October 3, 2014 ([http://www.huduser.gov/portal/Datasets/QCT/DDA2015\\_Notice.pdf](http://www.huduser.gov/portal/Datasets/QCT/DDA2015_Notice.pdf)).

mcAllen

Go

Select a State

Select a County

Go

Map Options : Clear | Reset | Full Screen

QCT Legend:

Tract Outline

Qualified Census Tracts (2014 Only)

Qualified Census Tracts (2015 Only)

Qualified Census Tracts (2014 & 2015)

LIHTC Project

### QCT Options

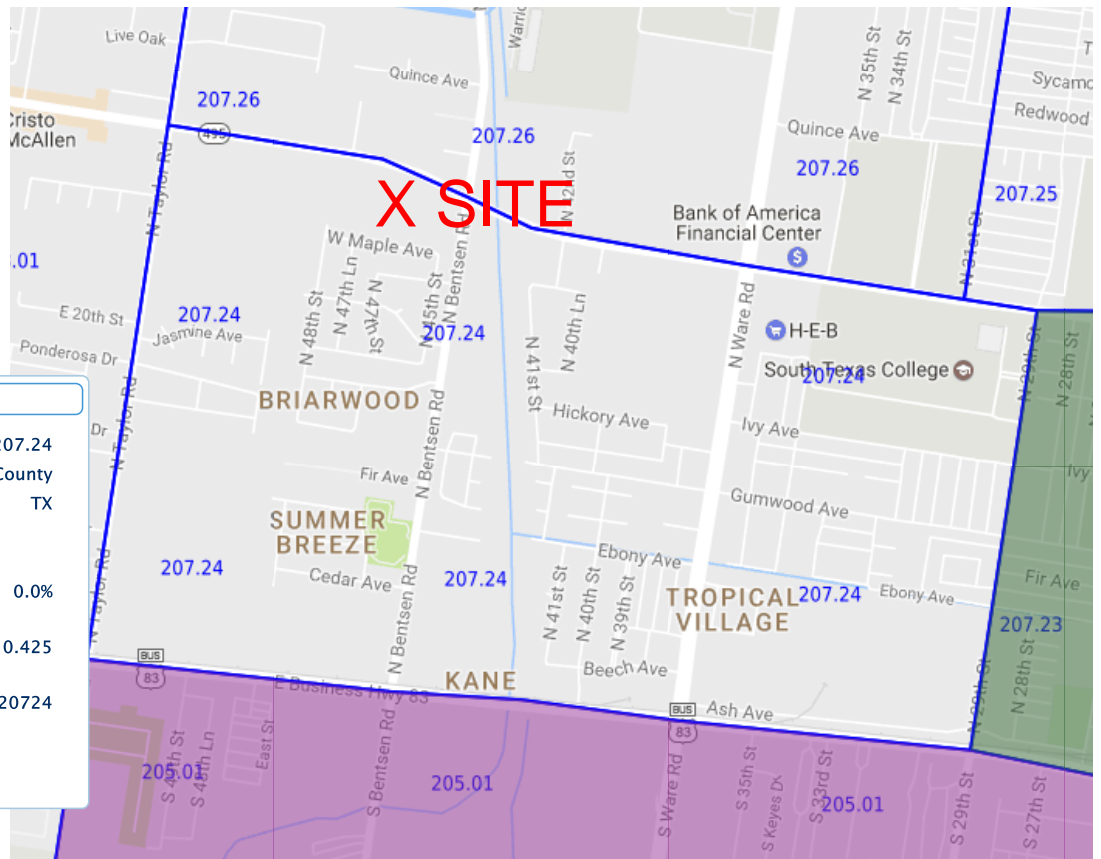
15 Current Zoom Level

- Show Tracts Outline (Zoom 11+)
- Show LIHTC Projects (Zoom 11+)
- Color Qualified Tracts (Zoom 7+)

[Click here for full screen map](#)

### Qualified Census Tract Information

Tract	207.24
County	Hidalgo County
State	TX
Status (2014)	
Status (2015)	
Poverty Rate	0.0%
Ratio of Tract Median Income to Tract Income Limit	0.425
Full Tract Number	48215020724



**Exhibit 4B**

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**TOTAL POPULATION**

Universe: Total population

**2010-2014 American Community Survey 5-Year Estimates**

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the [Data and Documentation](#) section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the [Methodology](#) section.

Versions of this table are available for the following years:

- 2015
- 2014** ▶
- 2013
- 2012
- 2011
- 2010
- 2009

Census Tract 207.24, Hidalgo County, Texas		
	Estimate	Margin of Error
1 - 1 of 1	Total	4,277 +/-520

Source: U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates

#### Explanation of Symbols:

An '\*' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.

An '-' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.

An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.

An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.

An '\*' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.

An '\*\*\*\*\*' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.

An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.

An '(X)' means that the estimate is not applicable or not available.

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see [Accuracy of the Data](#)). The effect of nonsampling error is not represented in these tables.

While the 2010-2014 American Community Survey (ACS) data generally reflect the February 2013 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2010 data. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

**Exhibit 4C**

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The results are fine resolution, highly accurate crime data that are comparable nationally.



(<https://production-nscout-content-lrstdmrzmrhqefpb9o.netdna-ssl.com/wp-content/uploads/2016/12/28190631/4.png>) This is superior to and quite different from the FBI data, or even the reporting of crime locations by calling the local police department. For one, the FBI data only provides statistics in aggregate by agency (i.e., scores for the entire agency, not for small areas), so you really can't use them to look at individual neighborhoods or addresses. Even when we know locations for crimes – as we know and use more than 2 million geocoded crime incidents in a GIS as part of our data development – the incidents have not been normalized based on resident and visitor population in the vicinity of an address, so risks

simply cannot be accurately quantified. More crimes doesn't necessarily mean more risk. It depends on how many people live or work in the vicinity.

Our approach provides you the ability to look at small areas effectively.

In some cases a city agency is in charge of law enforcement, while in other areas it's a county. In many cases it is more than one agency for a geographic area. Since the geography varies, it's difficult to compare the scores among jurisdictions, or to get a true and complete picture of crime risk. This is why we use a relational database to assess the true count of reported crimes in a locality.

([https://production-nscout-content-lrstdmrzmrhqefpb9o.netdna-ssl.com/wp-content/uploads/2016/12/28192153/crimes\\_per\\_sq\\_mile.png](https://production-nscout-content-lrstdmrzmrhqefpb9o.netdna-ssl.com/wp-content/uploads/2016/12/28192153/crimes_per_sq_mile.png)) Over the years, it has been alleged that many jurisdictions under report crime figures, due to the stigma attached to high crime rates. This is why we look at areas compared to national and state averages, rather than only raw crime counts. The data are normalized to account for resident and visitor population, including day time worker populations, to arrive at true crime rates, and hence a superior assessment of crime risk to individuals in the area.



Although most agencies report, not all do. This creates holes in the data. Our method allows us to accurately fill in the holes based on the crime experience of many like locales, and provide accurate crime data for anywhere in the U.S.

## Crime Types Defined

### Property Crimes:

- **Burglary** : The unlawful entry of a structure to commit a felony or a theft.
- **Larceny-Theft** : The unlawful taking of property from the possession of another (excluding motor vehicles).
- **Vehicle Theft** : The theft or attempted theft of a motor vehicle.

### Violent Endangerment / Violent Crimes:

- **Homicide** : The willful (nonnegligent) killing of one human being by another.
- **Rape** : All forms of non-consensual sexual penetration.
- **Armed Robbery** : The taking or attempting to take anything of value from a person(s) by force or threat of violence.
- **Aggravated Assault** : An attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury.

## SIGN UP FOR DATA ALERTS.

GET NOTIFIED WHEN SCOUT'S DATA GETS UPDATED.



**Exhibit 4D**

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McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020724;  
 Addresses provided/ Yr 2016

<u>Date</u>	<u>Description</u>	<u>St No</u>	<u>St Dir</u>	<u>St Name</u>	<u>St Suffix</u>
5/15/2016	BURGLARY - HAB/BUILDING	500	N	36TH	ST
3/1/2016	BURGLARY - HAB/BUILDING	804	N	46TH	ST
4/2/2016	BURGLARY - HAB/BUILDING	1102	N	47TH	LN
8/30/2016	BURGLARY - HAB/BUILDING	4113		FIR	AVE
7/8/2016	BURGLARY - HAB/BUILDING	4316		GUMWOOD	CIR
9/7/2016	BURGLARY - HAB/BUILDING	3213		HACKBERRY	AVE
7/15/2016	BURGLARY - HAB/BUILDING	4708		IVY	AVE
2/5/2016	DESTRUCTION/DAMAGE/VANDALISM	512	N	35TH	ST
2/5/2016	DESTRUCTION/DAMAGE/VANDALISM	516	N	35TH	ST
11/8/2016	DESTRUCTION/DAMAGE/VANDALISM	516	N	35TH	ST
11/26/2016	DESTRUCTION/DAMAGE/VANDALISM	516	N	35TH	ST
8/16/2016	DESTRUCTION/DAMAGE/VANDALISM	301	N	39TH	ST
1/3/2017	DESTRUCTION/DAMAGE/VANDALISM	309	N	39TH	ST
4/3/2016	DESTRUCTION/DAMAGE/VANDALISM	316	N	40TH	ST
5/5/2016	DESTRUCTION/DAMAGE/VANDALISM	316	N	40TH	ST
8/16/2016	DESTRUCTION/DAMAGE/VANDALISM	604	N	41ST	ST
5/7/2016	DESTRUCTION/DAMAGE/VANDALISM	821	N	41ST	ST
10/10/2016	DESTRUCTION/DAMAGE/VANDALISM	737	N	48TH	ST
10/10/2016	DESTRUCTION/DAMAGE/VANDALISM	3901		BEECH	AVE
8/16/2016	DESTRUCTION/DAMAGE/VANDALISM	3601		DATEPALM	AVE
8/16/2016	DESTRUCTION/DAMAGE/VANDALISM	3601		DATEPALM	AVE
2/14/2016	DESTRUCTION/DAMAGE/VANDALISM	4209		DATEPALM	AVE
5/14/2016	DESTRUCTION/DAMAGE/VANDALISM	3316		EBONY	AVE
12/12/2016	DESTRUCTION/DAMAGE/VANDALISM	3316		EBONY	AVE
8/28/2016	DESTRUCTION/DAMAGE/VANDALISM	3912		EBONY	AVE
11/19/2016	DESTRUCTION/DAMAGE/VANDALISM	4701		EBONY	AVE
5/14/2016	DESTRUCTION/DAMAGE/VANDALISM	3817		HACKBERRY	AVE
9/18/2016	DESTRUCTION/DAMAGE/VANDALISM	4001		HICKORY	AVE
9/24/2016	DESTRUCTION/DAMAGE/VANDALISM	5012		JASMINE	AVE
8/28/2016	DESTRUCTION/DAMAGE/VANDALISM	4509		KENDLEWOOD	AVE
2/26/2016	DESTRUCTION/DAMAGE/VANDALISM	4700		KENDLEWOOD	AVE
1/19/2017	DESTRUCTION/DAMAGE/VANDALISM	4604		LAUREL	AVE
12/6/2016	DESTRUCTION/DAMAGE/VANDALISM	4413		ORANGE	AVE



McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020724;  
 Addresses provided/ Yr 2016

Date	Description	St No	St Dir	St Name	St Suffix
3/21/2016	DESTRUCTION/DAMAGE/VANDALISM	3601		PECAN	BLVD
4/5/2016	DESTRUCTION/DAMAGE/VANDALISM	3601		PECAN	BLVD
9/4/2016	DESTRUCTION/DAMAGE/VANDALISM	3601		PECAN	BLVD
9/18/2016	DESTRUCTION/DAMAGE/VANDALISM	3601		PECAN	BLVD
12/7/2016	DESTRUCTION/DAMAGE/VANDALISM	3601		PECAN	BLVD
9/20/2016	DESTRUCTION/DAMAGE/VANDALISM	4321		PECAN	BLVD
12/6/2016	DESTRUCTION/DAMAGE/VANDALISM	501	N	WARE	RD
10/28/2016	DESTRUCTION/DAMAGE/VANDALISM	705	N	WARE	RD
3/29/2016	DESTRUCTION/DAMAGE/VANDALISM	825	N	WARE	RD
6/8/2016	DESTRUCTION/DAMAGE/VANDALISM	1001	N	WARE	RD
11/7/2016	DESTRUCTION/DAMAGE/VANDALISM	1001	N	WARE	RD
4/21/2016	LARCENY - THEFT	516	N	32ND	LN
5/29/2016	LARCENY - THEFT	509	N	34TH	ST
1/30/2016	LARCENY - THEFT	600	N	35TH	ST
8/10/2016	LARCENY - THEFT	411	N	41ST	ST
3/12/2016	LARCENY - THEFT	411	N	41ST	ST
4/5/2016	LARCENY - THEFT	532	N	41ST	ST
5/15/2016	LARCENY - THEFT	809	N	41ST	ST
4/16/2016	LARCENY - THEFT	1305	N	42ND	ST
11/11/2016	LARCENY - THEFT	612	N	43RD	ST
6/16/2016	LARCENY - THEFT	728	N	46TH	ST
4/4/2016	LARCENY - THEFT	1004	N	48TH	ST
12/11/2016	LARCENY - THEFT	800	N	BENTSEN	RD
12/15/2016	LARCENY - THEFT	3317		FIR	AVE
11/18/2016	LARCENY - THEFT	3901		FIR	AVE
9/22/2016	LARCENY - THEFT	3115		GUMWOOD	AVE
6/4/2016	LARCENY - THEFT	3205		HACKBERRY	AVE
1/19/2017	LARCENY - THEFT	3209		HACKBERRY	AVE
4/4/2016	LARCENY - THEFT	3302		HACKBERRY	AVE
4/5/2016	LARCENY - THEFT	4604		IVY	AVE
11/26/2016	LARCENY - THEFT	4712		IVY	AVE
6/23/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/28/2016	LARCENY - THEFT	3601		PECAN	BLVD



McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020724;  
 Addresses provided/ Yr 2016

Date	Description	St No	St Dir	St Name	St Suffix
1/29/2016	LARCENY - THEFT	3601		PECAN	BLVD
1/29/2016	LARCENY - THEFT	3601		PECAN	BLVD
1/31/2016	LARCENY - THEFT	3601		PECAN	BLVD
2/23/2016	LARCENY - THEFT	3601		PECAN	BLVD
2/24/2016	LARCENY - THEFT	3601		PECAN	BLVD
3/3/2016	LARCENY - THEFT	3601		PECAN	BLVD
3/7/2016	LARCENY - THEFT	3601		PECAN	BLVD
3/7/2016	LARCENY - THEFT	3601		PECAN	BLVD
3/22/2016	LARCENY - THEFT	3601		PECAN	BLVD
4/5/2016	LARCENY - THEFT	3601		PECAN	BLVD
4/11/2016	LARCENY - THEFT	3601		PECAN	BLVD
4/13/2016	LARCENY - THEFT	3601		PECAN	BLVD
4/17/2016	LARCENY - THEFT	3601		PECAN	BLVD
4/26/2016	LARCENY - THEFT	3601		PECAN	BLVD
5/11/2016	LARCENY - THEFT	3601		PECAN	BLVD
5/16/2016	LARCENY - THEFT	3601		PECAN	BLVD
6/21/2016	LARCENY - THEFT	3601		PECAN	BLVD
6/21/2016	LARCENY - THEFT	3601		PECAN	BLVD
6/21/2016	LARCENY - THEFT	3601		PECAN	BLVD
6/28/2016	LARCENY - THEFT	3601		PECAN	BLVD
7/7/2016	LARCENY - THEFT	3601		PECAN	BLVD
7/7/2016	LARCENY - THEFT	3601		PECAN	BLVD
7/27/2016	LARCENY - THEFT	3601		PECAN	BLVD
7/28/2016	LARCENY - THEFT	3601		PECAN	BLVD
8/13/2016	LARCENY - THEFT	3601		PECAN	BLVD
9/1/2016	LARCENY - THEFT	3601		PECAN	BLVD
9/18/2016	LARCENY - THEFT	3601		PECAN	BLVD

McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020724;  
 Addresses provided/ Yr 2016

<u>Date</u>	<u>Description</u>	<u>St No</u>	<u>St Dir</u>	<u>St Name</u>	<u>St Suffix</u>
9/20/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/12/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/12/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/25/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/26/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/27/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/28/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/28/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/28/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/29/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/30/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/30/2016	LARCENY - THEFT	3601		PECAN	BLVD
10/31/2016	LARCENY - THEFT	3601		PECAN	BLVD
11/5/2016	LARCENY - THEFT	3601		PECAN	BLVD
11/7/2016	LARCENY - THEFT	3601		PECAN	BLVD
11/12/2016	LARCENY - THEFT	3601		PECAN	BLVD
11/17/2016	LARCENY - THEFT	3601		PECAN	BLVD
11/18/2016	LARCENY - THEFT	3601		PECAN	BLVD
11/22/2016	LARCENY - THEFT	3601		PECAN	BLVD
12/7/2016	LARCENY - THEFT	3601		PECAN	BLVD
12/10/2016	LARCENY - THEFT	3601		PECAN	BLVD
12/12/2016	LARCENY - THEFT	3601		PECAN	BLVD
12/20/2016	LARCENY - THEFT	3601		PECAN	BLVD
12/21/2016	LARCENY - THEFT	3601		PECAN	BLVD
1/7/2017	LARCENY - THEFT	3601		PECAN	BLVD
1/7/2017	LARCENY - THEFT	3601		PECAN	BLVD
10/30/2016	LARCENY - THEFT	4801		PECAN	BLVD
7/25/2016	LARCENY - THEFT	4701		QUINCE	AVE
12/7/2016	LARCENY - THEFT	615	N	WARE	RD
2/16/2016	LARCENY - THEFT	615	N	WARE	RD
1/9/2017	LARCENY - THEFT	615	N	WARE	RD
8/28/2016	MOTOR VEHICLE THEFT	3901		FIR	AVE

McAllen Police Department - Crime Records Bureau  
Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020724;  
Addresses provided/ Yr 2016

Date	Description	St No	St Dir	St Name	St Suffix
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McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

\* \* \* \* C: Census Tract 48215020724;  
 Addresses provided/ Yr 2016

<u>Date</u>	<u>Description</u>	<u>St No</u>	<u>St Dir</u>	<u>St Name</u>	<u>St Suffix</u>
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<u>UCR Offense</u>	<u>Count</u>
Criminal Mischief	37
Graffiti	0
* Burglary	7
* Larceny - Theft	80
* Motor Vehicle Theft	1
<b>Grand Total</b>	<b>125</b>

**Exhibit 4E**

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CITY OF McALLEN



POLICE DEPARTMENT

June 8, 2017

McAllen Housing Authority  
Mr. Arnold Padilla, Executive Director  
2301 Jasmine Ave.  
McAllen, Texas 78501

RE: Property Crime for Census Tract 207.24

Mr. Padilla,

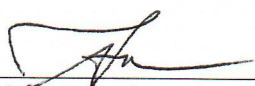
The annual Uniformed Crime Reports prepared by the City of McAllen Police Department are available as a local data source to the public at our website:

<http://www.mcallen.net/departments/pd/records-bureau/crime-reports>.

In addition, the local data that details the property crimes found within census tract 207.24 is attached. This local police data ranges from 01/25/2016 to 01/25/2017 and has been confirmed by our Crime Records Bureau.

In the event that any additional information is needed, please do not hesitate to ask.

Sincerely,

  
\_\_\_\_\_  
Lieutenant Joel A. Morales  
Director, Crime Records Bureau



Application #17388  
West Pecan Village  
Second - Third Party Request for  
Administrative Deficiency

**TEXAS GREY OAKS, LLC**  
**710 North Post Oak Road, Suite 400**  
**Houston, TX 77024**  
**(713) 875-9456 – p**  
**(713) 583-8858 – f**  
[Steve@TexasGreyOaks.com](mailto:Steve@TexasGreyOaks.com)

June 1, 2017

Via Email – [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)

Marni Holloway  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs  
221 E. 11th Street  
Austin, Texas 78701

RE: Application #17388-West Pecan Village- RFAD

Dear Ms. Holloway:

In accordance with §11.10 of the 2017 Qualified Allocation Plan (“QAP”) regarding Third Party Request for Administrative Deficiency (“RFAD”), we present the following material information about the above described application to Staff’s attention. It is our belief that the Applicant of West Pecan Village has requested points/tiebreakers for site amenities under §11.9(c)(4)-Opportunity Index for projects located in Urban areas that do not qualify under the QAP/Multifamily Rules.

**1. PROPERTY CRIME:**

The Applicant claimed one point under §11.9(c)(4)(B)(VI)-Property Crime Rate. The QAP requirement is:

“(VI) The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources.”

The Applicant did not submit the Neighborhood Scout Report to substantiate the Property Crime rate in their census tract instead electing to use local data extracted from reports on crimes of all types committed in the City of McAllen. Attached as Exhibit “A” please find the information submitted by the Applicant in support of the point claimed.

As represented in Exhibit “A”, the Applicant submitted selected pages from the City of McAllen Crime Reports for 2015 and 2016 and from the 2014 FBI UCR Report that are based on crime data for the entire City of McAllen. The data is not broken down by address, neighborhood or more importantly by census tract as the QAP requires in §11.9(c)(4)(B)(i)(VI).

Their methodology involves taking the crime rates for the entire City and dividing the crimes by the overall city population. The result is then used to create the desired percentage of property crimes using the census tract population estimates for the applicable census tract.

By way of example, the referenced FBI UCR report addresses all property crimes reported by the City of McAllen Police Department in 2014, and states:

Population of the City of McAllen 138,122  
Property Crime Rate for the City of McAllen 3,581.6  
Resulting in an overall City of McAllen Property Crime rate per 1000 of 25.93 for 2014

Crime rates within a City vary widely. There are low crime areas and high crime areas and you cannot average those rates and apply them to any particular census tract with any accuracy. It is for these reasons that the Department wants to see what the crime rate, in this instance the Property crime, is in the census tract because it is more localized and a better indicator of crime where the Project will be located.

Without a listing of crime by address and within the applicable census tract the crime documentation submitted by the Applicant does not meet the criteria to support the point claimed under §11.9(c)(4)(B)(i)(VI). Attached as Exhibit "B" further illustrates our arguments raised above.

Lastly, we do not believe that the Applicant should be deemed a "Local Data Source" for purposes of qualifying for the Property Crime point. The Applicant extrapolated data from Crime Reports generated by the McAllen Police Department to fit their desired results. The Applicant could have reached out directly to the McAllen Police Department, as others did, and obtained a letter from the actual "Local Data Source" that provided the Property Crime data applicable to their census tract and included such letter in their application. Attached as Exhibit "C" please find an email from the McAllen Police Chief stating that the McAllen and FBI UCR reports are a reflection of city-wide data and that such reports are "**not prepared or are reflective** of any census tract or census block". The email further states "that "extrapolation" for purposes of determining the UCR crime activity of any census tract or census block is not an accurate analysis of UCR crime activity for any census tract or census block."

In conclusion, we do not believe that the Applicant submitted in its Application a legitimate "Local Data Source" nor did they provide census level data for purposes of qualifying for the point.

## **2. MUSEUM:**

The Applicant claimed one point under §11.9(c)(4)(B)(X)-Museum. The QAP requirement is:

"(X) The Development Site is within 2 miles of a museum that is a government-sponsored or non-profit, permanent institution open to the public and is not an ancillary part of an organization whose primary purpose is other than the acquisition, conservation, study, exhibition and educational interpretation of objects having scientific, historical, or artistic value."



Marni Holloway  
RFAD-#17388  
June 1, 2017  
Page -3-

The Applicant submitted the information attached as Exhibit "D" in support of the point claimed. The library art gallery is not a Museum. The art gallery is an ancillary part of the library at the South Texas College-Pecan Campus. While the South Texas College-Pecan Campus is a public college and therefore technically "non-profit" and the art gallery is located in a "permanent institution" open to the public, the permanent institution is a public library that contains an art gallery. Please find attached as Exhibit "E" a letter from Cody Gregg, the Dean of Library & Learning Support Services for South Texas College campuses confirming that the art galleries located in some of their campus libraries are not museums.

Furthermore, the Applicant used the Library for one point under §11.9(c)(4)(B)(VII)-Library. §11.9(c)(4)(B) of the QAP states that:

"each facility or amenity may be used only once for scoring purposes, regardless of the number of categories it fits."

Therefore, the Applicant should not be eligible to use the art gallery portion of the Library for points even if the gallery did legitimately qualify as a Museum under the QAP rules.

In conclusion, we do not believe that the art gallery in the Pecan Campus Library qualifies as a Museum under the QAP rules, nor is it recognized as such by the Dean of Library & Learning Support Services at South Texas College and therefore, the Applicant should not qualify for the point claimed under §11.9(c)(4)(B)(X)-Museum.

We submitted the required RFAD Fee in the amount of \$500 under separate submission. We appreciate your due consideration of this RFAD.

Sincerely,

Texas Grey Oaks, LLC

By: 

Steve Lollis, Manager

cc: Sharon Gamble, TDHCA – Via Email – [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)  
Arnold Padilla – Via Email – [apadilla@mcaha.org](mailto:apadilla@mcaha.org)  
Doak Brown – Via Email – [doak@thdbrownstonegroup.net](mailto:doak@thdbrownstonegroup.net)  
Donna Rickenbacker – Via Email – [donna@marqueconsultants.com](mailto:donna@marqueconsultants.com)

**6. Property Crime Rate – neighborhood scout or local data sources**

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# LOCAL DATA SOURCES

The McAllen Police Department (MPD) provides a local data source that indicates the property crime rate for the West Pecan Village census tract is currently less than 26 per 1000 and steadily declining.

Among many things, this local data source shows that the overall property crime rate in the entire City of McAllen is decreasing annually. To that end, when this data is extrapolated for specific property crime categories (*i.e.*, - *larceny/theft, burglary, and motor vehicle theft*) then the West Pecan Village census block group, census tract, and City of McAllen are all witnessing property crime rates that are either decreasing annually or remaining statically less than 26 per 1000 in 2016, which is the most reliable year for calculating current property crime rates and trends. Ultimately, we are using those rates and trends to claim this opportunity index menu item.

Although the Neighborhood Scout (NS) score for census tract 207.24 is one of the lowest property crime rates in all of McAllen – e.g., 27.28 per 1000 – all indications suggest that Neighborhood Scout is unreliable for current statistics and localized crime reporting. The reason for this is because it is an extrapolation of old data. Moreover, it uses a proprietary blend of algorithms that calculates this stale data, and the results can be as much as two years old. In essence, to use the old Neighborhood Scout rates alone for our purposes would not make sense when newer local data from the McAllen Police Department is available.

Therefore for our purposes, the local data source provided by the MPD is put forth in the following extrapolated calculations that best mirror the older Neighborhood Scout rate and its property crime categories. By comparing and contrasting the assumed 2014 NS data and 2014 FBI data with the current MPD data from 2014, 2015, and 2016, the overall result is:

West Pecan Village - <b>Census Tract</b>	=	<b>23.59 per 1000</b> residents (2016)	
West Pecan Village - <b>Census Block</b>	=	<b>21.99 per 1000</b> residents (2016)	
City of McAllen - <b>City Limits</b>	=	<b>25.93 per 1000</b> residents (2014)	
		<b>23.78 per 1000</b> residents (2015)	
		<b>22.42 per 1000</b> residents (2016)	
		(decreasing annually)	



**MCALLEN CITY LIMITS**

**PROPERTY CRIME RATE**

The McAllen Police Department releases local data sources annually, which are called crime data reports. See attached, *MPD Crime Data Report*. To best mirror the Neighborhood Scout information – which is typically two years behind current local data sources – we are using the City of McAllen’s local crime data reports for 2014, 2015, and 2016. In addition, we are specifically looking at property crime data only – i.e., all larceny (theft), burglary, and motor vehicle theft – which similarly mirrors how Neighborhood Scout reports its categories.

**McAllen Police Department / Crime Data Reports**

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**City of McAllen**

	2014		2015		2016
Larceny (Theft) √	30.79		28.25		27.17
Burglary	2.90		3.00		2.24
Motor Vehicle Theft	1.21		0.77		0.79
<b>Total</b>	34.90*	<b>&lt;-8.3%&gt;</b>	32.02*	<b>&lt;-5.7%&gt;</b>	30.20*
		<b>% annual decrease</b>		<b>% annual decrease</b>	

\* All figures per 1000 residents

√ Figures can include larceny below \$50. Typically Neighborhood Scout and the FBI does not track this data.

**FBI – uniform crime reported by MPD in 2014**

When contrasting and comparing the above decreasing trend % with the local property crime reported by the MPD to the FBI in 2014, the property crime rate for the city limits of McAllen is less than 26 per 1000 annually. Like Neighborhood Scout which also uses this FBI data, the below figures are indicative of the consistent trends within the city limits: (to better mirror NS, this data may not include larceny below \$50)

POPULATION	PROPERTY CRIME RATE	TOTAL	
138,122	3581.6	<b>25.93</b> per 1000 residents	<b>2014</b>
		<b>&lt;-8.3%&gt;</b>	% decrease
		<b>23.78</b> per 1000 residents	<b>2015</b>
		<b>&lt;-5.7%&gt;</b>	% decrease
		<b>22.42</b> per 1000 residents	<b>2016</b>

See Attached, MPD Crime Data Report / Crime Trends & Analysis

See Attached, FBI Uniform Crime Reporting Statistics



**City of McAllen Crime Report**

# **McAllen Police Department**



# **Crime In McAllen 2016**

# CRIME TRENDS & ANALYSIS

- ☐ Crime trends are analyzed using two methods: Crime Volume and Crime Rates.
- ☐ Crime analysis studies two categories of crime: Violent Crimes and Property Crimes

## CRIME VOLUME:

- Crime Volume is the collective sum of the seven index crimes.
- By comparing the crime volume of index crimes from year to year, trends can be evaluated.

## CRIME RATES:

- Crime Rates are compiled to compensate for the changes in population and to show the number of people affected by crime in a given population.
- Crime rates are generally expressed in the number of crimes per 100,000 residents.

## VIOLENT CRIMES:

- Involve the element of personal confrontation between the perpetrator and the victim.
- This category is comprised of Homicide, Rape, Robbery, and Aggravated Assault.

## PROPERTY CRIMES:

- Involve only the taking of money or property.
- This category is comprised of Burglary, Theft, and Motor Vehicle Theft.

City of McAllen Crime Volume Analysis				
Table: 2				
	Offense	2016	2015	% Change
Violent Crimes	Murder	3	2	50.0%
	Rape	40	16	150.0%
	Robbery	65	51	27.5%
	Aggravated Assault	107	83	28.9%
	Violent Crime Total	215	152	41.4%
Property Crimes	Burglary	331	435	-23.9%
	Theft	4022	4091	-1.7%
	Motor Vehicle Theft	117	111	5.4%
	Property Crime Total	4470	4637	-3.6%
Index Crime Total		4685	4789	-2.2%

City of McAllen Crime Rate Analysis				
Table: 3				
	Offense	2016	2015	% Change
Violent Crimes	Murder	2.0	1.4	46.8%
	Rape	27.0	11.0	144.6%
	Robbery	43.9	35.2	24.7%
	Aggravated Assault	72.3	57.3	26.1%
	Violent Crime Total	145.2	104.9	38.4%
Property Crimes	Burglary	223.6	300.3	-25.5%
	Theft	2716.9	2824.5	-3.8%
	Motor Vehicle Theft	79.0	76.6	3.1%
	Property Crime Total	3019.6	3201.4	-5.7%
Index Crime Total		3164.8	3306.3	-4.3%

- ◆ During the calendar year 2016, there were a total 4685 index offenses in the City of McAllen. The crime volume decreased 2.2% when compared to 2015.
- ◆ During the calendar year 2016, the City of McAllen’s crime rate was 3164.8 crimes per 100,000 persons. The crime rate decreased 4.3% when compared to 2015.





**City of McAllen Crime Report**

# **McAllen Police Department**



# **Crime In McAllen 2015**

# CRIME TRENDS & ANALYSIS

- ❑ **Crime trends are analyzed using two methods, Crime Volume and Crime Rates.**
- ❑ **Crimes are also categorized according to: Violent Crimes and Property Crimes.**

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	<hr/>			
Property Crimes	Burglary	435	411	5.8%
	Theft	4091	4364	-6.3%
	Motor Vehicle Theft	111	172	-35.5%
	Property Crime Total	4637	4947	-6.3%
	Index Crime Total	4789	5129	-6.6%

McAllen Crime Rate- Table: 3				
	Offense	2015	2014	% Change
Violent Crimes	Murder	1.4	4.2	-67.4%
	Rape	11.0	12.7	-13.0%
	Robbery	35.2	48.0	-26.6%
	Aggravated Assault	57.3	63.5	-9.8%
	Violent Crime Total	104.9	128.4	-18.3%
	<hr/>			
Property Crimes	Burglary	300.3	290.0	3.6%
	Theft	2824.5	3079.4	-8.3%
	Motor Vehicle Theft	76.6	121.4	-36.9%
	Property Crime Total	3201.4	3490.8	-8.3%
	Index Crime Total	3306.4	3619.2	-8.6%

- ◆ During the calendar year 2015, there were a total 4789 index offenses in the City of McAllen. The index decreased 6.6% when compared to 2014.
- ◆ During the calendar year 2015, McAllen’s crime rate was 3306.4 crimes per 100,000 persons. The crime rate decreased 8.6%



# UCR

## UNIFORM CRIME REPORTING STATISTICS

Database-driven, customizable access to official UCR statistics

U.S. Department of Justice  
Federal Bureau of Investigation

FBI

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**Definitions.** Also see notes at the end of the page.

For caution, see [Caution against ranking](#)

### Crime reported by McAllen Police Dept, Texas

Crime rate per 100,000 population

Property crime

Year	Months reporting	Population coverage	Property crime rate*	Burglary rate	Larceny-theft rate	Motor vehicle theft rate
*** 2014	12	*** 138,122	3,581.6	297.6	3,159.5	124.5

**Notes:** When data are unavailable, the cells are blank or the year is not presented.  
Variations in population coverage and reporting practices may cause differences in reporting from year to year. (See [definitions](#)).  
MSA and non-MSA county populations are not available.  
Crime rates are not available for agencies that report data for less than 12 months of a year.

**Sources:** FBI, Uniform Crime Reports as prepared by the National Archive of Criminal Justice Data

[Home page](#) | [Top of this page](#)



**WEST PECAN VILLAGE / CENSUS TRACT**

**PROPERTY CRIME RATE**

Because Neighborhood Scout is only showing a census tract property crime rate in its reports utilizing old 2014 data, then it stands to reason that the 2015 and 2016 census tract property crime rates need to be projected for census tract 207.24 as per the downward percentage (%) trends evidenced in the current McAllen Police Reports for those same years. For example, if NS indicates a 2014 census tract rate of 27.28, then in 2015 it would be decreased by 8.3%, and then in 2016 it would decrease by 5.7% in the same fashion that the City of McAllen is trending.

**Neighborhood Scout / Projected Trend**

---

**Census Tract 207.24 / West Pecan Village**

<b>Combined Categories</b>	<b>2014</b>		<b>2015</b>		<b>2016</b>
<b>Larceny (Theft), Burglary, and Motor Vehicle Theft</b>	27.28*	<-8.3%>	25.02*	<-5.7%>	<b>23.59*</b>

\*All figures per 1000 residents

## WEST PECAN VILLAGE / CENSUS BLOCK GROUP

### PROPERTY CRIME RATE

The population data used for census block group calculations is based on the 2010-2014 ACS / B01003. This population is 135,048 for the City of McAllen and 3,295 for Census Block Group 1, CT 207.24. See attached, *ACS Population Table and Census Block Map*.

When the MPD data is calculated with these population figures using the 2016 property crime total, the City of McAllen witnesses a crime rate in larceny, burglary, and motor vehicle theft combined that is less than 26 per 1000. In addition, when these percentages are calculated into the census block group population for West Pecan Village, the result is a rate of 21.99 per 1000 in 2016, which more closely underscores the near vicinity to the development site on a local level.

#### **City (pop. 135,048)**

---

YEAR	POPULATION	PROPERTY CRIME RATE	TOTAL
2016	135,048	3019.6	22.36 per 1000 residents

#### **Census Block Group (pop. 3,295)**

---

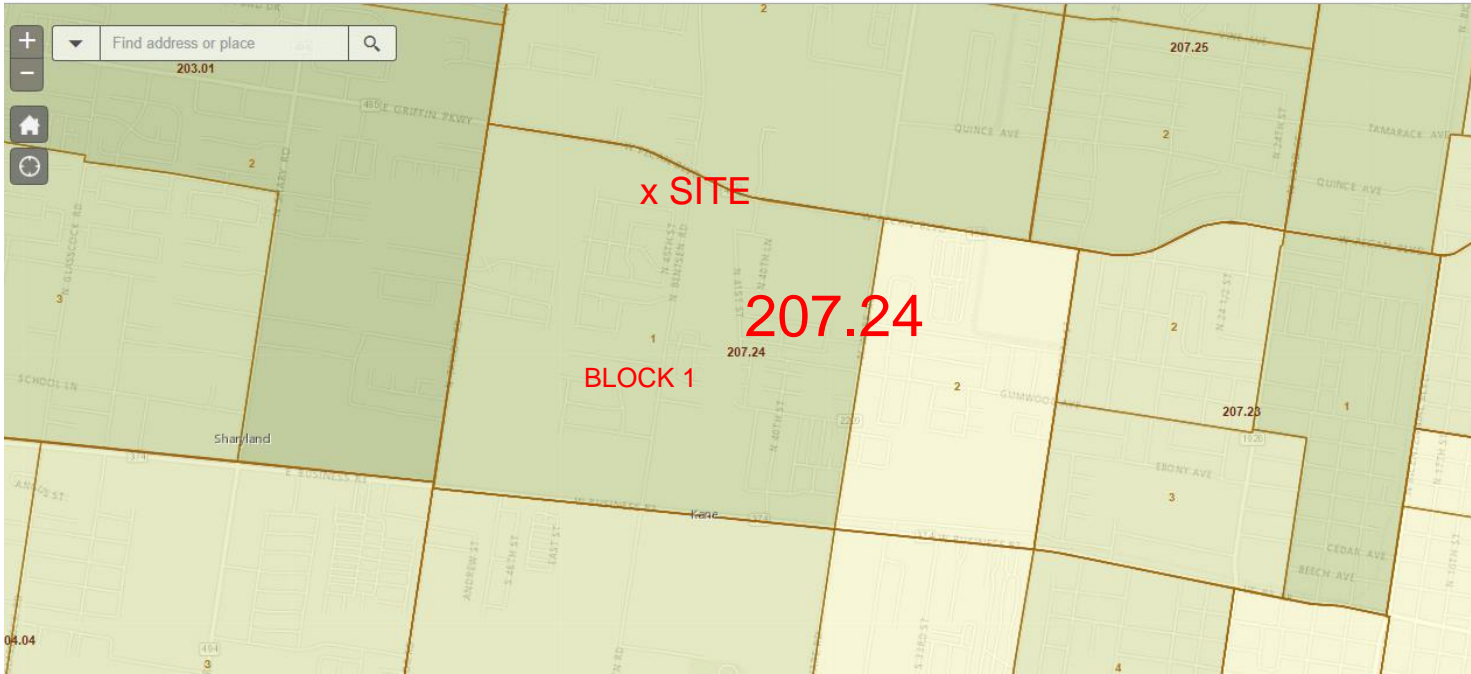
2016	3,295	72.47	21.99 per 1000 residents
------	-------	-------	--------------------------

3,295 is 2.43% of total city population

2.43% of 3019.6 = 72.47 property crimes occurring inside Census Block Group 1

72.47 / 3.295 = **21.99 property crimes per 1000 residents**

Thematic Map of Estimate; Total  
Geography: by Block Group within Census Tract



B01003 | TOTAL POPULATION  
Universe: Total population ⓘ  
2010-2014 American Community Survey 5-Year Estimates

Table View | Map View

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merican Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, and estimates of housing units for states and counties.

« 109 - 126 of 678 »

	Block Group 2, Census Tract 207.23, Hidalgo County, Texas		Block Group 3, Census Tract 207.23, Hidalgo County, Texas		Block Group 1, Census Tract 207.24, Hidalgo County, Texas		Block Group 2, Census Tract 207.24, Hidalgo County, Texas		Block Group 1, Census Tract 207.25, Hidalgo County, Texas		Block Group 2, Census Tract 207.25, Hidalgo County, Texas		Block Group 1, Census Tract 207.26, Hidalgo County, Texas		Block Group 2, Census Tract 207.26, Hidalgo County, Texas		Block Group 1, Census Tract 208.02, Hidalgo County, Texas	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Total	1,803	+/-449	1,487	+/-544	3,295*	+/-529	982	+/-379	2,462	+/-404	2,343	+/-676	3,477	+/-567	2,485	+/-483	813	+/-280

« 109 - 126 of 678 »





**Advanced Search** - Search all data in American FactFinder

1 [Advanced Search](#) 2 [Table Viewer](#)

Result 1 of 1 [VIEW ALL AS PDF](#)

B01003 | TOTAL POPULATION  
Universe: Total population ⓘ  
2010-2014 American Community Survey 5-Year Estimates

Table View

[BACK TO ADVANCED SEARCH](#)

Actions: [Modify Table](#) | [Add/Remove Geographies](#) | [Bookmark/Save](#) | [Print](#) | [Download](#) | [Create a Map](#)

[View Geography Notes](#) | [View Table Notes](#)

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«

McAllen city, Texas			
		Estimate	Margin of Error
Total	****	135,048	+/-115

**6. Property Crime Rate – neighborhood scout or local data sources**

---

# LOCAL DATA SOURCES

There is nothing that shows the data for the Census Tract

The McAllen Police Department (MPD) provides a local data source that indicates the property crime rate for the West Pecan Village census tract is currently less than 26 per 1000 and steadily declining.

Among many things, this local data source shows that the overall property crime rate in the entire City of McAllen is decreasing annually. To that end, when this data is extrapolated for specific property crime categories (*i.e.*, - larceny/theft, burglary, and motor vehicle theft) then the West Pecan Village census block group, census tract, and City of McAllen are all witnessing property crime rates that are either decreasing annually or remaining statically less than 26 per 1000 in 2016, which is the most reliable year for calculating current property crime rates and trends. Ultimately, we are using those rates and trends to claim this opportunity index menu item.

Although the Neighborhood Scout (NS) score for census tract 207.24 is one of the lowest property crime rates in all of McAllen – e.g., 27.28 per 1000 – all indications suggest that Neighborhood Scout is unreliable for current statistics and localized crime reporting. The reason for this is because it is an extrapolation of old data. Moreover, it uses a proprietary blend of algorithms that calculates this stale data, and the results can be as much as two years old. In essence, to use the old Neighborhood Scout rates alone for our purposes would not make sense when newer local data from the McAllen Police Department is available.

Local data is only provided on City wide basis

Therefore for our purposes, the local data source provided by the MPD is put forth in the following extrapolated calculations that best mirror the older Neighborhood Scout rate and its property crime categories. By comparing and contrasting the assumed 2014 NS data and 2014 FBI data with the current MPD data from 2014, 2015, and 2016, the overall result is:

Neighborhood Scout Report not in Application

No data by census tract or block provided

West Pecan Village - **Census Tract** = **23.59 per 1000** residents (2016)

West Pecan Village - **Census Block** = **21.99 per 1000** residents (2016)

City of McAllen - **City Limits** = **25.93 per 1000** residents (2014)

**23.78 per 1000** residents (2015)

**22.42 per 1000** residents (2016)

(decreasing annually)





**MCALLEN CITY LIMITS**

**PROPERTY CRIME RATE**

The McAllen Police Department releases local data sources annually, which are called crime data reports. See attached, *MPD Crime Data Report*. To best mirror the Neighborhood Scout information – which is typically two years behind current local data sources – we are using the City of McAllen’s local crime data reports for 2014, 2015, and 2016. In addition, we are specifically looking at property crime data only – i.e., all larceny (theft), burglary, and motor vehicle theft – which similarly mirrors how Neighborhood Scout reports its categories.

**McAllen Police Department / Crime Data Reports**

---

**City of McAllen**

	2014		2015		2016
Larceny (Theft) √	30.79		28.25		27.17
Burglary	2.90		3.00		2.24
Motor Vehicle Theft	1.21		0.77		0.79
<b>Total</b>	34.90*	<b>&lt;-8.3%&gt;</b>	32.02*	<b>&lt;-5.7%&gt;</b>	30.20*
		<b>% annual decrease</b>		<b>% annual decrease</b>	

\* All figures per 1000 residents

√ Figures can include larceny below \$50. Typically Neighborhood Scout and the FBI does not track this data.

**FBI – uniform crime reported by MPD in 2014**

When contrasting and comparing the above decreasing trend % with the local property crime reported by the MPD to the FBI in 2014, the property crime rate for the city limits of McAllen is less than 26 per 1000 annually. Like Neighborhood Scout which also uses this FBI data, the below figures are indicative of the consistent trends within the city limits: (to better mirror NS, this data may not include larceny below \$50)

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See Attached, MPD Crime Data Report / Crime Trends & Analysis

See Attached, FBI Uniform Crime Reporting Statistics



**City of McAllen Crime Report**

# **McAllen Police Department**



# **Crime In McAllen 2016**

# CRIME TRENDS & ANALYSIS

- ❑ Crime trends are analyzed using two methods: Crime Volume and Crime Rates.
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**City of McAllen Crime Report**

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# UCR

## UNIFORM CRIME REPORTING STATISTICS

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U.S. Department of Justice  
Federal Bureau of Investigation

FBI

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Results from local-level reported crime database

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**Definitions.** Also see notes at the end of the page.

For caution, see [Caution against ranking](#)

### Crime reported by McAllen Police Dept, Texas

Crime rate per 100,000 population						
Property crime						

Year	Months reporting	Population coverage	Property crime rate*	Burglary rate	Larceny-theft rate	Motor vehicle theft rate
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[Home page](#) | [Top of this page](#)



**WEST PECAN VILLAGE / CENSUS TRACT**

**PROPERTY CRIME RATE**

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This is city wide data and not census tract data as required by the QAP

**Neighborhood Scout / Projected Trend**

---

**Census Tract 207.24 / West Pecan Village**

Combined Categories	2014		2015		2016
Larceny (Theft), Burglary, and Motor Vehicle Theft	27.28*	<-8.3%>	25.02*	<-5.7%>	23.59*

\*All figures per 1000 residents

No documentation included in Application

This is City wide decreased, not by census tract

This is City wide decrease, not by census tract

## WEST PECAN VILLAGE / CENSUS BLOCK GROUP

### PROPERTY CRIME RATE

The population data used for census block group calculations is based on the 2010-2014 ACS / B01003. This population is 135,048 for the City of McAllen and 3,295 for Census Block Group 1, CT 207.24. See attached, *ACS Population Table and Census Block Map*.

When the MPD data is calculated with these population figures using the 2016 property crime total, the City of McAllen witnesses a crime rate in larceny, burglary, and motor vehicle theft combined that is less than 26 per 1000. In addition, when these percentages are calculated into the census block group population for West Pecan Village, the result is a rate of 21.99 per 1000 in 2016, which more closely underscores the near vicinity to the development site on a local level.

#### **City (pop. 135,048)**

---

YEAR	POPULATION	PROPERTY CRIME RATE	TOTAL
2016	135,048	3019.6	22.36 per 1000 residents

#### **Census Block Group (pop. 3,295)**

---

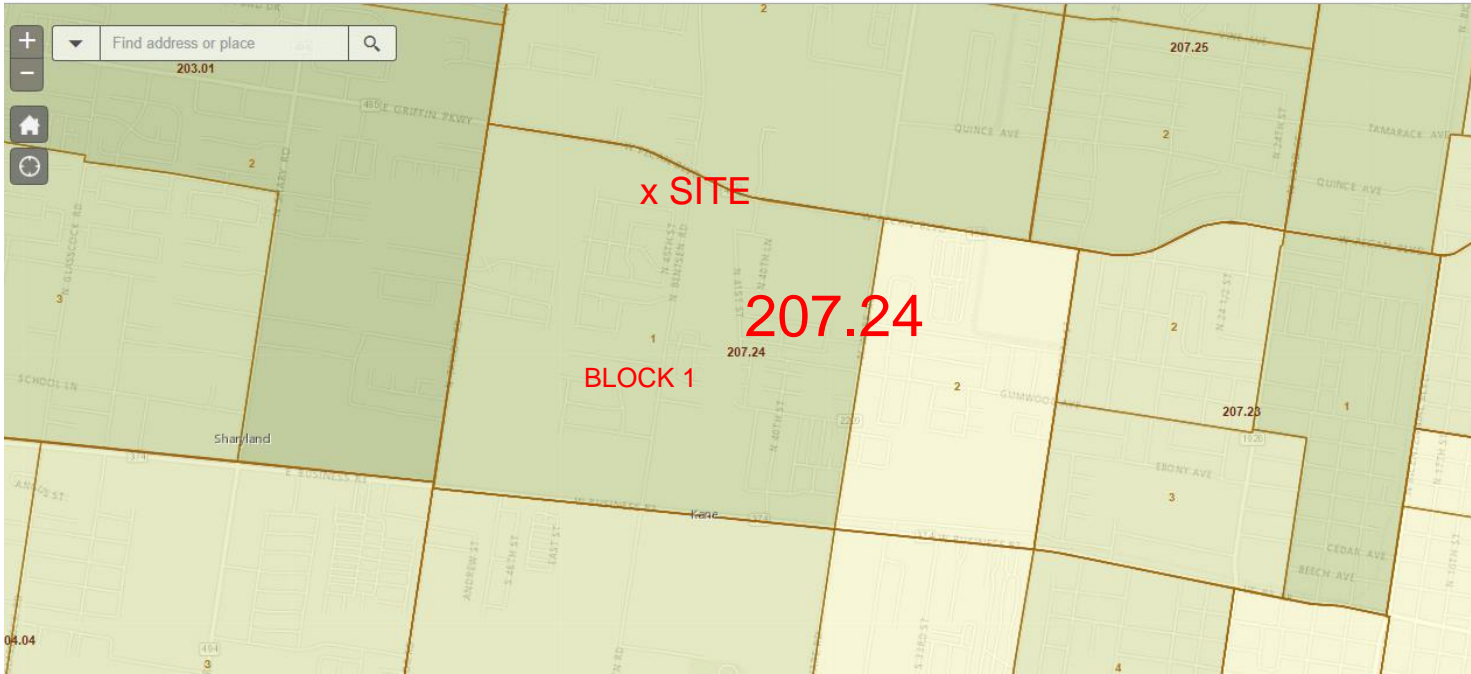
2016	3,295	72.47	21.99 per 1000 residents
------	-------	-------	--------------------------

3,295 is 2.43% of total city population

2.43% of 3019.6 = 72.47 property crimes occurring inside Census Block Group 1

72.47 / 3.295 = **21.99 property crimes per 1000 residents**

Thematic Map of Estimate; Total  
Geography: by Block Group within Census Tract



B01003 TOTAL POPULATION  
Universe: Total population  
2010-2014 American Community Survey 5-Year Estimates

Table View | Map View

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<< 109 - 126 of 678 >>

\*\*\*\*\*

	Block Group 2, Census Tract 207.23, Hidalgo County, Texas		Block Group 3, Census Tract 207.23, Hidalgo County, Texas		Block Group 1, Census Tract 207.24, Hidalgo County, Texas		Block Group 2, Census Tract 207.24, Hidalgo County, Texas		Block Group 1, Census Tract 207.25, Hidalgo County, Texas		Block Group 2, Census Tract 207.25, Hidalgo County, Texas		Block Group 1, Census Tract 207.26, Hidalgo County, Texas		Block Group 2, Census Tract 207.26, Hidalgo County, Texas		Block Group 1, Census Tract 208.02, Hidalgo County, Texas	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Total	1,803	+/-449	1,487	+/-544	3,295*	+/-529	982	+/-379	2,462	+/-404	2,343	+/-676	3,477	+/-567	2,485	+/-483	813	+/-280

<< 109 - 126 of 678 >>





**Advanced Search** - Search all data in American FactFinder

1 [Advanced Search](#) 2 [Table Viewer](#)

Result 1 of 1 [VIEW ALL AS PDF](#)

B01003 | TOTAL POPULATION  
Universe: Total population ⓘ  
2010-2014 American Community Survey 5-Year Estimates

Table View

[BACK TO ADVANCED SEARCH](#)

Actions: [Modify Table](#) | [Add/Remove Geographies](#) | [Bookmark/Save](#) | [Print](#) | [Download](#) | [Create a Map](#)

[View Geography Notes](#) | [View Table Notes](#)

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

»  
1  
1  
1 of 1  
«

McAllen city, Texas			
		Estimate	Margin of Error
Total	****	135,048	+/-115

## FW: Property Crime Challenge

EXHIBIT "C"

Donna Rickenbacker &lt;donna@marqueconsultants.com&gt;

Thu 6/1/2017 1:38 PM

@ Attachment

Pages from 17388-West Pecan Village-McAllen.pdf

**From:** Victor Rodriguez [mailto:vrodriguez@mcallenpd.net]**Sent:** Thursday, June 01, 2017 7:16 AM**To:** RICKENBACKER, DONNA**Cc:** Maria M. Guzman; Joel A. Morales Jr.**Subject:** Property Crime Challenge

Donna,

I have reviewed "pages from 17388-Property Crime Analysis" as represented in the attachment herewith. The analysis report reflects that selected "Census Tract" and Census Block" data is "extrapolated" and "projected" from Uniformed Crime Reports (UCR) prepared by the City of McAllen Police Department and the US Department of Justice FBI.

Please know that these (McAllen and FBI) UCR reports are a reflection of city-wide data. These reports are **not prepared or are reflective** of any census tract or census block. Therefore, "extrapolation" for purposes of determining the UCR crime activity of any census tract or census block is not an accurate analysis of UCR crime activity for any census tract or census block.

Respectfully, I remain.

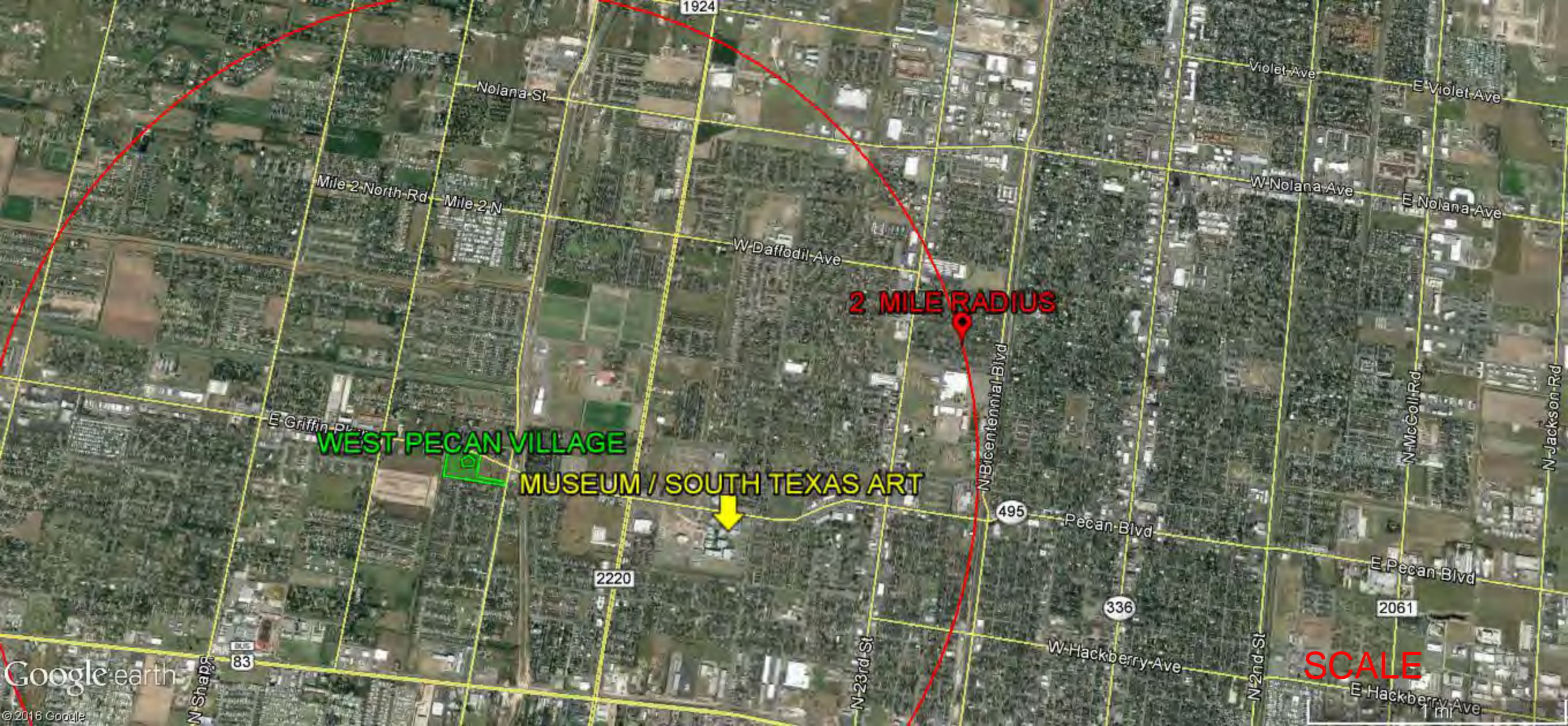
Victor Rodriguez,  
Chief of Police

*Disclaimer: If you are not the intended recipient or have received this e-mail in error, please notify me via return e-mail and telephone at 956-681-1000, and permanently delete and purge the original and any copy thereof. This e-mail, with attachments hereto, if any, is intended only for receipt and use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. Regardless of address or routing, if you are not the intended recipient, then you are hereby notified that any use, copying, reproduction, dissemination, distribution, or transmission of this e-mail, and any attachments hereto, is strictly prohibited. Whereas all reasonable steps have been taken to ensure the accuracy*

**10.Museum / 2-mile radius**

---





**2 MILE RADIUS**

**WEST PECAN VILLAGE  
MUSEUM / SOUTH TEXAS ART**

**SCALE**

1 mi




The *South Texas Library Art Gallery* is a non-profit, permanent art museum with memberships to the American Alliance of Museums; Texas Association of Museums; and the College Art Association. The art museum exhibits regional, national, and international artwork and introduces innovative artistic expressions to the entire South Texas Region. It is open to the public and there is no entrance fee.



### **Pecan Campus**


3201 W. Pecan Blvd, Building F, McAllen, TX • [Location & Hours](#) • [Parking](#)



**THE UNEXAMINED PORTRAIT**  
 Mixed media artwork by Len Davis and Jessie Burciaga

**ART TALK: February 22, 1 PM**  
**RECEPTION: February 22, 5-7 PM**

On display:  
 Jan 17 - Feb 26  
 STC Pecan Library



Music by  
 STC Guitar  
 Ensemble

## Current & Upcoming Exhibits



### STC Alumna: Yesenia Salinas

March 23 - May 11, 2017

**Art Talk & Reception: April 20, 6PM**

On display at the Technology Library



### The Unexamined Portrait

Artwork by **Len Davis** and **Jessie Burciaga**

January 17 - February 26, 2017

**Art Talk: February 22, 1-2 pm**

**Reception: February 22, 5-7 pm**

## About Us

The South Texas College Library Art Gallery Program exhibits regional, national and international artwork, explores new visions and theories of creativity, and introduces innovative artistic expressions to the South Texas region.







On display at the Pecan Library  
**Art Talk:** October 13, 1:00 - 2:00 PM  
**Reception:** October 13, 5:00 - 7:00 PM



**Festival Internacional de Poesia Latinoamericana Exhibit**  
 Photographs by Oliver Contreras  
 September 1 - 30, 2016  
 On display at the Pecan Library & Cooper  
**Art Talk: Sept. 2, 10:00 AM (Cooper Center)**



**Pan Dulce: Textures of a Merienda**  
 Featuring paintings by **Manny Chapa**  
 Sept. 15 - Oct. 14, 2016 (Pecan Library)  
**Art Talk: Oct. 13, 5 - 6 PM** (Pecan Library)  
 Oct. 24 - Dec. 1, 2016 (Starr Library)  
**Art Talk: Dec. 1, 1:00 - 2:00 PM** (Starr Library)



**Line of Sight: Photos by Hector Astorga & Conrado Gonzalez**  
 August 29 - October 15, 2016 (Starr)  
 October 20 - December 9, 2016 (Pecan)  
**Art Talk: Sept. 28, 1:00 PM (Starr)**  
**Art Talk: Oct. 26, 1:30 PM (Pecan)**  
**Reception: Oct. 26, 5:00 -7:00 PM (Pecan)**

## Memberships

\*\*\*\*\*



**Where can I find information about current exhibits and artists?**

**Is there a fee to visit the Library Art Gallery?**

No. Students, faculty, staff, and visitors may attend any Library Art Gallery free of charge.

**Am I allowed to take photographs of the artwork that is on display?**



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Anywhere for Museums

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[Online Community](#)



[Home](#) > [About Us](#)

## About Us

The American Alliance of Museums' mission is to champion museums and nurture excellence in partnership with our members and allies.

### What We Do

The American Alliance of Museums has been bringing museums together since 1906, helping to develop standards and best practices, gathering and sharing knowledge, and providing advocacy on issues of concern to the entire museum community. Representing more than 35,000 individual museum professionals and volunteers, institutions, and corporate partners serving the museum field, the Alliance stands for the broad scope of the museum community.

### Who's in the Alliance

#### Organizations:

- art museums
- history museums
- science museums

#### People:

- directors
- curators

[Constitution and Bylaws \(PDF\)](#)

[Strategic Plan](#)

[Diversity and Inclusion Policy](#)

[Financials](#)

### Join the Alliance

Membership is the foundation for excellence and unites the field.

### Continuum of Excellence

Learn about steps you can take toward excellence.





Email List Sign Up



MEMBERSHIP EDUCATION ANNUAL MEETING JOBS RESOURCES ABOUT

Registration is now open!  
Exhibitors, Sponsors and Advertisers:  
act now to reserve space!

April 4-7, 2017  
Abilene, Texas



**NEW FOR 2017!**  
**The Virtual Annual Meeting:**

*Virtual Registration allows anyone who cannot travel to Abilene to view and send questions to eight sessions that will be streamed live. Those sessions will also be taped and available for viewing after the conference as well. Live-streamed sessions are described on the registration form!*

Voting for Council-at-Large starts today until February 27. Click here to vote!



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Institution  
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Explore Levels & Benefits



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Already a member? Renew now.

**Share. Experience. Collaborate.**

*Select from Institutional, Individual and Corporate options. Represent your museum, connect with the museum community and take advantage of member discounts.*

UPCOMING WORKSHOP  
WORKSHOP REGISTRATION

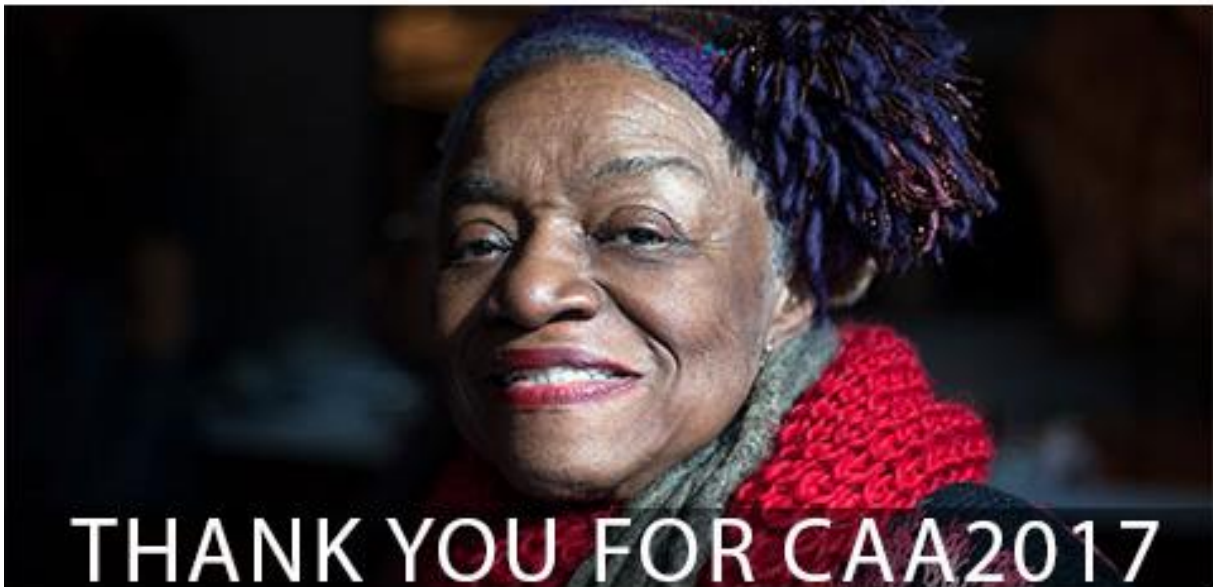
JOBS ADDED RECENTLY  
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## CAA Statement on Immigration Ban

CAA stands in opposition to the recent executive order banning immigration from Iraq, Syria, Iran, Libya, Somalia, Sudan, and Yemen.



Library Services  
3201 W. Pecan Blvd. • McAllen, TX 78501

P.O. Box 9701  
McAllen, TX 78502-9701

(956) 872-8330  
Fax (956) 872-2594

May 24, 2017

Donna Rickenbacker  
Marque Real Estate Consultants  
710 N. Post Oak Rd., Ste. 400  
Houston, Texas 77024

Re: Library Art Gallery

Dear Ms. Rickenbacker,

It is my understanding that the Texas Department of Housing and Community Affairs (TDHCA) administers a financing program designed to facilitate the new construction and rehabilitation of affordable workforce housing in the State of Texas. The TDHCA program competitively awards housing tax credits to applicants that provide evidence that support points in several scoring categories. One of the scoring categories includes having a development site that is located within two miles of a museum.

We have received several questions about whether any of our campuses include a museum, and specifically about the status and use of our libraries at South Texas College (STC) and the art galleries that are a part of some of our libraries.

Some of our campus libraries include art galleries, including our library at the Pecan Campus. The art galleries are an integral part of our library system and learning experience at STC. The art work is selected by library staff and is displayed throughout the library and its art gallery. The Library Art Gallery (LAG) program exhibits local, regional, national and international works of art that are, in part, tailored to meet the academic requirements of the art curriculum and other educational studies at STC. The library staff work very closely with members of the faculty at STC so that they may adequately incorporate the Library Art Gallery lectures and exhibits into their lessons. The LAG program also develops community art education programs for families and children (which correspond with LAG exhibits when possible) in an effort to expand community awareness of, community engagement with, and community support of STC.

STC is a public community college. We have locations throughout Hidalgo and Starr Counties and offer traditional and specialized college programs across five campuses. While we appreciate the contribution that our library art galleries bring to our academic environment, we do not consider them museums.

Please do not hesitate to contact me if you have any further questions regarding this issue.

Regards,

A handwritten signature in blue ink, appearing to read "Cody Gregg", is written over a light blue horizontal line.

Cody Gregg  
Dean of Library & Learning Support Services



Application #17390  
Las Palomas  
Third Party Request for Administrative  
Deficiency



May 31, 2017

Sharon Gamble  
Texas Department of Housing & Community Affairs  
P.O. Box 13941  
Austin, Texas 78711

via FTP site

Re: Third Party Request for Administrative Deficiency  
Las Palomas TDHCA # 17390

Sharon,

In connection with the above referenced application, we are unable to verify final staff determination of several representations made in the application that would impact final ranking based on tie breaker self-scoring related to Opportunity Index Points. Accordingly, we bring to your attention the following items that we believe warrant further review and resolution by staff to ensure the final rankings in Region 11 Urban are accurate and do not rely on self-score.

**1) Playground not located within ½ mile of site.**

The applicant claims that the proposed site is located within ½ mile of a playground. Our review of this information would indicate otherwise and that the application is not eligible for the Playground Opportunity Point.

Staff provided clear guidance during the FAQ process that the actual playground, not the park, has to be within ½ mile of the proposed site boundary. The playground used in the application for Garza City Park is .54 miles from the proposed site boundary as shown on the attached Exhibits "A-1- A-3" and is therefore beyond the maximum ½ mile limit. Accordingly, the application cannot qualify for playground points based on this deficiency alone.

*The FAQ states "Q: Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long? A: The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable)."*

**2) Path to Playground does not meet 2010 ADA Standards for accessible route**

Even though the playground is outside the ½ mile distance and therefore not eligible, we would also bring to your attention that the application only shows a route leading up to the park boundary but not how the route would travel and connect to the actual playground. Regardless,

there is no accessible route that meets the 2010 ADA to the playground which is a prerequisite to meet the opportunity point.

The path chosen by the applicant must travel down N23rd then on the Lark Boulevard to reach the playground. The path fails to meet the 2010 ADA Standards as follows:

A) ADA 403.5.1 Clear Width.

The minimum clear width of any accessible route is 36 inches. The sidewalk in front of Grain and Glass that is used for the accessible route is at the head end of a privately owned parking lot and is obstructed by parked cars. This route does not provide the minimum clear width of 36 inches. The public has no control over the private activity of the parked cars and therefore a public accessible route cannot be safely ensured and maintained as a clear and unobstructed route.

Exhibits B-2, B-3

B) ADA 403.3 Cross Slope

The maximum allowed cross slope on any accessible route is 1:48 or 2.08%. The cross slope is the "side to side" slope of a walk along the route. The route shown must travel over the driveway approach into Zamora's restaurant. The route over the drive is not a public sidewalk and has an 8.4% Cross Slope whereas the maximum allowed cross slope is 2.08%. The cross slope for the route past Zamora's is 4 times the maximum allowed.

Exhibits B-4, B-5

C) ADA 403.4 Changes in Level

The sidewalk that must cross the intersection of N23rd and Lark is collapsed and does not meet the Changes in Level standard of the ADA. The walk has failed to the point the drop is over 2 ½" when only ¼" is allowed.

Exhibits B-6, B-7

D) ADA 403.5.3 Passing Spaces

Sidewalks less than 60 inches in width must have passing spaces located no more than 200 feet apart. The walks along Lark Boulevard are installed at a width of 48 inches. The lengths of several walk sections along Lark measure 468 feet and 412 feet without the required passing spaces. Neither of these walk sections comply with ADA 403.5.3.

Exhibits B-8, B-9, B-10, B-11

The applicant provided a third party letter from an accessibility specialist that stated "*I hereby confirm that there is an accessible route that meets the 2010 ADA accessibility standards from*



*the proposed site location to the park and playground*". By this representation, the Applicant affirmed that the shown route to the playground met the 2010 ADA standards. However, it would appear any representation of an accessible route to the playground is not factual nor supportable.

§11.9 (c)(4)(B)(i)(I) of the QAP rules clearly states "... *both of which meet 2010 ADA standards*". The rules do not allow you to omit sections of the technical standards you do not comply with. The ADA standards are concise and exacting and do not allow variances or exceptions unless stated. There are no exceptions to the standards for any of the above deficiencies and only one of the above 4 needs to fail in order to not be in compliance with the standards. For example, passing spaces per section 403.5.3 is a fundamental element of an accessible route and as documented herein, the route as shown in the application cannot meet this requirement.

Please see attached Exhibits "B" for all ADA and playground supporting documentation. We have also provided the full applicable chapters of the 2010 ADA standards in the appendix.

### **3) Public transportation stop does not have ADA accessible route.**

The applicant claims that the proposed site is located within ½ mile on an accessible route from Public Transportation. Our review of this information would indicate otherwise and that the application is not eligible for Public Transportation Opportunity points.

The route chosen by the applicant must travel down N23rd to the Grain and Glass parking lot where the bus stop is located. The route fails to meet:

#### **A) ADA 403.5.1 Clear Width.**

The minimum clear width of any accessible route is 36 inches. The sidewalk in front of Grain and Glass that is used for the accessible route is at the head end of a privately owned parking lot and is obstructed by parked cars. This route does not provide the minimum clear width of 36 inches. The public has no control over the private activity of the parked cars and therefore a public accessible route cannot be safely ensured and maintained as a clear and unobstructed route.

Exhibits C-1, C-2, C-3

The applicant provided a third party letter from an accessibility specialist that stated "*I hereby confirm that there is an accessible route that meets the 2010 ADA accessibility standards from the proposed site location to its bus stop*". By this representation, the Applicant affirmed that the shown route to the bus stop met the 2010 ADA standards. However, it would appear any representation of an accessible route to the bus stop is not factual nor supportable.

The ADA standards are concise and exacting and do not allow variances or exceptions unless stated. There are no exceptions to the standards for the above deficiency and only one element of the route needs to fail in order to not be in compliance with the standards. It should also be noted that applicant submits as an alternate option for accessibility to the bus stop “on demand” public transportation. As stated in the FAQ’s, on demand public transportation is not acceptable as an alternative to an actual accessible route.

Please see attached Exhibits “C” for ADA and bus stop supporting documentation.

#### **4) Applicant uses the same facility for Library and Playground opportunity points**

Even though it is clear the application does not qualify for the playground opportunity point, we would also like to bring to your attention that the applicant claims that the proposed site is eligible for Library and Playground Opportunity Points. Our review of this information would indicate otherwise and that the application would only have been eligible for one of these two points, not both because they are all located at the same Garza City Park.

*§11.9 (c)(4)(B) of the QAP clearly states: “Each Facility or amenity may only be used once for scoring purposes, regardless of the number of categories it fits.”*

The FAQ process further clarified the use of the same facility for Opportunity Points and used an example of a city park with a playground that had connectivity to the various other city park amenities:

*Q: If I have a park area that has a playground on one end of the “city park” and outdoor trails and soccer fields on the other side of the “city park”, can the playground be the one amenity and the walking trails, etc. be an outdoor recreation?  
A: Possibly. As was the case with the big-box store that contained the grocery, bank, and pharmacy, the applicant would have to be able to show that each amenity is indeed its own distinct amenity. For instance, it might be a separate amenity if there is a water feature with no contiguous land and no crossing between the playground and the trails/soccer fields. Staff will make these determinations on a case-by-case basis*

Garza City Park contains several amenities that comprise the facility including playgrounds, the Lark Community Center where the library is located and common parking areas. All of these amenities and recreational areas are on contiguous land and share common boundaries including shared walks into the Community Center where the library is located. There is even a shared parking lot between the main entry into the library and the playgrounds. Moreover, the city even publishes on its own park and recreation website a map showing the entire boundary of Garza Park inclusive of the community center.

Please see attached Exhibits “D” for same facility documentation and city website showing same park boundary.

**5) Applicant failed to provide local crime data specific to the application census tract.**

The applicant claims that the proposed site is located within a census tract that has a property crime rate less than 26 per 1000 persons. The applicant does not use Neighborhoodscout but rather attempts to use local data from the city wide crime report that is not specific to the proposed census tract. Our review of the applicant's crime data would indicate the census tract does not meet the required threshold for Opportunity Points and that the applicant has failed to provide crime data specific to the census tract.

First, Neighborhoodscout indicates that the proposed census tract does not meet the maximum allowed rate of 26/1000 therefore the applicant attempts to arrive at a successful conclusion by using the overall city wide crime data and then extrapolating the citywide data on a linear basis to suggest that the crime in the census tract must be lower since the property crime citywide has trended lower. This analysis is holistic and therefore cannot document with any certainty the property crime data specific to a census tract. The applicant had every opportunity to obtain local police department property crime data specific to the actual census tract just as other applicants were able to do in the same city when not using Neighborhoodscout. Applicant is unable to further supplement its application with this specific data now.

The QAP rule is specific to a census tract for logical reasons. Municipalities can be large in size therefore an understanding of what property crime has occurred in a targeted area (such as a census tract for TDHCA purposes) must be known otherwise the crime data based on a citywide area can be inaccurate and misleading. For example, just as the citywide property crime rate may be declining as the applicant suggests, the property crime could be increasing in a certain census tract at the same time the overall citywide crime rate may be going down. Moreover, the Neighborhoodscout report for property crime for the census tract directly across the street from the applicants proposed site is 48.67/1000, almost twice the number of property crimes of the applicant's census tract and allowed by TDHCA. Clearly, crime data is not uniform across the city as evident by the two adjoining census tracts for the proposed site. Finally, a single retail store location such as the Walmart in close proximity to the applicants proposed site can have high numbers of larceny crimes in any given year that can easily skew the property crime data adversely for a census tract.

The only way to know for certain is to have specific property crime data for the census tract which the applicant could have obtained but failed to do in the application.

Please see attached exhibits "E" for property crime data.



Page 6  
#17390 RFAD

If you have any questions or should you wish to discuss this RFAD in further detail, please contact me at 713-522-4141.

Sincerely,

MGROUP HOLDINGS, INC.



Mark D. Musemeche

MDM/oe

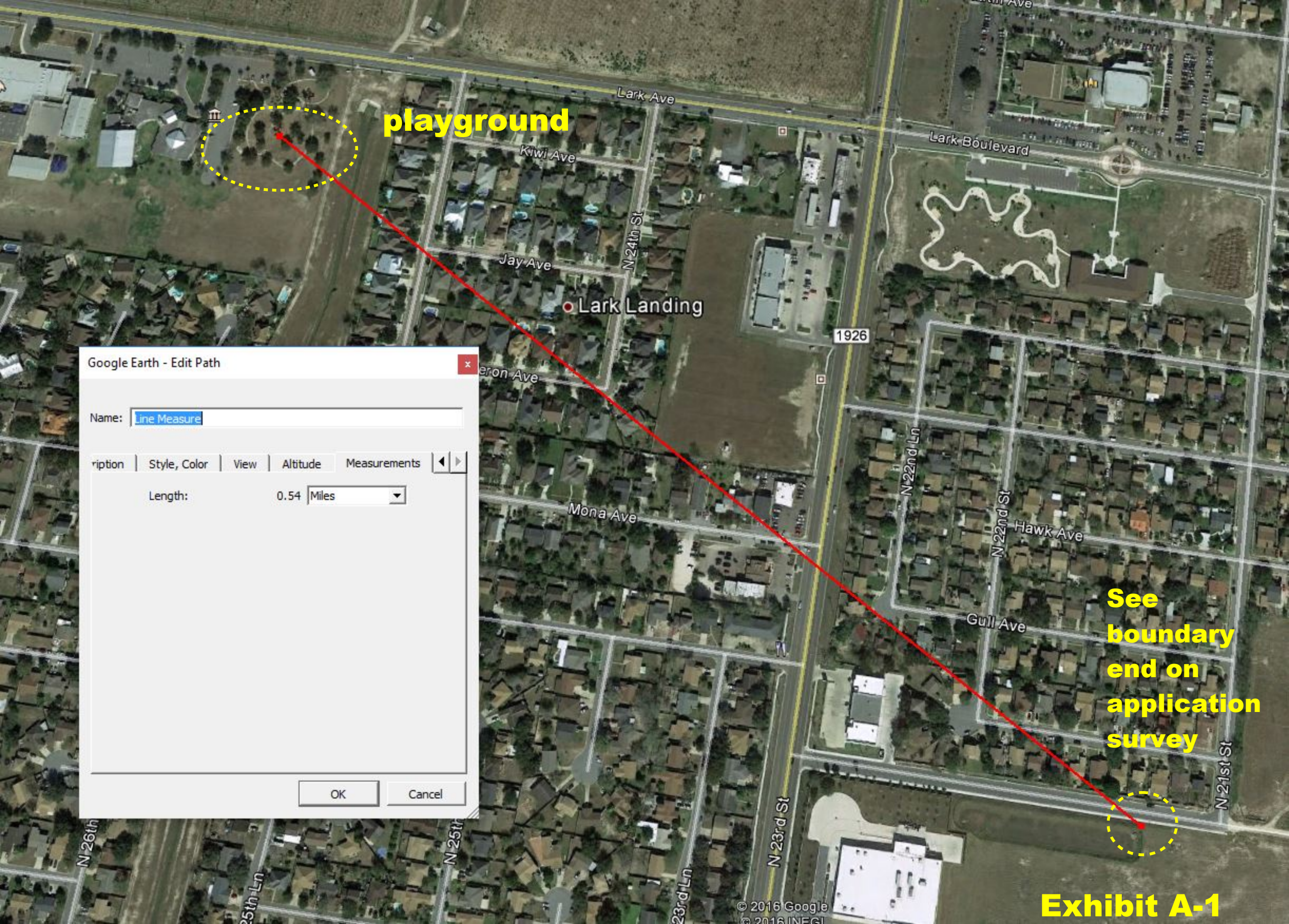
cc: Arnold Padilla – [apadilla@mcaha.org](mailto:apadilla@mcaha.org)

## Playground Documentation

Exhibits A-1 - A-3

Exhibits B-1 - B-12





**playground**

Lark Landing

**See  
boundary  
end on  
application  
survey**

Google Earth - Edit Path

Name:

ription | Style, Color | View | Altitude | Measurements

Length: 0.54 Miles

OK Cancel

**Exhibit A-1**



**Playground at Garza park**

Google Earth - Edit Path

Name:

Description | Style, Color | View | Altitude | Measurements

Length: 0.54 Miles

OK Cancel

**Exhibit A-2**





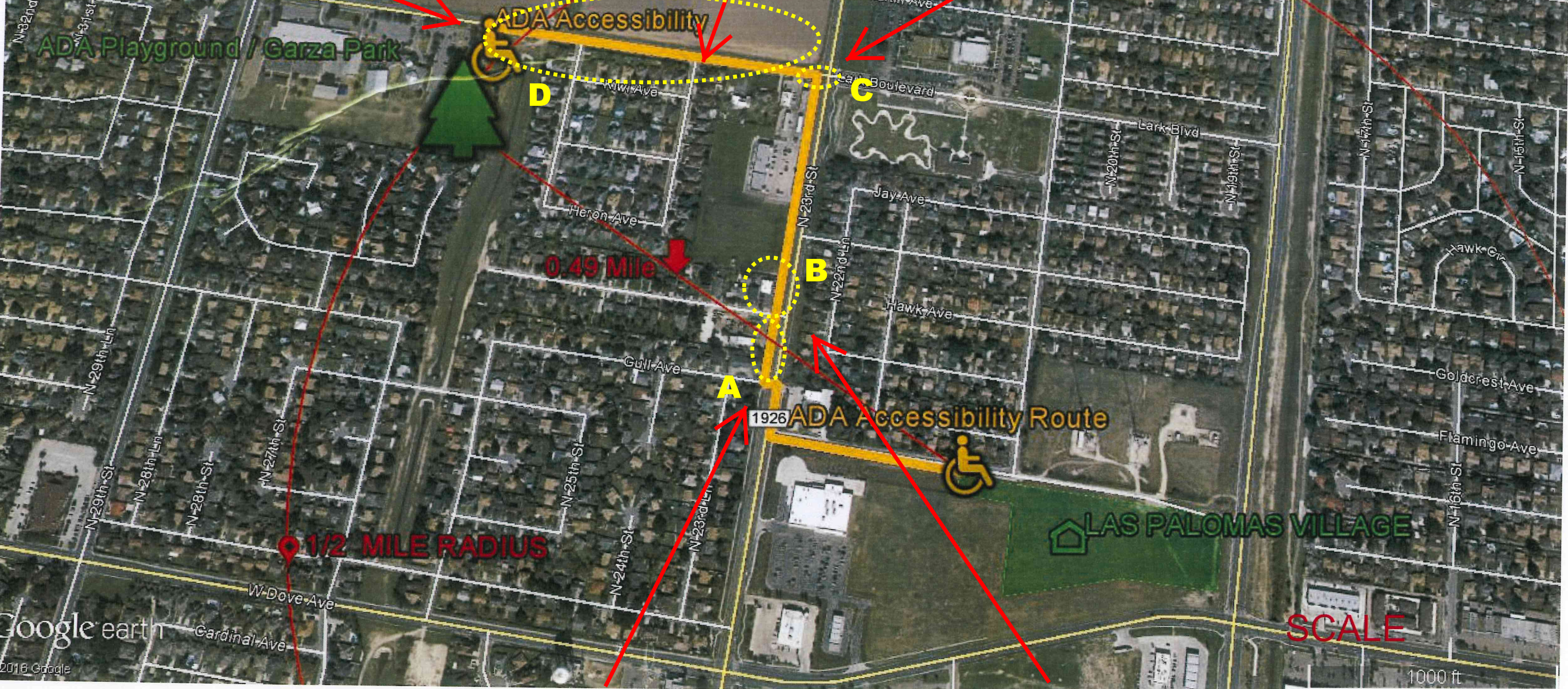


path stops at park boundary and does not show how it would actually connect to playground

entire path along Lark is 48" wide and has sections over 400 feet long without passing spaces per 403.5.3 the path does not meet 2010 ADA

walk at corner of Lark and 23rd has major failure and does not meet 403.4

OPTION 1


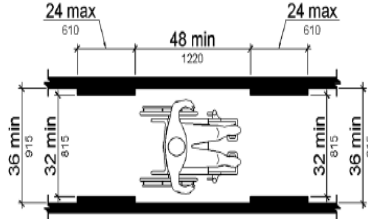


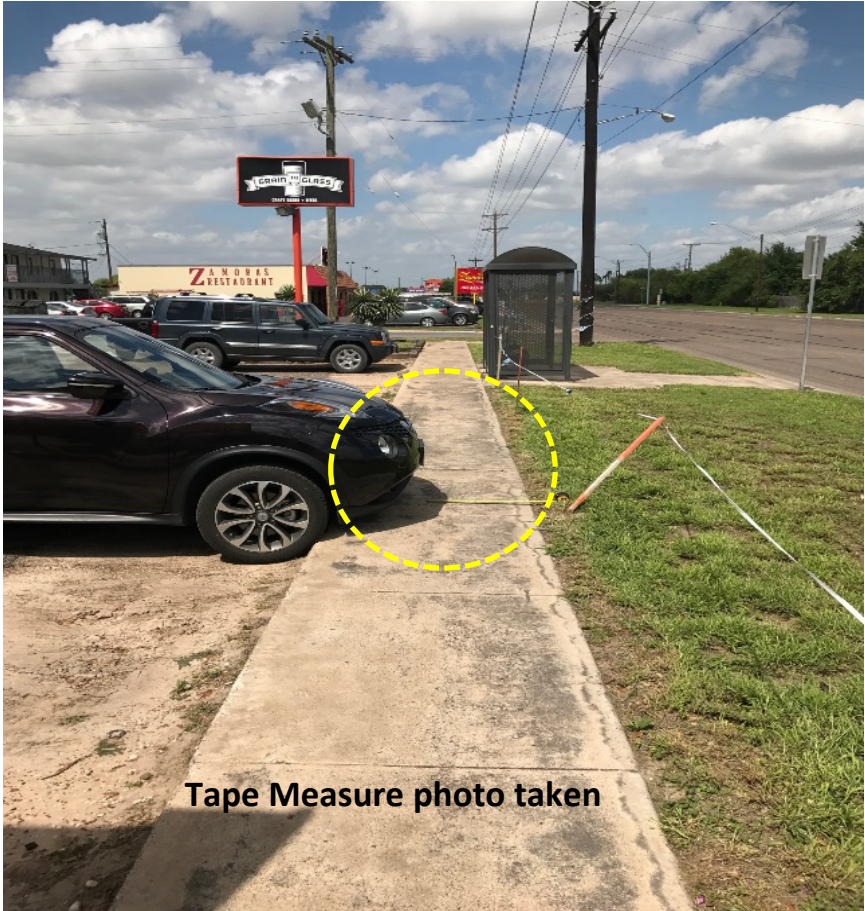
path shown at Grain and Glass crosses sidewalk at the head of the private parking lot . The walk does not provide a minimum 36 inches clear width and fails 403.5.1

path travels over drive approach into Zamora's which exceeds cross slope per 403.3 (8% cross slope whereas maximum is 2%)

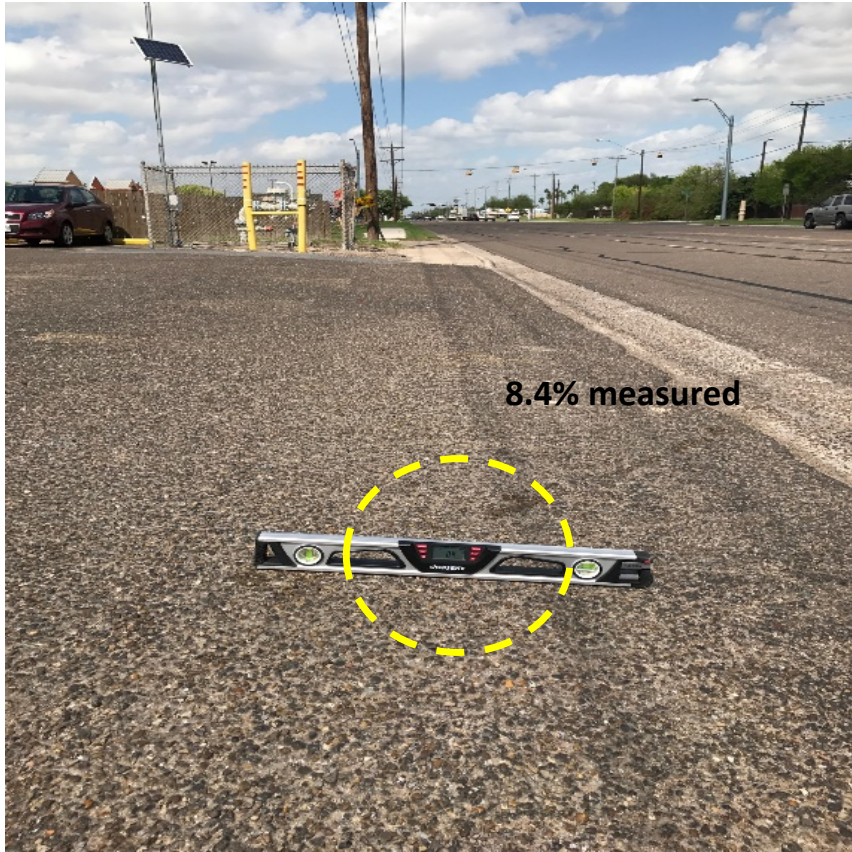
Exhibit B-1



<p><b>Violation</b></p>	<p>The path shown in the application crosses over a sidewalk at the head of the Grain to Glass parking lot. The sidewalk does not allow for min 36" clear path which is required when cars are parked. Cannot omit car overhang from minimum path requirements.</p>	 <p>A photograph showing the front of a dark-colored Nissan car parked on a concrete sidewalk. A yellow measuring tape is laid out on the sidewalk to the right of the car, indicating a narrow clear path. The car's license plate is 'TEXAS JCN 2248'.</p>
<p><b>ADA Ref.</b></p>	<p><b>403.5.1 Clear Width.</b> Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.  <b>EXCEPTION:</b> The clear width shall be permitted to be reduced to 32 inches (815 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum</p>	 <p>A technical diagram of a clear path. It shows a central section with a width of 32 inches (815 mm) and a length of 48 inches (1220 mm). This central section is flanked by two side sections, each with a width of 24 inches (610 mm) maximum. The overall width of the path is 36 inches (915 mm) minimum. A stylized figure of a person is shown walking through the path.</p>


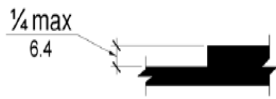
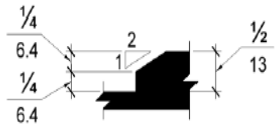




<p><b>Violation</b></p>	<p>The path shown must cross over a privately owned drive approach into the parking lot of Zamora's Restaurant. The cross slope over this section is 8.4% where 2% maximum is allowed. The path does not comply with 403.3 cross slope. The path cannot travel another way as represented in the application. Cross slopes are required with a maximum slope of 1:48 (2%) due to tipping over hazards for the disabled.</p>	 <p>8.4% measured</p>
<p><b>ADA Ref.</b></p>	<p><b>403.3 Slope.</b> <i>The running slope of walking surfaces shall not be steeper than 1:20. The cross slope of walking surfaces shall not be steeper than 1:48.</i></p>	





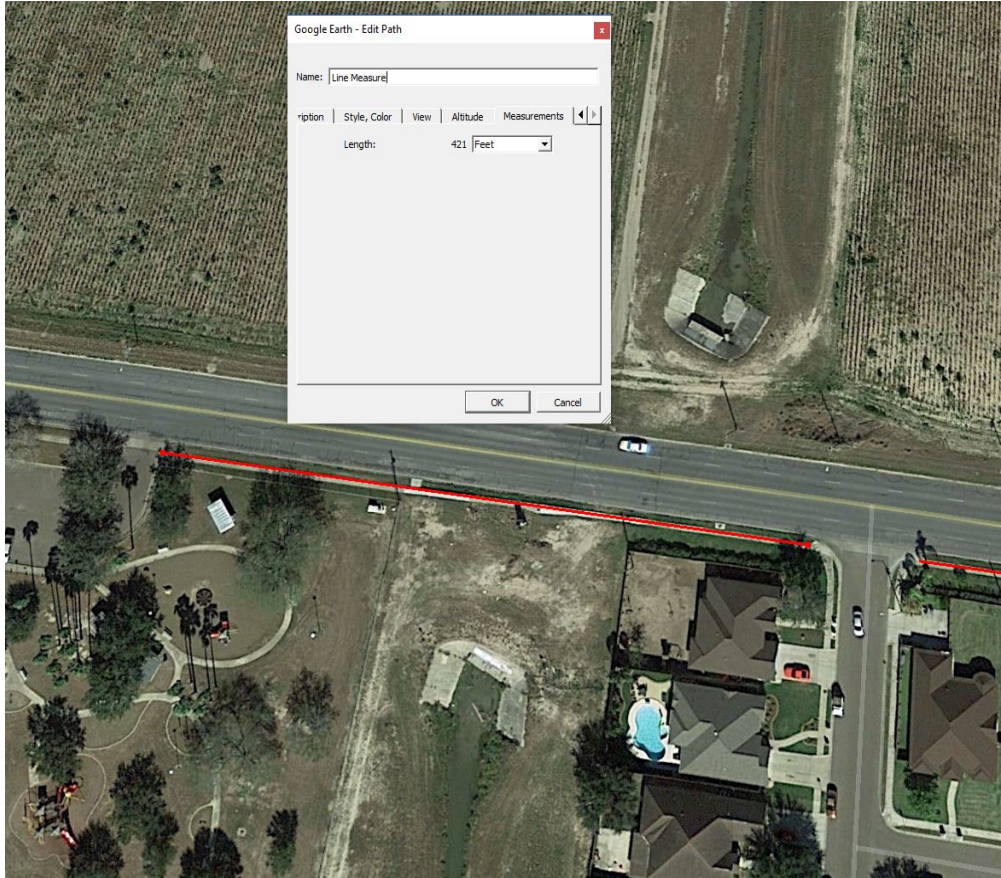
<p><b>Violation</b></p>	<p>public walks at intersection of Lark Boulevard and N 23rd have excessive damaged and broken walks that exceed min changes in level allowed per 403.4. No section of the walk at this location complies with 303.2 and 303.3.</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.4 Changes in Level.</b> Changes in level shall comply with 303.</p>	
<p><b>ADA Ref.</b></p>	<p><b>303.1 General.</b> Where changes in level are permitted in floor or ground surfaces, they shall comply with 303. 2. Areas of sport activity shall not be required to comply with 303.</p>	
<p><b>ADA Ref.</b></p>	<p><b>303.2 Vertical.</b> Changes in level of ¼ inch (6.4 mm) high maximum shall be permitted to be vertical.</p>	
<p><b>ADA Ref.</b></p>	<p><b>303.3 Beveled.</b> Changes in level between ¼ inch (6.4 mm) high minimum and ½ inch (13 mm) high maximum shall be beveled with a slope not steeper than 1:2.</p>	



Advisory 303.3 Beveled. A change in level of ½ inch (13 mm) is permitted to be ¼ inch (6.4 mm) vertical plus ¼ inch (6.4 mm) beveled. However, in no case may the combined change in level exceed ½ inch (13 mm). Changes in level exceeding ½ inch (13 mm) must comply with 405 (Ramps) or 406 (Curb Ramps).





<p><b>Violation</b></p>	<p>The application shows the path to access the playground at Garza Park along Lark Street. The existing sidewalk along Lark is old and is 48" in width. Multiple sections of the walk along Lark exceed 400 feet in length whereas 200 feet is the maximum allowed without passing spaces per 403.5.3. No such passing spaces are provided along Lark.</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.5.3 Passing Spaces.</b> <i>An accessible route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.</i></p>	







**enlarged map  
showing no passing spaces  
as required per 403.5.3**



Google Earth - Edit Path

Name: Line Measure

Description | Style, Color | View | Altitude | Measurements

Length: 468 Feet

OK Cancel

Lark Ave

Kiwi Ave



Google Earth - Edit Path

Name:

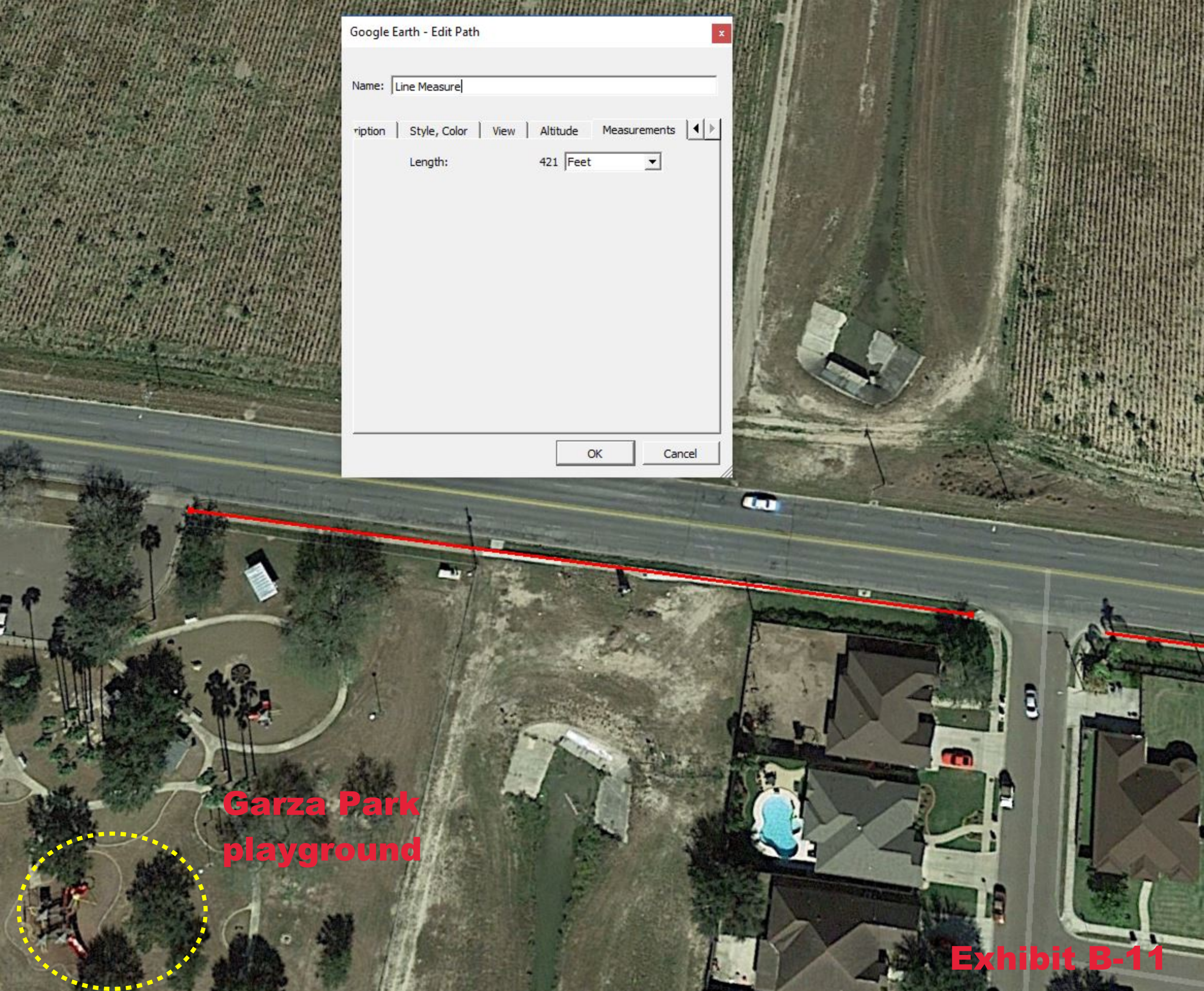
Description | Style, Color | View | Altitude | Measurements

Length: 421

OK Cancel

**Garza Park  
playground**

**Exhibit B-11**





**Alejandro (ALEX) Arreguin**  
**REGISTERED ACCESSIBILITY SPECIALIST**

**1901 Convent Ave**

*Laredo, TX 78040-4852*

(956) 285-4091 Fax (956) 602-0340



February 21, 2017

MHA Las Palomas Village, Ltd.

Attn: Arnold Padilla, Executive Director of McAllen Housing Authority

2301 Jasmine Avenue

McAllen, TX 78501

RE: ADA accessibility to Garza Park/Playground for the proposed Las Palomas Village located at the NW corner of W. Dove Ave. and N. Bicentennial Blvd. in McAllen, Texas

Mr. Padilla,

I hereby confirm that there is an accessible route that **meets the 2010 ADA accessibility standards** from the proposed site location **to the park and playground**. See attached map.

The sidewalks and route along N. 23<sup>rd</sup> St. and then west along Lark Avenue from the proposed Las Palomas Village development site to Garza Park meet the above accessibility standards. In addition, the playground located at this park also meets these standards.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'ALEX'.

Alejandro Arreguin

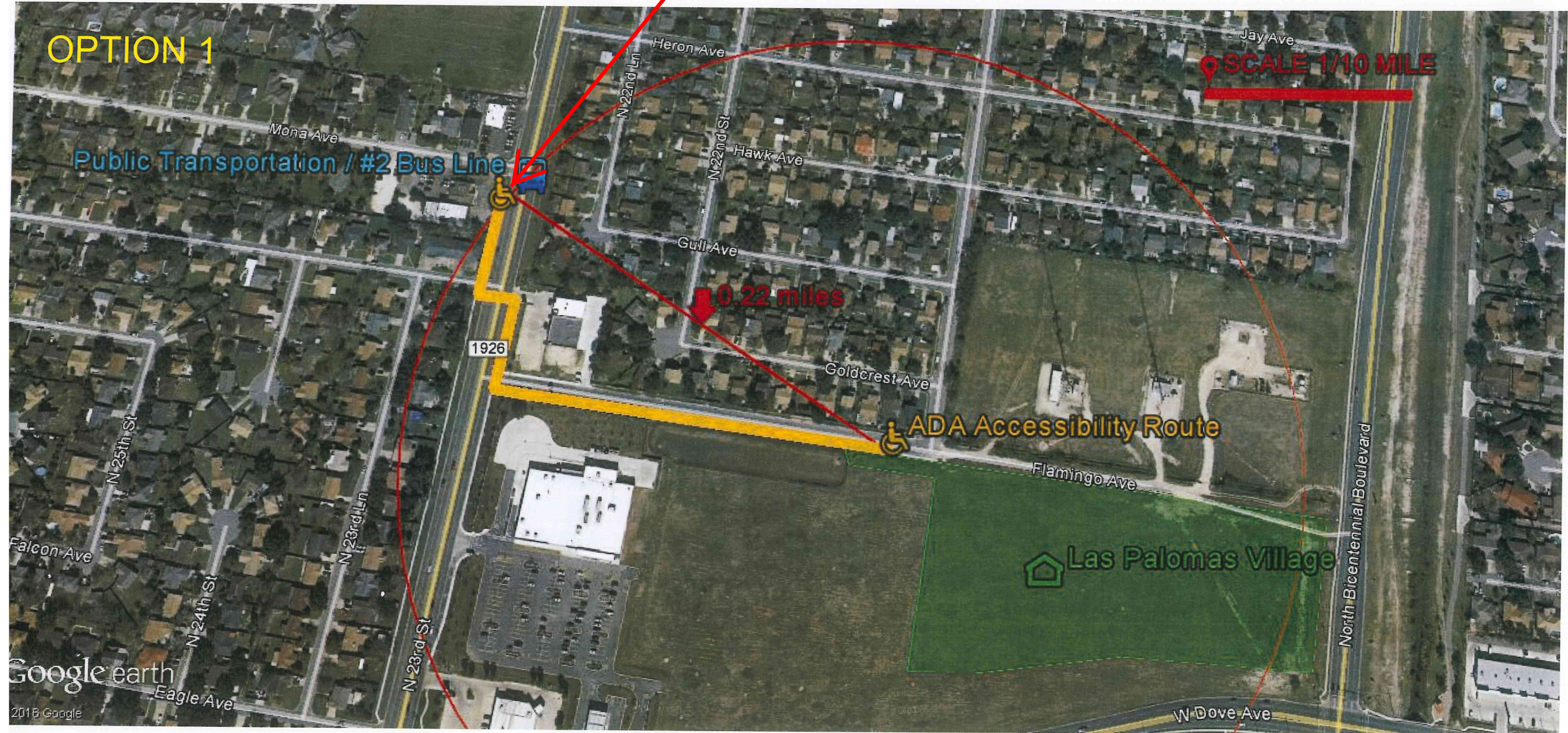
TDLR Lic #396

## Public Transportation Documentation

Exhibits C-1, C-2, C-3, C-4


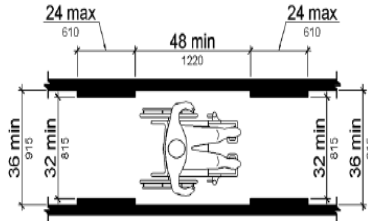


**path shown must cross a sidewalk at the head of the Grain to Glass parking lot. The walk fails to meet 403.5.1 Clear width.**



**Exhibit C-1**



<p><b>Violation</b></p>	<p>The path shown in the application crosses over a sidewalk at the head of the Grain to Glass parking lot. The sidewalk does not allow for min 36" clear path which is required when cars are parked. Cannot omit car overhang from minimum path requirements.</p>	
<p><b>ADA Ref.</b></p>	<p><b>403.5.1 Clear Width.</b> Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.  <b>EXCEPTION:</b> The clear width shall be permitted to be reduced to 32 inches (815 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum</p>	







**Alejandro (ALEX) Arreguin**  
REGISTERED ACCESSIBILITY SPECIALIST  
**1901 Convent Ave**  
*Laredo, TX 78040-4852*  
(956) 285-4091 Fax (956) 602-0340



February 23, 2017


MHA Las Palomas Village, Ltd.  
Attn: Arnold Padilla, Executive Director of McAllen Housing Authority  
2301 Jasmine Avenue  
McAllen, TX 78501

RE: ADA accessibility to Public Transportation for the proposed Las Palomas Village located at the NW corner of W. Dove Ave. and N. Bicentennial Blvd. in McAllen, Texas

Mr. Padilla,

I hereby confirm that there is an accessible route that **meets the 2010 ADA accessibility standards** from the proposed site location **to its bus stop**. See attached map. If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Alejandro Arreguin  
TDLR Lic # 396

## Same Library and Playground Documentation

Exhibits D-1, D-2

**Search McAllen Parks**

Features Selected: 42    Zoom Clear

Park Hours: Park Closes 11 pm to 6 am

**Bill Schupp Park Trail and Fitness System**  
Address: 1300 Zinnia Ave  
Park Acreage: 17.89  
Park Hours: Park Closes 11 pm to 6 am

**Garza Park**  
Address: 2601 Lark Ave  
Park Acreage: 6.08  
Park Hours: Park Closes 11 pm to 6 am

**screen shot from  
city parks website  
yellow boundary as  
delineated by the city  
shows definition of the  
Garza city park**







**entrance to community center  
where library is located**

**shared parking and  
contiguous land  
for City Park facilities**



Property Crime

Exhibits E-1 through E-4

# MCALLEN, TX (TRENTON RD / N 10TH ST) ⓘ

**applicant census tract  
which matches  
neighborhood scout  
boundary**



OVERVIEW



REAL ESTATE



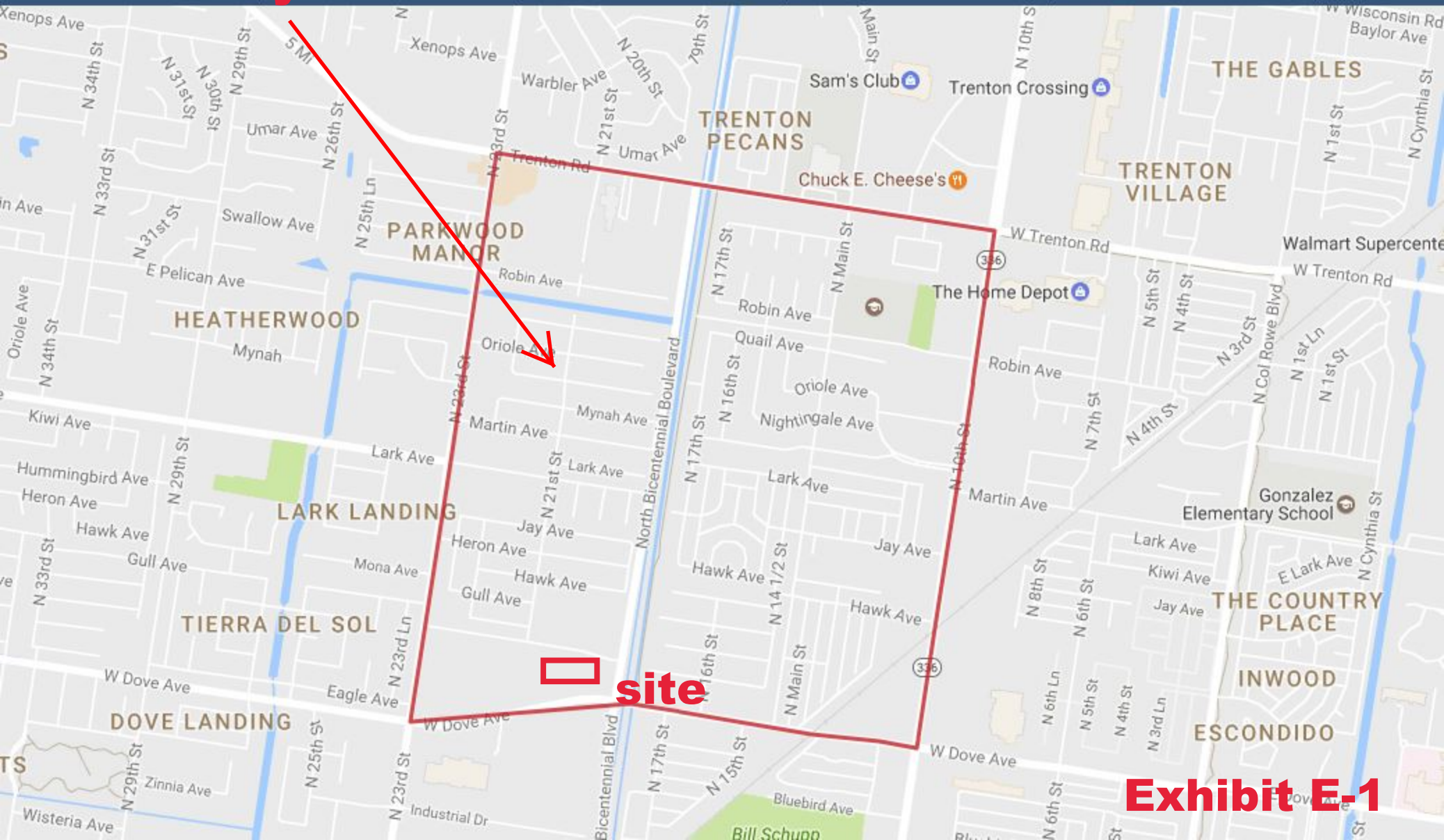
DEMOGRAPHICS



CRIME



S



**site**

**Exhibit E-1**



# Application census tract data from NS

OVERVIEW

REAL ESTATE

DEMOGRAPHICS

CRIME

SCHOOLS

TRENDS & FORECASTS

## NEIGHBORHOOD CRIME DATA

[About Scout's Crime Data](#)

67 Vital Statistics. 3 Condition Alerts found.

WHAT IS A CONDITION ALERT? 

## NEIGHBORHOOD CRIME DATA

### TOTAL CRIME INDEX

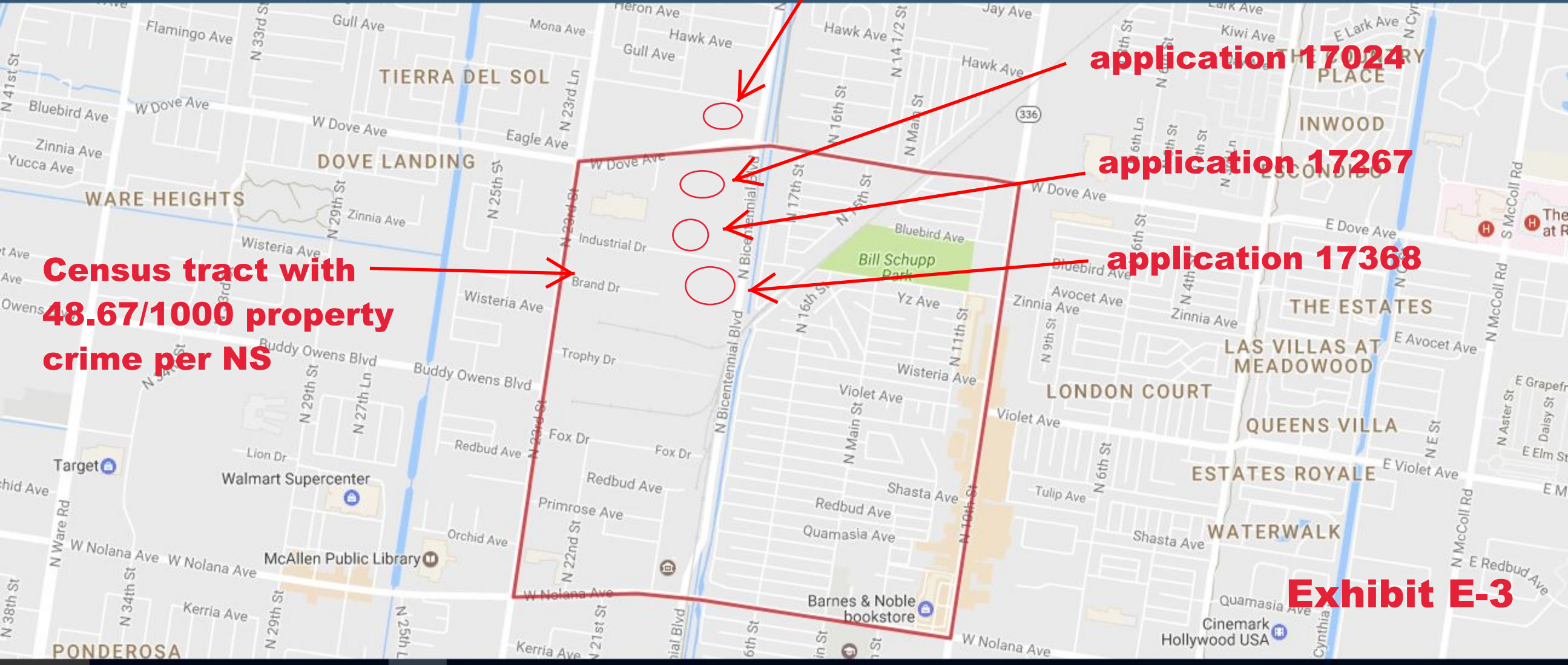
45

(100 is safest)

Safer than 45% of U.S. neighborhoods.

### NEIGHBORHOOD ANNUAL CRIMES

	VIOLENT	PROPERTY	TOTAL
Number of Crimes	3	132	135
Crime Rate (per 1,000 residents)	0.61	26.66	27.26



**Census tract with 48.67/1000 property crime per NS**

**applicant site TDHCA #17390**

**application 17024**

**application 17267**

**application 17368**



**property crime data from NS for census tract directly across street from proposed site**

 OVERVIEW

 REAL ESTATE

 DEMOGRAPHICS

 CRIME

 SCHOOLS

 TRENDS & FORECASTS

NEIGHBORHOOD CRIME DATA

[About Scout's Crime Data](#)

67 Vital Statistics. 4 Condition Alerts found.

WHAT IS A CONDITION ALERT? 

NEIGHBORHOOD CRIME DATA 

TOTAL CRIME INDEX

18

(100 is safest) 

Safer than 18% of U.S. neighborhoods.

NEIGHBORHOOD ANNUAL CRIMES

	VIOLENT	PROPERTY	TOTAL
Number of Crimes	9	190	199
Crime Rate (per 1,000 residents)	2.31	48.69	51.00



## 2010 ADA Standards applicable to Chapter 4 Accessible Routes



Figure 307.2  
of Protruding Objects

# 2010 ADA Standards for Accessible Design

Department of Justice  
September 15, 2010

Figure 703.2.1  
Height of Raised Characters

2.0 in

## 2010 Standards for Titles II and III Facilities: 2004 ADAAG

The following section applies to **both** State and local government facilities (Title II) and public accommodations and commercial facilities (Title III). The section consists of (ADA) Chapters 1 and 2 and Chapters 3 through 10, of the 2004 ADAAG (36 CFR part 1191, appendices B and D, adopted as part of both the Title II and Title III 2010 Standards).

State and local government facilities must follow the requirements of the 2010 Standards, including both the Title II regulations at 28 CFR 35.151; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

Public accommodations and commercial facilities must follow the requirements of the 2010 Standards, including both the Title III regulations at 28 CFR part 36, subpart D; and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

In the few places where requirements between the regulation and the 2004 ADAAG differ, the requirements of 28 CFR 35.151 or 28 CFR part 36, subpart D, prevail.



for example when passing spaces 403.5.3 states 200 feet maximum, there is no tolerance or exception to the distance. 200 feet is the absolute maximum a path may travel without a passing space if such path is less than 60 inches in width.

**104.1.1 Construction and Manufacturing Tolerances.** All dimensions are subject to conventional industry tolerances except where the requirement is stated as a range with specific minimum and maximum end points.

**Advisory 104.1.1 Construction and Manufacturing Tolerances.** Conventional industry tolerances recognized by this provision include those for field conditions and those that may be a necessary consequence of a particular manufacturing process. Recognized tolerances are not intended to apply to design work.

It is good practice when specifying dimensions to avoid specifying a tolerance where dimensions are absolute. For example, if this document requires "1½ inches," avoid specifying "1½ inches plus or minus X inches."

Where the requirement states a specified range, such as in Section 609.4 where grab bars must be installed between 33 inches and 36 inches above the floor, the range provides an adequate tolerance and therefore no tolerance outside of the range at either end point is permitted.

Where a requirement is a minimum or a maximum dimension that does not have two specific minimum and maximum end points, tolerances may apply. Where an element is to be installed at the minimum or maximum permitted dimension, such as "15 inches minimum" or "5 pounds maximum", it would not be good practice to specify "5 pounds (plus X pounds) or 15 inches (minus X inches)." Rather, it would be good practice to specify a dimension less than the required maximum (or more than the required minimum) by the amount of the expected field or manufacturing tolerance and not to state any tolerance in conjunction with the specified dimension.

Specifying dimensions in design in the manner described above will better ensure that facilities and elements accomplish the level of accessibility intended by these requirements. It will also more often produce an end result of strict and literal compliance with the stated requirements and eliminate enforcement difficulties and issues that might otherwise arise. Information on specific tolerances may be available from industry or trade organizations, code groups and building officials, and published references.

**104.2 Calculation of Percentages.** Where the required number of *elements* or *facilities* to be provided is determined by calculations of ratios or percentages and remainders or fractions result, the next greater whole number of such *elements* or *facilities* shall be provided. Where the determination of the required size or dimension of an *element* or *facility* involves ratios or percentages, rounding down for values less than one half shall be permitted.

**104.3 Figures.** Unless specifically stated otherwise, figures are provided for informational purposes only.


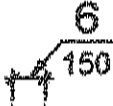
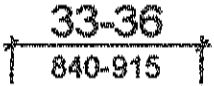







Convention	Description
	dimension showing English units (in inches unless otherwise specified) above the line and SI units (in millimeters unless otherwise specified) below the line
	dimension for small measurements
	dimension showing a range with minimum - maximum
min	minimum
max	maximum
$>$	greater than
$\geq$	greater than or equal to
$<$	less than
$\leq$	less than or equal to
	boundary of clear floor space or maneuvering clearance
	centerline
	a permitted element or its extension
	direction of travel or approach
	a wall, floor, ceiling or other element cut in section or plan
	a highlighted element in elevation or plan
	location zone of element, control or feature

Figure 104  
Graphic Convention for Figures

## CHAPTER 3: BUILDING BLOCKS

### 301 General

**301.1 Scope.** The provisions of Chapter 3 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

### 302 Floor or Ground Surfaces

**302.1 General.** Floor and ground surfaces shall be stable, firm, and slip resistant and shall comply with 302.

- EXCEPTIONS:**
1. Within animal containment areas, floor and ground surfaces shall not be required to be stable, firm, and slip resistant.
  2. Areas of sport activity shall not be required to comply with 302.

**Advisory 302.1 General.** A stable surface is one that remains unchanged by contaminants or applied force, so that when the contaminant or force is removed, the surface returns to its original condition. A firm surface resists deformation by either indentations or particles moving on its surface. A slip-resistant surface provides sufficient frictional counterforce to the forces exerted in walking to permit safe ambulation.

**302.2 Carpet.** Carpet or carpet tile shall be securely attached and shall have a firm cushion, pad, or backing or no cushion or pad. Carpet or carpet tile shall have a level loop, textured loop, level cut pile, or level cut/uncut pile texture. Pile height shall be  $\frac{1}{2}$  inch (13 mm) maximum. Exposed edges of carpet shall be fastened to floor surfaces and shall have trim on the entire length of the exposed edge. Carpet edge trim shall comply with 303.

**Advisory 302.2 Carpet.** Carpets and permanently affixed mats can significantly increase the amount of force (roll resistance) needed to propel a wheelchair over a surface. The firmer the carpeting and backing, the lower the roll resistance. A pile thickness up to  $\frac{1}{2}$  inch (13 mm) (measured to the backing, cushion, or pad) is allowed, although a lower pile provides easier wheelchair maneuvering. If a backing, cushion or pad is used, it must be firm. Preferably, carpet pad should not be used because the soft padding increases roll resistance.

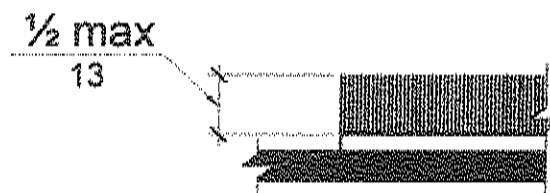


Figure 302.2  
Carpet Pile Height



**242.4 Spas.** At least one *accessible* means of entry shall be provided for spas. *Accessible* means of entry shall comply with swimming pool lifts complying with 1009.2; transfer walls complying with 1009.4; or transfer systems complying with 1009.5.

**EXCEPTION:** Where spas are provided in a cluster, no more than 5 percent, but no fewer than one, spa in each cluster shall be required to comply with 242.4.

### **243 Shooting Facilities with Firing Positions**

**243.1 General.** Where shooting *facilities* with firing positions are designed and constructed at a *site*, at least 5 percent, but no fewer than one, of each type of firing position shall comply with 1010.

**302.3 Openings.** Openings in floor or ground surfaces shall not allow passage of a sphere more than  $\frac{1}{2}$  inch (13 mm) diameter except as allowed in 407.4.3, 409.4.3, 410.4, 810.5.3 and 810.10. Elongated openings shall be placed so that the long dimension is perpendicular to the dominant direction of travel.

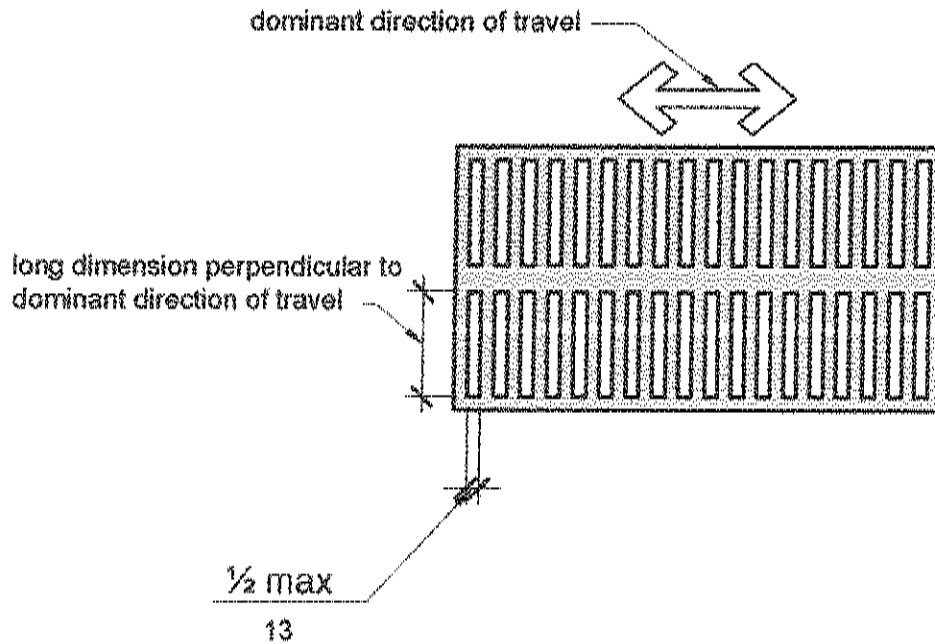


Figure 302.3  
Elongated Openings in Floor or Ground Surfaces

### 303 Changes in Level

**303.1 General.** Where changes in level are permitted in floor or ground surfaces, they shall comply with 303.

- EXCEPTIONS:** 1. Animal containment areas shall not be required to comply with 303.  
2. Areas of sport activity shall not be required to comply with 303.

**303.2 Vertical.** Changes in level of  $\frac{1}{4}$  inch (6.4 mm) high maximum shall be permitted to be vertical.



Figure 303.2  
Vertical Change in Level

**303.3 Beveled.** Changes in level between  $\frac{1}{4}$  inch (6.4 mm) high minimum and  $\frac{1}{2}$  inch (13 mm) high maximum shall be beveled with a slope not steeper than 1:2.

**Advisory 303.3 Beveled.** A change in level of  $\frac{1}{2}$  inch (13 mm) is permitted to be  $\frac{1}{4}$  inch (6.4 mm) vertical plus  $\frac{1}{4}$  inch (6.4 mm) beveled. However, in no case may the combined change in level exceed  $\frac{1}{2}$  inch (13 mm). Changes in level exceeding  $\frac{1}{2}$  inch (13 mm) must comply with 405 (Ramps) or 406 (Curb Ramps).

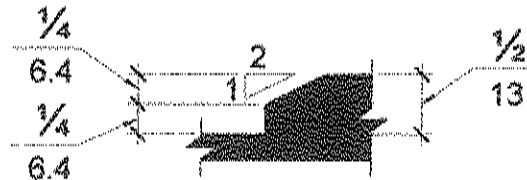


Figure 303.3  
Beveled Change in Level

**303.4 Ramps.** Changes in level greater than  $\frac{1}{2}$  inch (13 mm) high shall be *ramped*, and shall comply with 405 or 406.

### 304 Turning Space

**304.1 General.** Turning *space* shall comply with 304.

**304.2 Floor or Ground Surfaces.** Floor or ground surfaces of a turning *space* shall comply with 302. Changes in level are not permitted.

**EXCEPTION:** Slopes not steeper than 1:48 shall be permitted.

**Advisory 304.2 Floor or Ground Surface Exception.** As used in this section, the phrase "changes in level" refers to surfaces with slopes and to surfaces with abrupt rise exceeding that permitted in Section 303.3. Such changes in level are prohibited in required clear floor and ground spaces, turning spaces, and in similar spaces where people using wheelchairs and other mobility devices must park their mobility aids such as in wheelchair spaces, or maneuver to use elements such as at doors, fixtures, and telephones. The exception permits slopes not steeper than 1:48.

**304.3 Size.** Turning *space* shall comply with 304.3.1 or 304.3.2.

**304.3.1 Circular Space.** The turning *space* shall be a *space* of 60 inches (1525 mm) diameter minimum. The *space* shall be permitted to include knee and toe clearance complying with 306.

**304.3.2 T-Shaped Space.** The turning *space* shall be a T-shaped *space* within a 60 inch (1525 mm) square minimum with arms and base 36 inches (915 mm) wide minimum. Each arm of the T shall be clear of obstructions 12 inches (305 mm) minimum in each direction and the base shall be clear of



## CHAPTER 4: ACCESSIBLE ROUTES

### 401 General

**401.1 Scope.** The provisions of Chapter 4 shall apply where required by Chapter 2 or where referenced by a requirement in this document.

### 402 Accessible Routes

**402.1 General.** Accessible routes shall comply with 402.

**402.2 Components.** Accessible routes shall consist of one or more of the following components: walking surfaces with a *running slope* not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4.

**Advisory 402.2 Components.** Walking surfaces must have running slopes not steeper than 1:20, see 403.3. Other components of accessible routes, such as ramps (405) and curb ramps (406), are permitted to be more steeply sloped.

### 403 Walking Surfaces

**403.1 General.** Walking surfaces that are a part of an accessible route shall comply with 403.

**403.2 Floor or Ground Surface.** Floor or ground surfaces shall comply with 302.

**403.3 Slope.** The *running slope* of walking surfaces shall not be steeper than 1:20. The *cross slope* of walking surfaces shall not be steeper than 1:48.

**403.4 Changes in Level.** Changes in level shall comply with 303.

**403.5 Clearances.** Walking surfaces shall provide clearances complying with 403.5.

**EXCEPTION:** Within *employee work areas*, clearances on *common use circulation paths* shall be permitted to be decreased by *work area equipment* provided that the decrease is essential to the function of the work being performed.

**403.5.1 Clear Width.** Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.

**EXCEPTION:** The clear width shall be permitted to be reduced to 32 inches (815 mm) minimum for a length of 24 inches (610 mm) maximum provided that reduced width segments are separated by segments that are 48 inches (1220 mm) long minimum and 36 inches (915 mm) wide minimum.

**When paths are shown to cross private driveways or entrances into retail or commercial parking lots along a public street, this section 403.3 is often very difficult to meet because the paths at these locations are not public sidewalks- they transition from a public walk to over a private drive or private entrance, then back to a public walk. The private drive is not regulated by ADA thus most often fails to meet the ADA.**

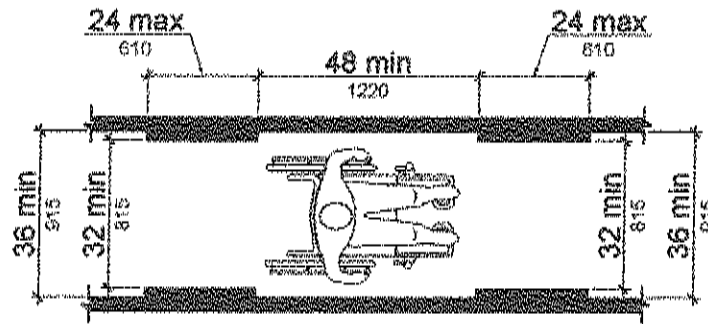


Figure 403.5.1  
Clear Width of an Accessible Route

**403.5.2 Clear Width at Turn.** Where the *accessible* route makes a 180 degree turn around an *element* which is less than 48 inches (1220 mm) wide, clear width shall be 42 inches (1065 mm) minimum approaching the turn, 48 inches (1220 mm) minimum at the turn and 42 inches (1065 mm) minimum leaving the turn.

**EXCEPTION:** Where the clear width at the turn is 60 inches (1525 mm) minimum compliance with 403.5.2 shall not be required.

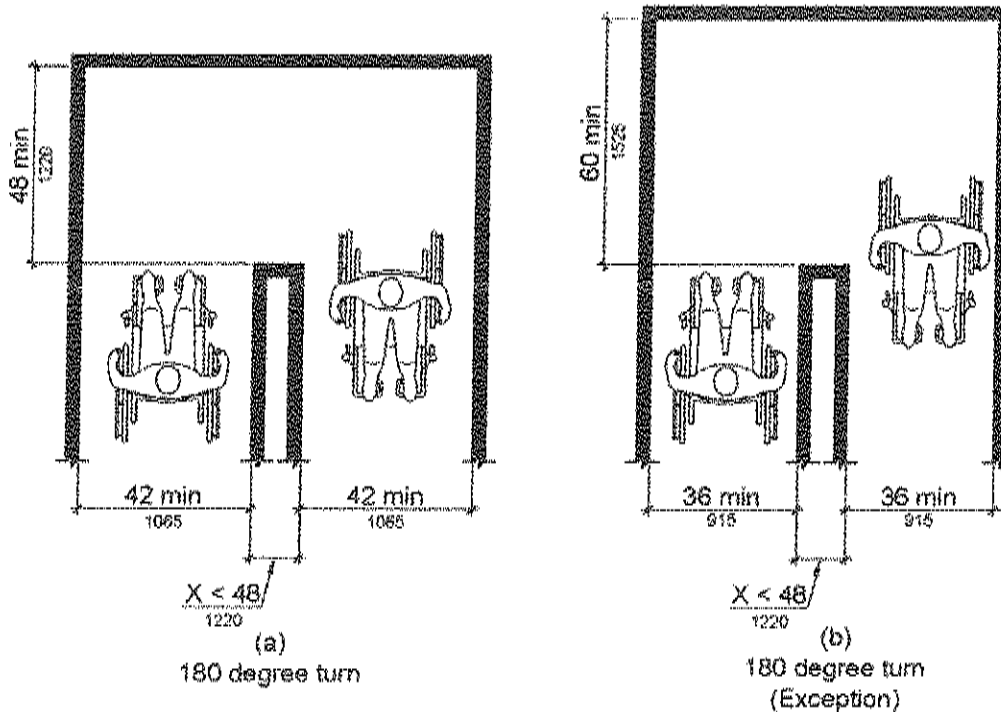


Figure 403.5.2  
Clear Width at Turn

**many old walks do not meet this section because the walks were built with widths less than 60 inches. New city walk and path projects typically require 60 inch wide walks thus this section is met.**

**403.5.3 Passing Spaces.** An *accessible* route with a clear width less than 60 inches (1525 mm) shall provide passing spaces at intervals of 200 feet (61 m) maximum. Passing spaces shall be either: a space 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum; or, an intersection of two walking surfaces providing a T-shaped space complying with 304.3.2 where the base and arms of the T-shaped space extend 48 inches (1220 mm) minimum beyond the intersection.

**403.6 Handrails.** Where handrails are provided along walking surfaces with *running slopes* not steeper than 1:20 they shall comply with 505.

**Advisory 403.6 Handrails.** Handrails provided in elevator cabs and platform lifts are not required to comply with the requirements for handrails on walking surfaces.

#### 404 Doors, Doorways, and Gates

**404.1 General.** Doors, doorways, and gates that are part of an *accessible* route shall comply with 404.

**EXCEPTION:** Doors, doorways, and gates designed to be operated only by security personnel shall not be required to comply with 404.2.7, 404.2.8, 404.2.9, 404.3.2 and 404.3.4 through 404.3.7.

**Advisory 404.1 General Exception.** Security personnel must have sole control of doors that are eligible for the Exception at 404.1. It would not be acceptable for security personnel to operate the doors for people with disabilities while allowing others to have independent access.

**404.2 Manual Doors, Doorways, and Manual Gates.** Manual doors and doorways and manual gates intended for user passage shall comply with 404.2.

**404.2.1 Revolving Doors, Gates, and Turnstiles.** Revolving doors, revolving gates, and turnstiles shall not be part of an *accessible* route.

**404.2.2 Double-Leaf Doors and Gates.** At least one of the active leaves of doorways with two leaves shall comply with 404.2.3 and 404.2.4.

**404.2.3 Clear Width.** Door openings shall provide a clear width of 32 inches (815 mm) minimum. Clear openings of doorways with swinging doors shall be measured between the face of the door and the stop, with the door open 90 degrees. Openings more than 24 inches (610 mm) deep shall provide a clear opening of 36 inches (915 mm) minimum. There shall be no projections into the required clear opening width lower than 34 inches (865 mm) above the finish floor or ground. Projections into the clear opening width between 34 inches (865 mm) and 80 inches (2030 mm) above the finish floor or ground shall not exceed 4 inches (100 mm).

**EXCEPTIONS:** 1. In *alterations*, a projection of 5/8 inch (16 mm) maximum into the required clear width shall be permitted for the latch side stop.

2. Door closers and door stops shall be permitted to be 78 inches (1980 mm) minimum above the finish floor or ground.



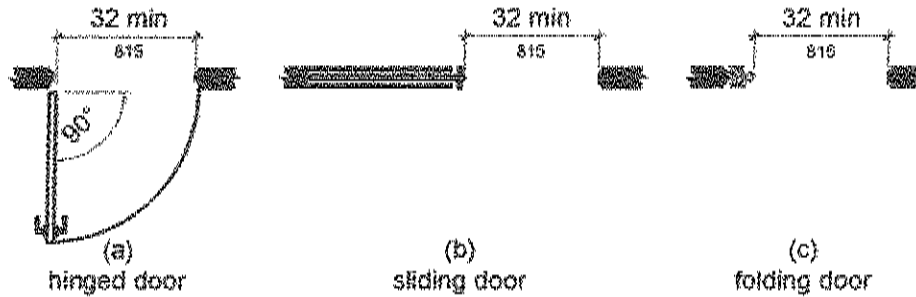


Figure 404.2.3  
Clear Width of Doorways

**404.2.4 Maneuvering Clearances.** Minimum maneuvering clearances at doors and gates shall comply with 404.2.4. Maneuvering clearances shall extend the full width of the doorway and the required latch side or hinge side clearance.

**EXCEPTION:** Entry doors to hospital patient rooms shall not be required to provide the clearance beyond the latch side of the door.

**404.2.4.1 Swinging Doors and Gates.** Swinging doors and gates shall have maneuvering clearances complying with Table 404.2.4.1.

Table 404.2.4.1 Maneuvering Clearances at Manual Swinging Doors and Gates

Type of Use		Minimum Maneuvering Clearance	
Approach Direction	Door or Gate Side	Perpendicular to Doorway	Parallel to Doorway (beyond latch side unless noted)
From front	Pull	60 inches (1525 mm)	18 inches (455 mm)
From front	Push	48 inches (1220 mm)	0 inches (0 mm) <sup>1</sup>
From hinge side	Pull	60 inches (1525 mm)	36 inches (915 mm)
From hinge side	Pull	54 inches (1370 mm)	42 inches (1065 mm)
From hinge side	Push	42 inches (1065 mm) <sup>2</sup>	22 inches (560 mm) <sup>3</sup>
From latch side	Pull	48 inches (1220 mm) <sup>4</sup>	24 inches (610 mm)
From latch side	Push	42 inches (1065 mm) <sup>4</sup>	24 inches (610 mm)

1. Add 12 inches (305 mm) if closer and latch are provided.
2. Add 6 inches (150 mm) if closer and latch are provided.
3. Beyond hinge side.
4. Add 6 inches (150 mm) if closer is provided.

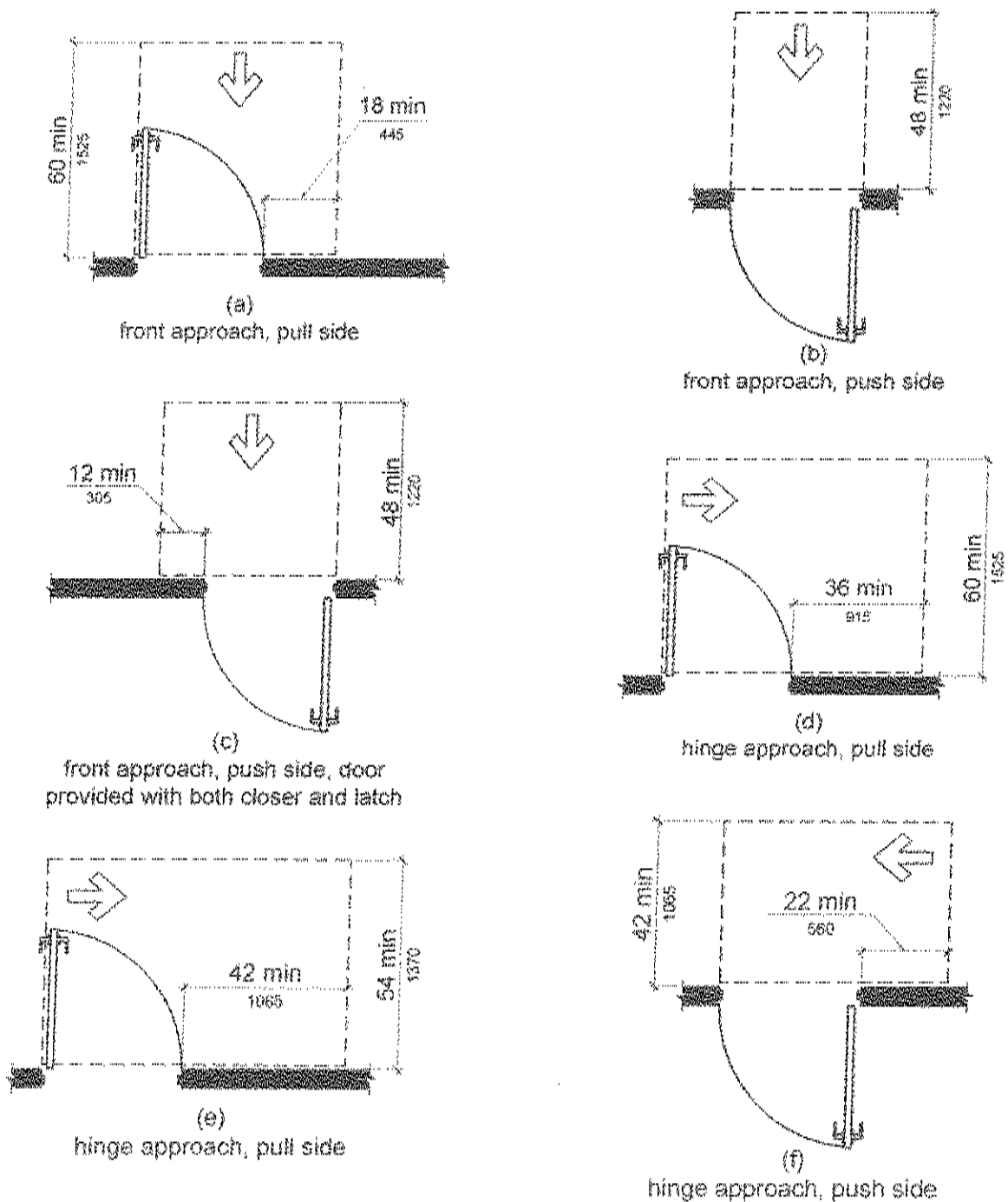


Figure 404.2.4.1  
 Maneuvering Clearances at Manual Swinging Doors and Gates

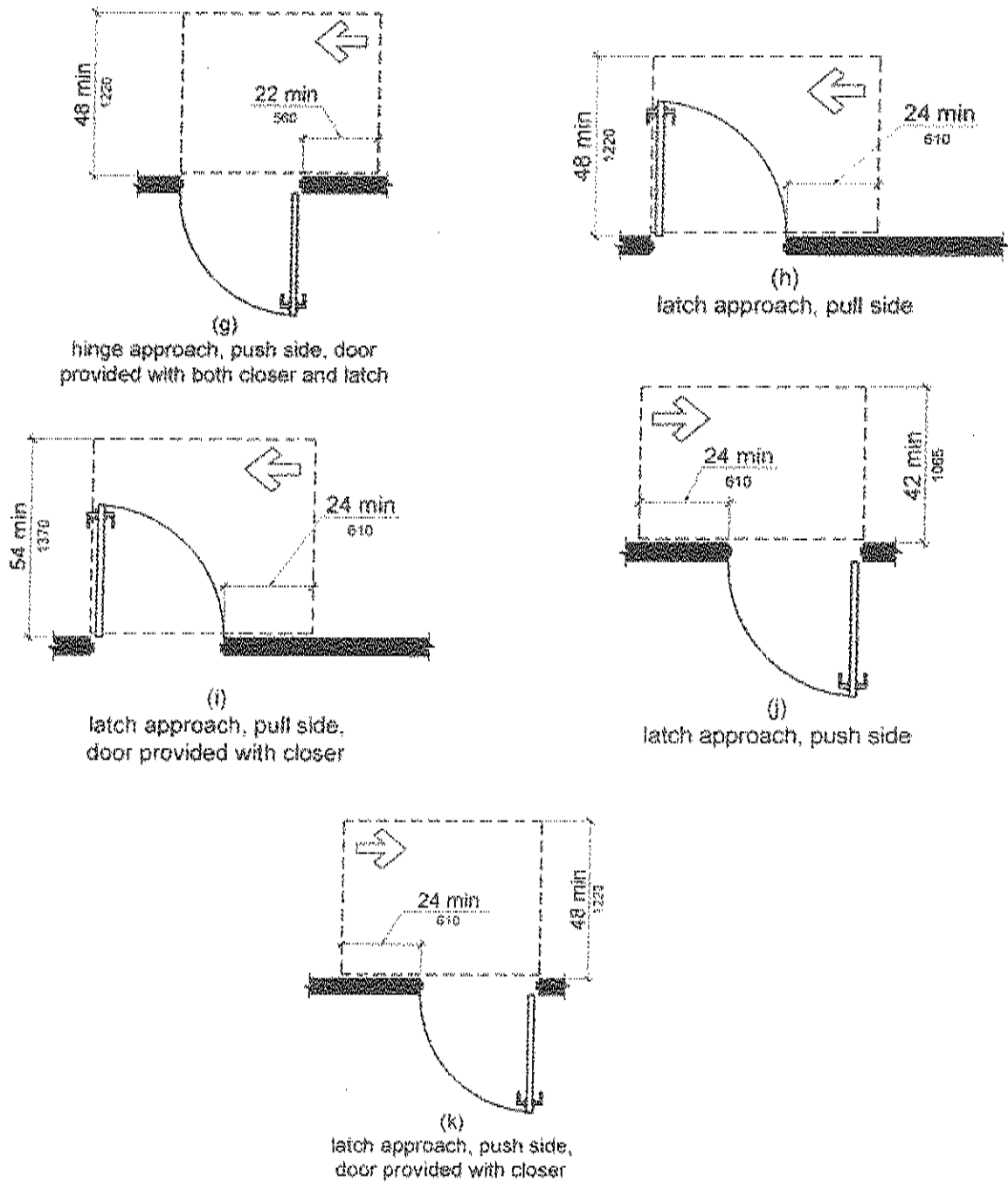


Figure 404.2.4.1  
Maneuvering Clearances at Manual Swinging Doors and Gates

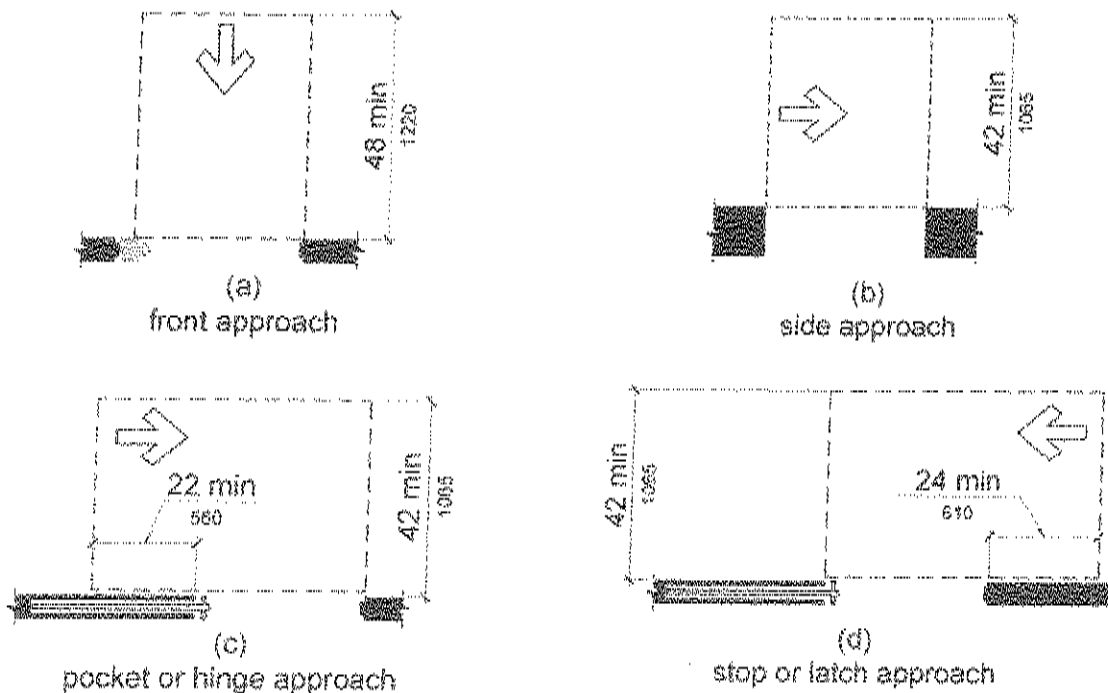


**404.2.4.2 Doorways without Doors or Gates, Sliding Doors, and Folding Doors.** Doorways less than 36 inches (915 mm) wide without doors or gates, sliding doors, or folding doors shall have maneuvering clearances complying with Table 404.2.4.2.

**Table 404.2.4.2 Maneuvering Clearances at Doorways without Doors or Gates, Manual Sliding Doors, and Manual Folding Doors**

Approach Direction	Minimum Maneuvering Clearance	
	Perpendicular to Doorway	Parallel to Doorway (beyond stop/latch side unless noted)
From Front	48 inches (1220 mm)	0 inches (0 mm)
From side <sup>1</sup>	42 inches (1065 mm)	0 inches (0 mm)
From pocket/hinge side	42 inches (1065 mm)	22 inches (560 mm) <sup>2</sup>
From stop/latch side	42 inches (1065 mm)	24 inches (610 mm)

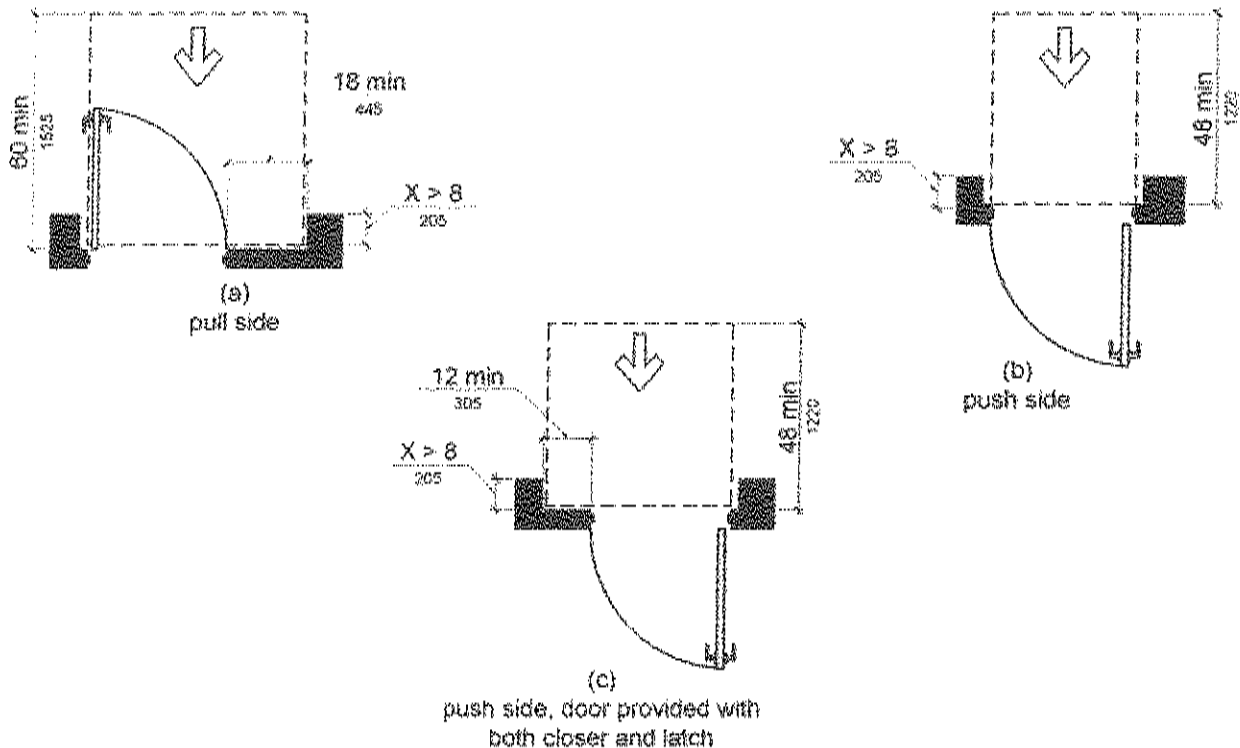
- 1. Doorway with no door only.
- 2. Beyond pocket/hinge side.



**Figure 404.2.4.2**  
**Maneuvering Clearances at Doorways without Doors, Sliding Doors, Gates, and Folding Doors**

**404.2.4.3 Recessed Doors and Gates.** Maneuvering clearances for forward approach shall be provided when any obstruction within 18 inches (455 mm) of the latch side of a doorway projects more than 8 inches (205 mm) beyond the face of the door, measured perpendicular to the face of the door or gate.

**Advisory 404.2.4.3 Recessed Doors and Gates.** A door can be recessed due to wall thickness or because of the placement of casework and other fixed elements adjacent to the doorway. This provision must be applied wherever doors are recessed.



**Figure 404.2.4.3**  
**Maneuvering Clearances at Recessed Doors and Gates**

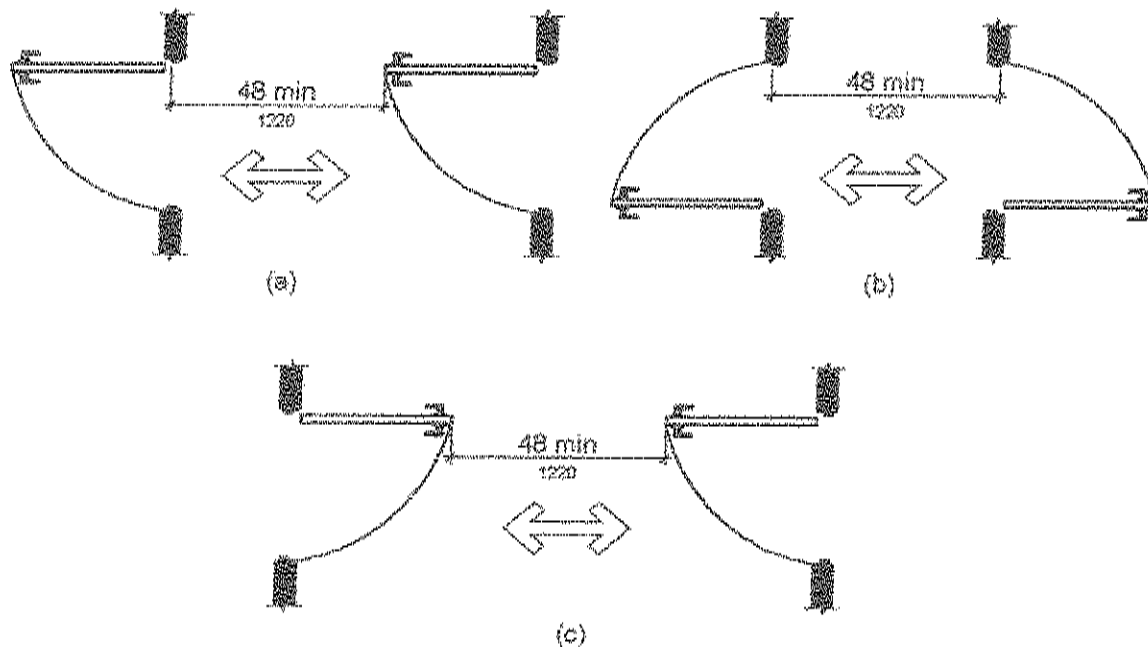
**404.2.4.4 Floor or Ground Surface.** Floor or ground surface within required maneuvering clearances shall comply with 302. Changes in level are not permitted.

- EXCEPTIONS:**
1. Slopes not steeper than 1:48 shall be permitted.
  2. Changes in level at thresholds complying with 404.2.5 shall be permitted.

**404.2.5 Thresholds.** Thresholds, if provided at doorways, shall be ½ inch (13 mm) high maximum. Raised thresholds and changes in level at doorways shall comply with 302 and 303.

**EXCEPTION:** Existing or altered thresholds ¾ inch (19 mm) high maximum that have a beveled edge on each side with a slope not steeper than 1:2 shall not be required to comply with 404.2.5.

**404.2.6 Doors in Series and Gates in Series.** The distance between two hinged or pivoted doors in series and gates in series shall be 48 inches (1220 mm) minimum plus the width of doors or gates swinging into the space.



**Figure 404.2.6**  
Doors in Series and Gates in Series

**404.2.7 Door and Gate Hardware.** Handles, pulls, latches, locks, and other *operable parts* on doors and gates shall comply with 309.4. *Operable parts* of such hardware shall be 34 inches (865 mm) minimum and 48 inches (1220 mm) maximum above the finish floor or ground. Where sliding doors are in the fully open position, operating hardware shall be exposed and usable from both sides.

**EXCEPTIONS:** 1. Existing locks shall be permitted in any location at existing glazed doors without stiles, existing overhead rolling doors or grilles, and similar existing doors or grilles that are designed with locks that are activated only at the top or bottom rail.

2. Access gates in barrier walls and fences protecting pools, spas, and hot tubs shall be permitted to have *operable parts* of the release of latch on self-latching devices at 54 inches (1370 mm) maximum above the finish floor or ground provided the self-latching devices are not also self-locking devices and operated by means of a key, electronic opener, or integral combination lock.

**Advisory 404.2.7 Door and Gate Hardware.** Door hardware that can be operated with a closed fist or a loose grip accommodates the greatest range of users. Hardware that requires simultaneous hand and finger movements require greater dexterity and coordination, and is not recommended.



**404.2.8 Closing Speed.** Door and gate closing speed shall comply with 404.2.8.

**404.2.8.1 Door Closers and Gate Closers.** Door closers and gate closers shall be adjusted so that from an open position of 90 degrees, the time required to move the door to a position of 12 degrees from the latch is 5 seconds minimum.

**404.2.8.2 Spring Hinges.** Door and gate spring hinges shall be adjusted so that from the open position of 70 degrees, the door or gate shall move to the closed position in 1.5 seconds minimum.

**404.2.9 Door and Gate Opening Force.** Fire doors shall have a minimum opening force allowable by the appropriate *administrative authority*. The force for pushing or pulling open a door or gate other than fire doors shall be as follows:

1. Interior hinged doors and gates: 5 pounds (22.2 N) maximum.
2. Sliding or folding doors: 5 pounds (22.2 N) maximum.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door or gate in a closed position.

**Advisory 404.2.9 Door and Gate Opening Force.** The maximum force pertains to the continuous application of force necessary to fully open a door, not the initial force needed to overcome the inertia of the door. It does not apply to the force required to retract bolts or to disengage other devices used to keep the door in a closed position.

**404.2.10 Door and Gate Surfaces.** Swinging door and gate surfaces within 10 inches (255 mm) of the finish floor or ground measured vertically shall have a smooth surface on the push side extending the full width of the door or gate. Parts creating horizontal or vertical joints in these surfaces shall be within 1/16 inch (1.6 mm) of the same plane as the other. Cavities created by added kick plates shall be capped.

- EXCEPTIONS:**
1. Sliding doors shall not be required to comply with 404.2.10.
  2. Tempered glass doors without stiles and having a bottom rail or shoe with the top leading edge tapered at 60 degrees minimum from the horizontal shall not be required to meet the 10 inch (255 mm) bottom smooth surface height requirement.
  3. Doors and gates that do not extend to within 10 inches (255 mm) of the finish floor or ground shall not be required to comply with 404.2.10.
  4. Existing doors and gates without smooth surfaces within 10 inches (255 mm) of the finish floor or ground shall not be required to provide smooth surfaces complying with 404.2.10 provided that if added kick plates are installed, cavities created by such kick plates are capped.

**404.2.11 Vision Lights.** Doors, gates, and side lights adjacent to doors or gates, containing one or more glazing panels that permit viewing through the panels shall have the bottom of at least one glazed panel located 43 inches (1090 mm) maximum above the finish floor.

**EXCEPTION:** Vision lights with the lowest part more than 66 inches (1675 mm) from the finish floor or ground shall not be required to comply with 404.2.11.

**404.3 Automatic and Power-Assisted Doors and Gates.** Automatic doors and automatic gates shall comply with 404.3. Full-powered automatic doors shall comply with ANSI/BHMA A156.10 (incorporated

by reference, see “Referenced Standards” in Chapter 1). Low-energy and power-assisted doors shall comply with ANSI/BHMA A156.19 (1997 or 2002 edition) (incorporated by reference, see “Referenced Standards” in Chapter 1).

**404.3.1 Clear Width.** Doorways shall provide a clear opening of 32 inches (815 mm) minimum in power-on and power-off mode. The minimum clear width for automatic door systems in a doorway shall be based on the clear opening provided by all leaves in the open position.

**404.3.2 Maneuvering Clearance.** Clearances at power-assisted doors and gates shall comply with 404.2.4. Clearances at automatic doors and gates without standby power and serving an *accessible means of egress* shall comply with 404.2.4.

**EXCEPTION:** Where automatic doors and gates remain open in the power-off condition, compliance with 404.2.4 shall not be required.

**404.3.3 Thresholds.** Thresholds and changes in level at doorways shall comply with 404.2.5.

**404.3.4 Doors in Series and Gates in Series.** Doors in series and gates in series shall comply with 404.2.6.

**404.3.5 Controls.** Manually operated controls shall comply with 309. The clear floor space adjacent to the control shall be located beyond the arc of the door swing.

**404.3.6 Break Out Opening.** Where doors and gates without standby power are a part of a means of egress, the clear break out opening at swinging or sliding doors and gates shall be 32 inches (815 mm) minimum when operated in emergency mode.

**EXCEPTION:** Where manual swinging doors and gates comply with 404.2 and serve the same means of egress compliance with 404.3.6 shall not be required.

**404.3.7 Revolving Doors, Revolving Gates, and Turnstiles.** Revolving doors, revolving gates, and turnstiles shall not be part of an *accessible* route.

## 405 Ramps

**405.1 General.** *Ramps on accessible routes shall comply with 405.*

**EXCEPTION:** In *assembly areas*, aisle ramps adjacent to seating and not serving *elements* required to be on an *accessible* route shall not be required to comply with 405.

**405.2 Slope.** *Ramp runs shall have a running slope not steeper than 1:12.*

**EXCEPTION:** In existing *sites, buildings, and facilities*, ramps shall be permitted to have *running slopes* steeper than 1:12 complying with Table 405.2 where such slopes are necessary due to *space* limitations.

**405 Ramps- As applicable. It is rare to see walks in public right of ways trigger this section but some cases where an applicant has shown a path to enter into a park over a driveway could exceed or trigger ramp slopes.**

**Table 405.2 Maximum Ramp Slope and Rise for Existing Sites, Buildings, and Facilities**

Slope <sup>1</sup>	Maximum Rise
Steeper than 1:10 but not steeper than 1:8	3 inches (75 mm)
Steeper than 1:12 but not steeper than 1:10	6 inches (150 mm)

1. A slope steeper than 1:8 is prohibited.

**Advisory 405.2 Slope.** To accommodate the widest range of users, provide ramps with the least possible running slope and, wherever possible, accompany ramps with stairs for use by those individuals for whom distance presents a greater barrier than steps, e.g., people with heart disease or limited stamina.

**405.3 Cross Slope.** *Cross slope of ramp runs shall not be steeper than 1:48.*

**Advisory 405.3 Cross Slope.** Cross slope is the slope of the surface perpendicular to the direction of travel. Cross slope is measured the same way as slope is measured (i.e., the rise over the run).

**405.4 Floor or Ground Surfaces.** Floor or ground surfaces of ramp runs shall comply with 302. Changes in level other than the *running slope* and *cross slope* are not permitted on ramp runs.

**405.5 Clear Width.** The clear width of a ramp run and, where handrails are provided, the clear width between handrails shall be 36 inches (915 mm) minimum.

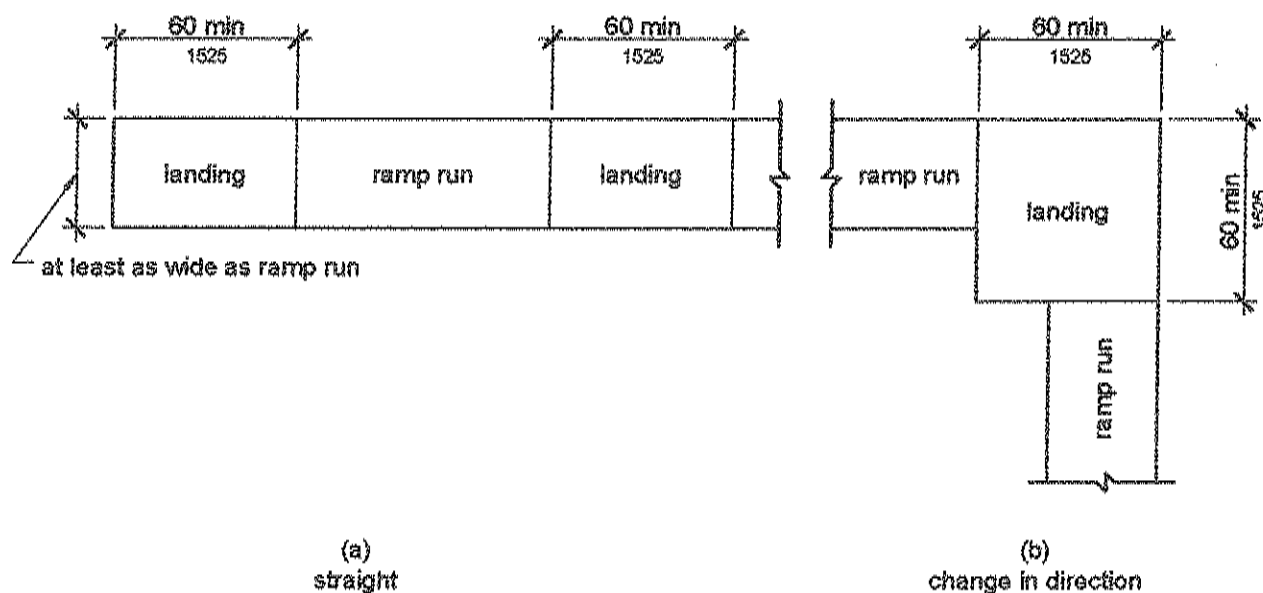
**EXCEPTION:** Within *employee work areas*, the required clear width of ramps that are a part of *common use circulation paths* shall be permitted to be decreased by *work area equipment* provided that the decrease is essential to the function of the work being performed.

**405.6 Rise.** The rise for any ramp run shall be 30 inches (760 mm) maximum.

**405.7 Landings.** Ramps shall have landings at the top and the bottom of each ramp run. Landings shall comply with 405.7.

**Advisory 405.7 Landings.** Ramps that do not have level landings at changes in direction can create a compound slope that will not meet the requirements of this document. Circular or curved ramps continually change direction. Curvilinear ramps with small radii also can create compound cross slopes and cannot, by their nature, meet the requirements for accessible routes. A level landing is needed at the accessible door to permit maneuvering and simultaneously door operation.





**Figure 405.7**  
**Ramp Landings**

**405.7.1 Slope.** Landings shall comply with 302. Changes in level are not permitted.

**EXCEPTION:** Slopes not steeper than 1:48 shall be permitted.

**405.7.2 Width.** The landing clear width shall be at least as wide as the widest *ramp* run leading to the landing.

**405.7.3 Length.** The landing clear length shall be 60 inches (1525 mm) long minimum.

**405.7.4 Change in Direction.** *Ramps* that change direction between runs at landings shall have a clear landing 60 inches (1525 mm) minimum by 60 inches (1525 mm) minimum.

**405.7.5 Doorways.** Where doorways are located adjacent to a *ramp* landing, maneuvering clearances required by 404.2.4 and 404.3.2 shall be permitted to overlap the required landing area.

**405.8 Handrails.** *Ramp* runs with a rise greater than 6 inches (150 mm) shall have handrails complying with 505.

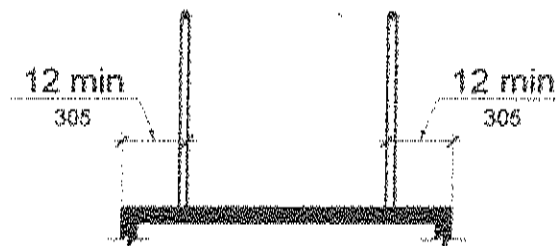
**EXCEPTION:** Within *employee work areas*, handrails shall not be required where *ramps* that are part of *common use circulation paths* are designed to permit the installation of handrails complying with 505. *Ramps* not subject to the exception to 405.5 shall be designed to maintain a 36 inch (915 mm) minimum clear width when handrails are installed.

**405.9 Edge Protection.** Edge protection complying with 405.9.1 or 405.9.2 shall be provided on each side of *ramp* runs and at each side of *ramp* landings.

- EXCEPTIONS:**
1. Edge protection shall not be required on *ramps* that are not required to have handrails and have sides complying with 406.3.
  2. Edge protection shall not be required on the sides of *ramp* landings serving an adjoining *ramp* run or stairway.
  3. Edge protection shall not be required on the sides of *ramp* landings having a vertical drop-off of  $\frac{1}{2}$  inch (13 mm) maximum within 10 inches (255 mm) horizontally of the minimum landing area specified in 405.7.

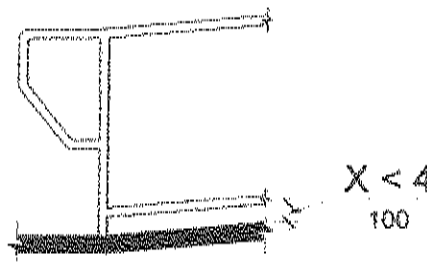
**405.9.1 Extended Floor or Ground Surface.** The floor or ground surface of the *ramp* run or landing shall extend 12 inches (305 mm) minimum beyond the inside face of a handrail complying with 505.

**Advisory 405.9.1 Extended Floor or Ground Surface.** The extended surface prevents wheelchair casters and crutch tips from slipping off the ramp surface.



**Figure 405.9.1**  
Extended Floor or Ground Surface Edge Protection

**405.9.2 Curb or Barrier.** A curb or barrier shall be provided that prevents the passage of a 4 inch (100 mm) diameter sphere, where any portion of the sphere is within 4 inches (100 mm) of the finish floor or ground surface.



**Figure 405.9.2**  
Curb or Barrier Edge Protection

**405.10 Wet Conditions.** Landings subject to wet conditions shall be designed to prevent the accumulation of water.

**406 Curb Ramps**

**406.1 General.** *Curb ramps* on *accessible routes* shall comply with 406, 405.2 through 405.5, and 405.10.

**406.2 Counter Slope.** Counter slopes of adjoining gutters and road surfaces immediately adjacent to the *curb ramp* shall not be steeper than 1:20. The adjacent surfaces at transitions at *curb ramps* to *walks*, *gutters*, and *streets* shall be at the same level.

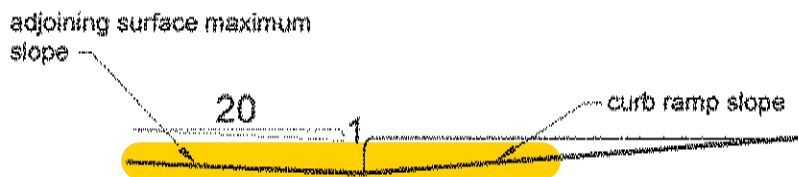


Figure 406.2  
Counter Slope of Surfaces Adjacent to Curb Ramps

**406.3 Sides of Curb Ramps.** Where provided, *curb ramp* flares shall not be steeper than 1:10.

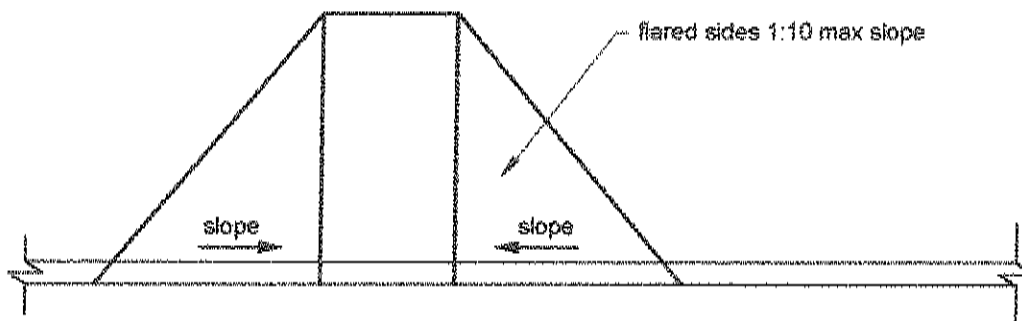
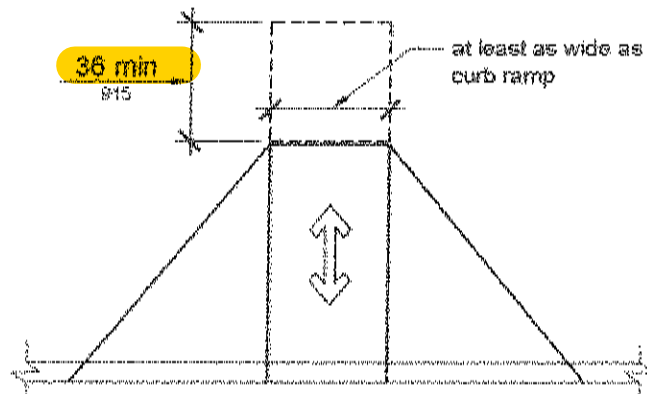


Figure 406.3  
Sides of Curb Ramps

**406.4 Landings.** Landings shall be provided at the tops of *curb ramps*. The landing clear length shall be 36 inches (915 mm) minimum. The landing clear width shall be at least as wide as the *curb ramp*, excluding flared sides, leading to the landing.

**EXCEPTION:** In *alterations*, where there is no landing at the top of *curb ramps*, *curb ramp* flares shall be provided and shall not be steeper than 1:12.

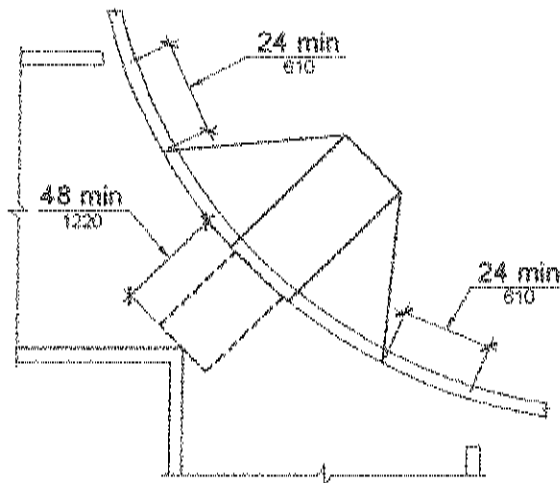




**Figure 406.4**  
Landings at the Top of Curb Ramps

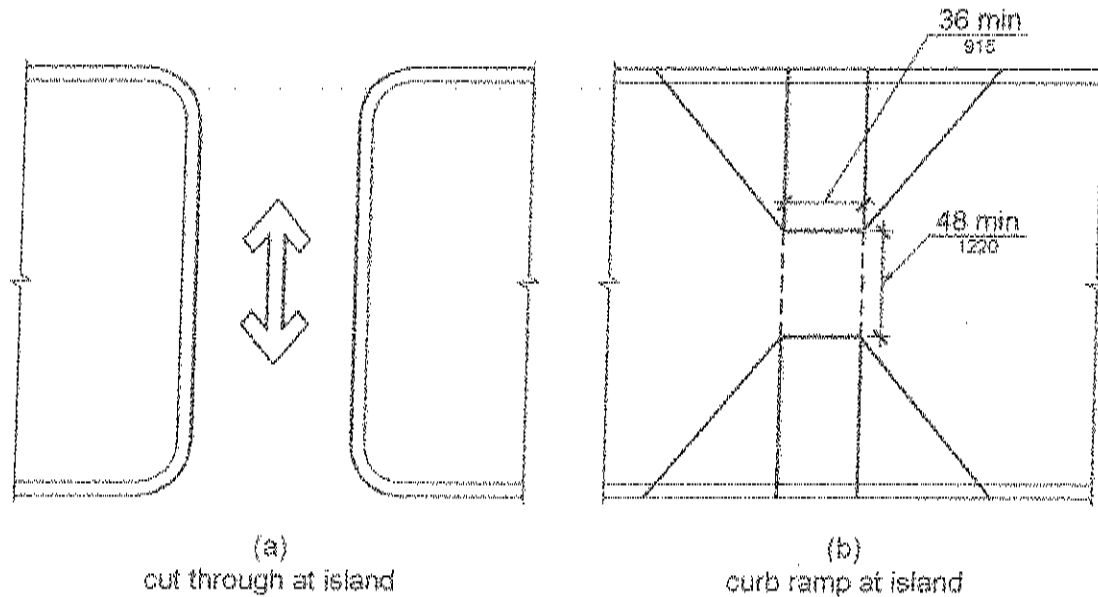
**406.5 Location.** *Curb ramps* and the flared sides of *curb ramps* shall be located so that they do not project into vehicular traffic lanes, parking spaces, or parking access aisles. *Curb ramps* at *marked crossings* shall be wholly contained within the markings, excluding any flared sides.

**406.6 Diagonal Curb Ramps.** Diagonal or corner type *curb ramps* with returned curbs or other well-defined edges shall have the edges parallel to the direction of pedestrian flow. The bottom of diagonal *curb ramps* shall have a clear space 48 inches (1220 mm) minimum outside active traffic lanes of the roadway. Diagonal *curb ramps* provided at *marked crossings* shall provide the 48 inches (1220 mm) minimum clear space within the markings. Diagonal *curb ramps* with flared sides shall have a segment of curb 24 inches (610 mm) long minimum located on each side of the *curb ramp* and within the *marked crossing*.



**Figure 406.6**  
Diagonal or Corner Type Curb Ramps

**406.7 Islands.** Raised islands in crossings shall be cut through level with the street or have *curb ramps* at both sides. Each *curb ramp* shall have a level area 48 inches (1220 mm) long minimum by 36 inches (915 mm) wide minimum at the top of the *curb ramp* in the part of the island intersected by the crossings. Each 48 inch (1220 mm) minimum by 36 inch (915 mm) minimum area shall be oriented so that the 48 inch (1220 mm) minimum length is in the direction of the *running slope* of the *curb ramp* it serves. The 48 inch (1220 mm) minimum by 36 inch (915 mm) minimum areas and the *accessible* route shall be permitted to overlap.



**Figure 406.7**  
**Islands in Crossings**

#### 407 Elevators

**407.1 General.** Elevators shall comply with 407 and with ASME A17.1 (incorporated by reference, see "Referenced Standards" in Chapter 1). They shall be passenger elevators as classified by ASME A17.1. Elevator operation shall be automatic.

**Advisory 407.1 General.** The ADA and other Federal civil rights laws require that accessible features be maintained in working order so that they are accessible to and usable by those people they are intended to benefit. Building owners should note that the ASME Safety Code for Elevators and Escalators requires routine maintenance and inspections. Isolated or temporary interruptions in service due to maintenance or repairs may be unavoidable; however, failure to take prompt action to effect repairs could constitute a violation of Federal laws and these requirements.

**407.2 Elevator Landing Requirements.** Elevator landings shall comply with 407.2.

Application #17390  
Las Palomas  
Third Party Request for Administrative  
Deficiency

Department Determination





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

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July 5, 2017

Writer's direct phone # (512) 475-1676  
Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)

Mr. Doak D. Brown  
Vice President  
The Brownstone Group  
6517 Mapleridge  
Houston, TX 77081

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17390 LAS PALOMAS

Dear Mr. Brown:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of three Third Party Requests for Administrative Deficiency ("RFAD") requesting that the Department review the application above to determine whether it should be awarded several tie-breakers under 10 TAC §11.9 (c)(4) related to Opportunity Index. The requests assert that the Application did not contain sufficient evidence that the Development Site is located less than ½ mile on an accessible route from a public park with an accessible playground and that the route is accessible, that the site is located less than ½ mile on an accessible route from public transportation, that the library and playground are the same facility, and that crime data provided is not specific to the census tract.

Consistent with similar decisions made by the Department's Governing Board at its May 25, 2017, meeting, an Administrative Deficiency was issued on June 13, 2017, and a response was received timely.

The response asserts the park and public transit must be less than ½ mile "as the crow flies" from the site. The response states that "(e)very reference to the measurement of distance indicates measuring boundary-to boundary 'unless otherwise noted' ". In this case the measurement is "otherwise noted," the distance from the public park or transit must be "less than ½ mile on an accessible route." The Application and response indicate that the park is .49 miles from the development site in a straight-line measurement; however the route to the park is approximately .79 miles. The route to public transportation indicated in the Application is approximately .24 miles long. The requester provided specific evidence of why the routes to both the park and to public transportation are not accessible. Your response did not address this specific evidence.

The response asserts that "all the crime data supplied to date has indeed included data that is specific to the census tract of the Development Site." The explanation for the "projected trend" for the census tract states that:



“Because Neighborhood Scout is only showing a census tract property crime rate in its reports utilizing old 2014 data, then it stands to reason that the 2015 and 2016 census tract property crime rates need to be projected for census tract 207.24 as per the downward percentage (%) trends evidenced in the current McAllen Police Reports for those same years. For example, if NS indicates a 2014 census tract rate of 27.28, then in 2015 it would be decreased by 8.3%, and then in 2016 it would decrease by 5.7% in the same fashion that the City of McAllen is trending.”

This assumes that as crime decreases in the City of McAllen, one can apply that same percentage decrease to the census tract, which is not a valid assumption. The response did not address the email from the Chief of Police which states:

“Please know that these (McAllen and FBI) UCR reports are a reflection of city-wide data. These reports are not prepared or are reflective of any census tract or census block. Therefore, “extrapolation” for the purposes of determining the UCR crime activity of any census tract or census block is not an accurate analysis of UCR crime activity for any census tract or census block”

The response included entirely new data from data submitted in the Application. As such, the response to the deficiency does not provide clarification or correction of information submitted in the Application as required by §10.201(7) related to the Administrative Deficiency Process:

**(7) Administrative Deficiency Process.** The purpose of the Administrative Deficiency process is to allow an Applicant to provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. ...

Regarding the claim that the library and the playground are the same facility, it is clear that they are not. The library is its own structure, and the playground is a part of the park, which is on the tract of land as the library. The Department has determined that it is a reasonable expectation that since these are both owned and operated by the city, these would share property controlled by the city.

Staff has determined that the points raised in response to multiple RFADs clearly demonstrate that the Application qualifies for the accessible routes to a public park or to public transit, or that it qualifies for having a crime rate within the given threshold. The Application does qualify for the library. For purposes of the request the matter is considered resolved. The Applicant will receive a scoring notice indicating the loss of three tie-breaker selections. If you have questions or require further information, please contact me.

Sincerely,



Marni Holloway  
Multifamily Division Director

Cc: Mark Musemeche  
Steve Lollis  
Manish Verma

Application #17390  
Las Palomas  
Second - Third Party Request for  
Administrative Deficiency



June 1, 2017

Attn: Sharon Gamble  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701- 2410

**RE: Las Palomas (TDHCA #17390) – Application Challenge**

Dear Ms. Gamble:

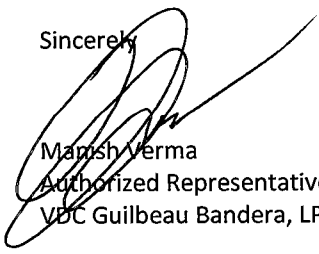
Please accept this letter as a request for a Third Party Request for Administrative Deficiency to Las Palomas, TDHCA #17390. In the tax credit application for this application, the applicant has requested consideration for 13 eligible amenities and/or services pursuant to the Opportunity Index points referenced in 11.9(c)(4)(B)(i) of the QAP. However, the application should only be considered for 11 eligible amenities.

The applicant has requested the point for a site located less than ½ mile on an accessible route from a public park with an accessible playground. According to the map provided in the application as well as Google Earth measurements, the public access to the park and the actual playground are both over ½ mile away from the nearest boundary of the development site. While the southeastern corner of the park may be within ½ mile of the development site, that corner is unreachable from the accessible route or street. In other words, the development site is not located less than ½ mile on an accessible route from the park as required by the actual QAP language, because the entrance to the park using the accessible route is over ½ mile away. Furthermore, the playground is also outside ½ mile when the 2017 Competitive Application Cycle FAQ specifically states that the playground has to be within ½ mile of the site. Because the accessible route requires that the user go outside of the ½ mile radius to access the park and playground, the application is not eligible for this item.

Additionally, the applicant has requested the point for a property crime rate of 26 per 1,000 or less. The application confirms that NeighborhoodScout has a crime rate of 26.66 per 1,000, which does not qualify the application for this point. Instead of obtaining actual property crime totals from the local police department, the applicant has instead used the city's overall crime rate to surmise that the census tract has a rate lower than 26 per 1,000. This is not reasonable and should not qualify for this scoring item. Based on the number of census tracts in the city, it is possible that certain high crime census tracts have been significantly decreasing reducing overall figures while crime in other tracts have been constant or slightly increasing. There is no way to confirm that this particular census tract has a decreasing crime rate or a specific crime rate without actual census tract data as required by the QAP. Furthermore, any allowance of the applicant to provide additional data would be a material change to the submission. The application is not eligible for this item.

We therefore request that TDHCA not consider the opportunity index point for these items as referenced in 11.9(c)(4)(B)(i) of the QAP. A \$500 fee has been submitted for this request.

Sincerely,



Manish Verma  
Authorized Representative  
VDC Guilbeau Bandera, LP



# OPTION 1

ADA Playground / Garza Park

ADA Accessibility



From Application. Note that accessible route yellow line extends beyond 1/2 mile radius.

0.49 Mile



1/2 MILE RADIUS

1926 ADA Accessibility Route



LAS PALOMAS VILLAGE

SCALE

1000 ft



# 2017 Competitive Application Cycle FAQ

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A: Your description would qualify as part of the accessible route. If a resident takes accessible transportation from the development to the park, the route from the transportation stop to the actual park would also have to be accessible. Just getting them to the vicinity of the park would not be enough.

**CLARIFICATION:** The provision of transportation is not a substitute for having an accessible route. If transportation is one of the services you will provide at your development, then that transportation must be accessible as described above, but it may not take the place of an accessible route.

Q: *Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long?*

A: The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable).

Q: *If a public transportation stop or park is located less than half a mile from a vacant site where sidewalks are not yet built, but the development plan includes the sidewalks which would connect the proposed development to the park/transit stop, could that qualify an application for points?*

A: In this case, if the missing part of the feature is under the Developer's control for completion and can be verified with the Site Plan, it could qualify.

Q: *Is a small river/creek considered a census tract "barrier" if there is a bridge that connects both sides?*

A: This will depend on a number of factors that will be unique to each situation. For instance, is the bridge right there, or is it 15 miles away? How accessible is the bridge? Provide information in the Application that assists staff in seeing the whole picture.

Q: *With the addition of the language regarding hours and "weekend service" to the following point item, does just Saturday service work or does the service need to be both Saturday AND Sunday?*

A: Saturday and Sunday are required. Note that it is acceptable for them to provide reduced service on weekends as most transit systems do.

Q: *The neighborhood scout crime data on the website is for 2014 and I understand it will be updated in December or January. Depending on when the data is finally updated, it is possible that an application did not have an 18/1000 crime rate at preapp but it could at full app. Should we just take screenshots of the data and the date to prove disclosure was not needed at preapp if it should change?*

A: You should definitely keep a copy of the data that was available at the time you submit the Pre-application, or the Application if no Pre-application is submitted. Of course, whatever source you are using for whatever purpose, you need to use the most current data as of the date of your submission. You can't use the old data because the new data doesn't fit.

## Underserved Area

Q: *Is this section implied to be a menu-type election to total or add-up to 5 points **OR** are developers only allowed to take points in just one subpart?*

A: Applicants may not combine the subparagraphs:

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to five (5) points if the Development Site is located in one of the areas described in subparagraphs (A) - (E) of this paragraph

Q: *The rule states that the census tract should fall within the boundaries of an incorporated area. That seems to say that at least a part of that census tract should be in the boundaries of the incorporated area. Is that correct?*

A: No. The entire census tract would have to be within the boundaries of the incorporated area in order to get these points.



Application  
explanation

**LAS PALOMAS VILLAGE / CENSUS TRACT**

**PROPERTY CRIME RATE**

Because Neighborhood Scout is only showing a census tract property crime rate in its reports utilizing old 2014 data, then it stands to reason that the 2015 and 2016 census tract property crime rates need to be projected for census tract 208.03 as per the downward percentage (%) trends evidenced in the current McAllen Police Reports for those same years. For example, if NS indicates a 2014 census tract rate of 26.66, then in 2015 it would be decreased by 8.3%, and then in 2016 it would decrease by 5.7% in the same fashion that the City of McAllen is trending.

**Neighborhood Scout / Projected Trend**

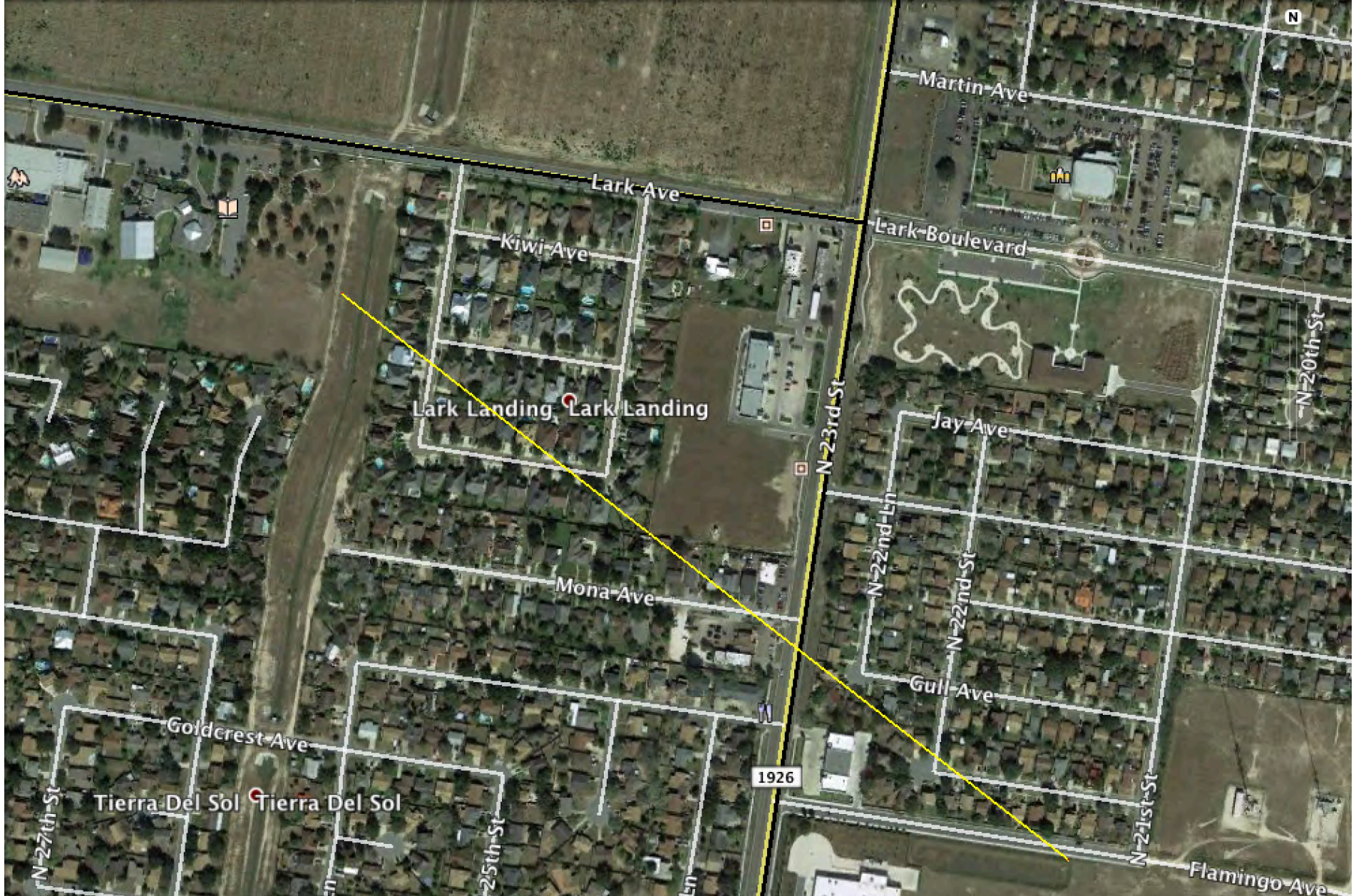
---

**Census Tract 208.03 / Las Palomas Village**

<b>Combined Categories</b>	<b>2014</b>		<b>2015</b>		<b>2016</b>
<b>Larceny (Theft), Burglary, and Motor Vehicle Theft</b>	26.66*	<-8.3%>	24.45*	<-5.7%>	<b>23.06*</b>

\*All figures per 1000 residents





Ruler

Line Path Pro

Measure the distance between two points on the ground

Map Length: 0.50 Miles

Ground Length: 0.50

Heading: 307.93 degrees

© 2016 INEGI  
© 2016 Google

Google Earth

Imagery Date: 1/21/2017 26°15'28.23" N 98°14'17.84" W elev 118 ft eye alt 3451 ft



Application #17390  
Las Palomas  
Third - Third Party Request for  
Administrative Deficiency



**TEXAS GREY OAKS, LLC**  
**710 North Post Oak Road, Suite 400**  
**Houston, TX 77024**  
**(713) 875-9456 – p**  
**(713) 583-8858 – f**  
[Steve@TexasGreyOaks.com](mailto:Steve@TexasGreyOaks.com)

June 1, 2017

Via Email – [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)

Marni Holloway  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs  
221 E. 11th Street  
Austin, Texas 78701

RE: Application #17390-Las Palomas - RFAD

Dear Ms. Holloway:

In accordance with §11.10 of the 2017 Qualified Allocation Plan (“QAP”) regarding Third Party Request for Administrative Deficiency (“RFAD”), we present the following material information about the above described application to Staff’s attention. It is our belief that the Applicant of Las Palomas has requested points/tiebreakers for a site amenity under §11.9(c)(4)-Opportunity Index for projects located in Urban areas that does not qualify under the QAP/Multifamily Rules.

**1. PROPERTY CRIME:**

The Applicant claimed one point under §11.9(c)(4)(B)(VI)-Property Crime Rate. The QAP requirement is:

“(VI) The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources.”

The Applicant did not submit the Neighborhood Scout Report to substantiate the Property Crime rate in their census tract instead electing to use local data extracted from reports on crimes of all types committed in the City of McAllen. Attached as Exhibit “A” please find the information submitted by the Applicant in support of the point claimed.

As represented in Exhibit “A”, the Applicant submitted selected pages from the City of McAllen Crime Reports for 2015 and 2016 and from the 2014 FBI UCR Report that are based on crime data for the entire City of McAllen. The data is not broken down by address, neighborhood or more importantly by census tract as the QAP requires in §11.9(c)(4)(B)(i)(VI).

Their methodology involves taking the crime rates for the entire City and dividing the crimes by the overall city population. The result is then used to create the desired percentage of property crimes using the census tract population estimates for the applicable census tract.

By way of example, the referenced FBI UCR report addresses all property crimes reported by the City of McAllen Police Department in 2014, and states:

Population of the City of McAllen 138,122  
Property Crime Rate for the City of McAllen 3,581.6  
Resulting in an overall City of McAllen Property Crime rate per 1000 of 25.93 for 2014

Crime rates within a City vary widely. There are low crime areas and high crime areas and you cannot average those rates and apply them to any particular census tract with any accuracy. It is for these reasons that the Department wants to see what the crime rate, in this instance the Property crime, is in the census tract because it is more localized and a better indicator of crime where the Project will be located.

Without a listing of crime by address and within the applicable census tract the crime documentation submitted by the Applicant does not meet the criteria to support the point claimed under §11.9(c)(4)(B)(i)(VI). Attached as Exhibit "B" further illustrates our arguments raised above.

Lastly, we do not believe that the Applicant should be deemed a "Local Data Source" for purposes of qualifying for the Property Crime point. The Applicant extrapolated data from Crime Reports generated by the McAllen Police Department to fit their desired results. The Applicant could have reached out directly to the McAllen Police Department, as others did, and obtained a letter from the actual "Local Data Source" that provided the Property Crime data applicable to their census tract and included such letter in their application. Attached as Exhibit "C" please find a letter from the McAllen Police Chief stating that the McAllen and FBI UCR reports are a reflection of city-wide data and that such reports are "**not prepared or are reflective** of any census tract or census block". The letter further states "that "extrapolation" for purposes of determining the UCR crime activity of any census tract or census block is not an accurate analysis of UCR crime activity for any census tract or census block."

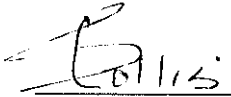
In conclusion, we do not believe that the Applicant submitted in it Application a legitimate "Local Data Source" nor did they provide census level data for purposes of qualifying for the point.

Marni Holloway  
RFAD-#17390  
June 1, 2017  
Page -3-

We submitted the required RFAD Fee in the amount of \$500 under separate submission. We appreciate your due consideration of this RFAD.

Sincerely,

Texas Grey Oaks, LLC

By:   
\_\_\_\_\_  
Steve Lollis, Manager

cc: Sharon Gamble, TDHCA – Via Email – [sharon.gamble@tdhca.state.tx.us](mailto:sharon.gamble@tdhca.state.tx.us)  
Arnold Padilla – Via Email – [apadilla@mcaha.org](mailto:apadilla@mcaha.org)  
Doak Brown – Via Email – [doak@thdbrownstonegroup.net](mailto:doak@thdbrownstonegroup.net)  
Donna Rickenbacker – Via Email – [donna@marqueconsultants.com](mailto:donna@marqueconsultants.com)



**6. Property Crime Rate – neighborhood scout or local data sources**

---

# LOCAL DATA SOURCES


The McAllen Police Department (MPD) provides a local data source that indicates the property crime rate for the Las Palomas Village census tract is currently less than 26 per 1000 and steadily declining.

Among many things, this local data source shows that the overall property crime rate in the entire City of McAllen is decreasing annually. To that end, when this data is extrapolated for specific property crime categories (*i.e.*, - *larceny/theft, burglary, and motor vehicle theft*) then the Las Palomas Village census block group, census tract, and City of McAllen are all witnessing property crime rates that are either decreasing annually or remaining statically less than 26 per 1000 in 2016, which is the most reliable year for calculating current property crime rates and trends. Ultimately, we are using those rates and trends to claim this opportunity index menu item.

Although the Neighborhood Scout (NS) score for census tract 208.03 is one of the lowest property crime rates in all of McAllen – e.g., 26.66 per 1000 – all indications suggest that Neighborhood Scout is unreliable for current statistics and localized crime reporting. The reason for this is because it is an extrapolation of old data. Moreover, it uses a proprietary blend of algorithms that calculates this stale data, and the results can be as much as two years old. In essence, to use the old Neighborhood Scout rates alone for our purposes would not make sense when newer local data from the McAllen Police Department is available.

Therefore for our purposes, the local data source provided by the MPD is put forth in the following extrapolated calculations that best mirror the older Neighborhood Scout rate and its property crime categories. By comparing and contrasting the assumed 2014 NS data and 2014 FBI data with the current MPD data from 2014, 2015, and 2016, the overall result is:

Las Palomas Village - <b>Census Tract</b>	=	<b>23.06 per 1000</b> residents (2016)
Las Palomas Village - <b>Census Block</b>	=	<b>22.00 per 1000</b> residents (2016)
City of McAllen - <b>City Limits</b>	=	<b>25.93 per 1000</b> residents (2014) <b>23.78 per 1000</b> residents (2015) <b>22.42 per 1000</b> residents (2016)

  
(decreasing annually)

**MCALLEN CITY LIMITS**

**PROPERTY CRIME RATE**

The McAllen Police Department releases local data sources annually, which are called crime data reports. See attached, *MPD Crime Data Report*. To best mirror the Neighborhood Scout information – which is typically two years behind current local data sources – we are using the City of McAllen’s local crime data reports for 2014, 2015, and 2016. In addition, we are specifically looking at property crime data only – i.e., all larceny (theft), burglary, and motor vehicle theft – which similarly mirrors how Neighborhood Scout reports its categories.

**McAllen Police Department / Crime Data Reports**

---

**City of McAllen**

	2014		2015		2016
Larceny (Theft) √	30.79		28.25		27.17
Burglary	2.90		3.00		2.24
Motor Vehicle Theft	1.21		0.77		0.79
<b>Total</b>	34.90*	<-8.3%>	32.02*	<-5.7%>	30.20*
		% annual decrease		% annual decrease	

\* All figures per 1000 residents

√ Figures can include larceny below \$50. Typically Neighborhood Scout and the FBI does not track this data.

**FBI – uniform crime reported by MPD in 2014**

When contrasting and comparing the above decreasing trend % with the local property crime reported by the MPD to the FBI in 2014, the property crime rate for the city limits of McAllen is less than 26 per 1000 annually. Like Neighborhood Scout which also uses this FBI data, the below figures are indicative of the consistent trends within the city limits: (to better mirror NS, this data may not include larceny below \$50)

POPULATION	PROPERTY CRIME RATE	TOTAL	
138,122	3581.6	25.93 per 1000 residents	2014
		<-8.3%>	% decrease
		23.78 per 1000 residents	2015
		<-5.7%>	% decrease
		22.42 per 1000 residents	2016

See Attached, MPD Crime Data Report / Crime Trends & Analysis

See Attached, FBI Uniform Crime Reporting Statistics





## City of McAllen Crime Report

# McAllen Police Department



# Crime In McAllen 2016

# CRIME TRENDS & ANALYSIS

- ☐ Crime trends are analyzed using two methods: Crime Volume and Crime Rates.
- ☐ Crime analysis studies two categories of crime: Violent Crimes and Property Crimes

## CRIME VOLUME:

- Crime Volume is the collective sum of the seven index crimes.
- By comparing the crime volume of index crimes from year to year, trends can be evaluated.

## CRIME RATES:

- Crime Rates are compiled to compensate for the changes in population and to show the number of people affected by crime in a given population.
- Crime rates are generally expressed in the number of crimes per 100,000 residents.

## VIOLENT CRIMES:

- Involve the element of personal confrontation between the perpetrator and the victim.
- This category is comprised of Homicide, Rape, Robbery, and Aggravated Assault.

## PROPERTY CRIMES:

- Involve only the taking of money or property.
- This category is comprised of Burglary, Theft, and Motor Vehicle Theft.

City of McAllen Crime Volume Analysis				
Table: 2				
	Offense	2016	2015	% Change
Violent Crimes	Murder	3	2	50.0%
	Rape	40	16	150.0%
	Robbery	65	51	27.5%
	Aggravated Assault	107	83	28.9%
	Violent Crime Total	215	152	41.4%
Property Crimes	Burglary	331	435	-23.9%
	Theft	4022	4091	-1.7%
	Motor Vehicle Theft	117	111	5.4%
	Property Crime Total	4470	4637	-3.6%
Index Crime Total		4685	4789	-2.2%

City of McAllen Crime Rate Analysis				
Table: 3				
	Offense	2016	2015	% Change
Violent Crimes	Murder	2.0	1.4	46.8%
	Rape	27.0	11.0	144.6%
	Robbery	43.9	35.2	24.7%
	Aggravated Assault	72.3	57.3	26.1%
	Violent Crime Total	145.2	104.9	38.4%
Property Crimes	Burglary	223.6	300.3	-25.5%
	Theft	2716.9	2824.5	-3.8%
	Motor Vehicle Theft	79.0	76.6	3.1%
	Property Crime Total	3019.6	3201.4	-5.7%
Index Crime Total		3164.8	3306.3	-4.3%

- ◆ During the calendar year 2016, there were a total 4685 index offenses in the City of McAllen. The crime volume decreased 2.2% when compared to 2015.
- ◆ During the calendar year 2016, the City of McAllen’s crime rate was 3164.8 crimes per 100,000 persons. The crime rate decreased 4.3% when compared to 2015.



**City of McAllen Crime Report**

# **McAllen Police Department**



# **Crime In McAllen 2015**



# CRIME TRENDS & ANALYSIS

- ❑ **Crime trends are analyzed using two methods, Crime Volume and Crime Rates.**
- ❑ **Crimes are also categorized according to: Violent Crimes and Property Crimes.**

## CRIME VOLUME:

Volume is the collective sum of the seven index crimes. By comparing the volume of index crimes from year to year, trends can be evaluated.

## CRIME RATES:

Crime rates on the other hand, are compiled to compensate for the changes in population and to show the number of people affected by crime in a given population. Crime rates are usually expressed in the number of crimes per 100,000 residents.

## VIOLENT CRIMES:

Involve the element of personal confrontation between the perpetrator and the victim. This category is comprised of Homicide, Forcible Rape, Robbery, and Aggravated Assault.

## PROPERTY CRIMES:

Involve only the taking of money or property. This category is comprised of Burglary, Theft, and Motor Vehicle Theft.

McAllen Crime Volume –Table: 2				
	Offense	2015	2014	% Change
Violent Crimes	Murder	2	6	-66.7%
	Rape	16	18	-11.1%
	Robbery	51	68	-25.0%
	Aggravated Assault	83	90	-7.8%
	Violent Crime Total	152	182	-16.5%
	<hr/>			
Property Crimes	Burglary	435	411	5.8%
	Theft	4091	4364	-6.3%
	Motor Vehicle Theft	111	172	-35.5%
	Property Crime Total	4637	4947	-6.3%
	Index Crime Total	4789	5129	-6.6%

McAllen Crime Rate- Table: 3				
	Offense	2015	2014	% Change
Violent Crimes	Murder	1.4	4.2	-67.4%
	Rape	11.0	12.7	-13.0%
	Robbery	35.2	48.0	-26.6%
	Aggravated Assault	57.3	63.5	-9.8%
	Violent Crime Total	104.9	128.4	-18.3%
	<hr/>			
Property Crimes	Burglary	300.3	290.0	3.6%
	Theft	2824.5	3079.4	-8.3%
	Motor Vehicle Theft	76.6	121.4	-36.9%
	Property Crime Total	3201.4	3490.8	-8.3%
	Index Crime Total	3306.4	3619.2	-8.6%

- ◆ During the calendar year 2015, there were a total 4789 index offenses in the City of McAllen. The index decreased 6.6% when compared to 2014.
- ◆ During the calendar year 2015, McAllen’s crime rate was 3306.4 crimes per 100,000 persons. The crime rate decreased 8.6%



# UCR

## UNIFORM CRIME REPORTING STATISTICS

Database-driven, customizable access to official UCR statistics

U.S. Department of Justice  
Federal Bureau of Investigation

FBI

[FBI Home](#) ➔ [UCR](#) ➔ [UCR Data Online](#) ➔ [Reported Crime](#) ➔ [Local Level](#) ➔ [Single Agency](#)

[Contact Us](#)

Results from local-level reported crime database

[Spreadsheet of this table \(.csv file\)](#) | [Spreadsheet help](#)    [Revise this query](#) | [Get a different type of table](#)

**Definitions.** Also see notes at the end of the page.

For caution, see [Caution against ranking](#)

### Crime reported by McAllen Police Dept, Texas

Crime rate per 100,000 population						
Property crime						

Year	Months reporting	Population coverage	Property crime rate*	Burglary rate	Larceny-theft rate	Motor vehicle theft rate
*** 2014	12	*** 138,122	3,581.6	297.6	3,159.5	124.5

**Notes:** When data are unavailable, the cells are blank or the year is not presented.  
 Variations in population coverage and reporting practices may cause differences in reporting from year to year. (See [definitions](#)).  
 MSA and non-MSA county populations are not available.  
 Crime rates are not available for agencies that report data for less than 12 months of a year.

**Sources:** FBI, Uniform Crime Reports as prepared by the National Archive of Criminal Justice Data

[Home page](#) | [Top of this page](#)

**LAS PALOMAS VILLAGE / CENSUS TRACT**

**PROPERTY CRIME RATE**

Because Neighborhood Scout is only showing a census tract property crime rate in its reports utilizing old 2014 data, then it stands to reason that the 2015 and 2016 census tract property crime rates need to be projected for census tract 208.03 as per the downward percentage (%) trends evidenced in the current McAllen Police Reports for those same years. For example, if NS indicates a 2014 census tract rate of 26.66, then in 2015 it would be decreased by 8.3%, and then in 2016 it would decrease by 5.7% in the same fashion that the City of McAllen is trending.

**Neighborhood Scout / Projected Trend**

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**Census Tract 208.03 / Las Palomas Village**

<b>Combined Categories</b>	<b>2014</b>		<b>2015</b>		<b>2016</b>
<b>Larceny (Theft), Burglary, and Motor Vehicle Theft</b>	26.66*	<-8.3%>	24.45*	<-5.7%>	<b>23.06*</b>

\*All figures per 1000 residents



## LAS PALOMAS VILLAGE / CENSUS BLOCK GROUP

### PROPERTY CRIME RATE

The population data used for census block group calculations is based on the 2010-2014 ACS / B01003. This population is 135,048 for the City of McAllen and 2,237 for Census Block Group 3, CT 208.03. See attached, *ACS Population Table and Census Block Map*.

When the MPD data is calculated with these population figures using the 2016 property crime total, the City of McAllen witnesses a crime rate in larceny, burglary, and motor vehicle theft combined that is less than 26 per 1000. In addition, when these percentages are calculated into the census block group population for Las Palomas Village, the result is a rate of 22.00 per 1000 in 2016, which more closely underscores the near vicinity to the development site on a local level.

#### **City (pop. 135,048)**

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YEAR	POPULATION	PROPERTY CRIME RATE	TOTAL
2016	135,048	3019.6	22.36 per 1000 residents

#### **Census Block Group (pop. 2,237)**

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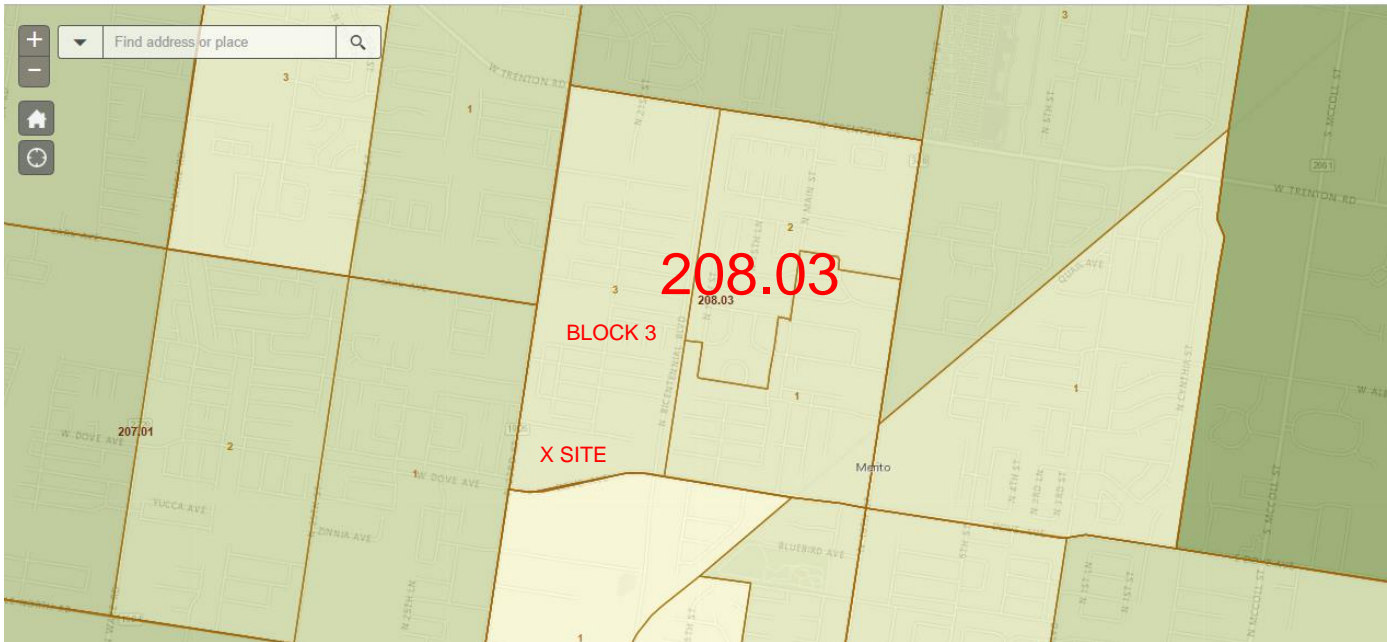
**Percentage of population affected by larceny, burglary, or motor vehicle theft in 2016:**

$$3019.6 \text{ property crimes} / 135,048 \text{ population} = 2.2\%$$

2.2% of 2,237 = 49.214 probable property crimes occurring inside Census Block Group 3

$$49.214 / 2,237 = \text{22.00 property crimes per 1000 residents}$$

Thematic Map of Estimate; Total  
Geography: by Block Group within Census Tract



B01003 TOTAL POPULATION  
Universe: Total population  
2010-2014 American Community Survey 5-Year Estimates

Table View

Map View

BACK TO ADVANCED SEARCH

Actions: Modify Table | Add/Remove Geographies | Bookmark/Save | Print | Download | Create a Map

Click on a data value in the table to map.

CANCEL

View Geography Notes | View Table Notes

American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, and estimates of housing units for states and counties.

« 127 - 144 of 678 »

	Block Group 2, Census Tract 208.02, Hidalgo County, Texas		Block Group 3, Census Tract 208.02, Hidalgo County, Texas		Block Group 4, Census Tract 208.02, Hidalgo County, Texas		Block Group 5, Census Tract 208.02, Hidalgo County, Texas		Block Group 1, Census Tract 208.03, Hidalgo County, Texas		Block Group 2, Census Tract 208.03, Hidalgo County, Texas		Block Group 3, Census Tract 208.03, Hidalgo County, Texas		Block Group 1, Census Tract 208.04, Hidalgo County, Texas		Block Group 2, Census Tract 208.04, Hidalgo County, Texas	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Total	826	+/-398	1,983	+/-714	1,376	+/-906	2,937	+/-713	1,623	+/-458	1,784	+/-420	2,237	*****	931	+/-326	977	+/-414

« 127 - 144 of 678 »



**Advanced Search** - Search all data in American FactFinder

1 [Advanced Search](#) 2 [Table Viewer](#)

Result 1 of 1 [VIEW ALL AS PDF](#)

B01003 | TOTAL POPULATION  
Universe: Total population ⓘ  
2010-2014 American Community Survey 5-Year Estimates

Table View

[BACK TO ADVANCED SEARCH](#)

Actions: [Modify Table](#) | [Add/Remove Geographies](#) | [Bookmark/Save](#) | [Print](#) | [Download](#) | [Create a Map](#)

[View Geography Notes](#) | [View Table Notes](#)

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

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McAllen city, Texas			
		Estimate	Margin of Error
Total	****	135,048	+/-115



## LOCAL DATA SOURCES

There is nothing that shows the data for the census tract

The McAllen Police Department (MPD) provides a local data source that indicates the property crime rate for the Las Palomas Village census tract is currently less than 26 per 1000 and steadily declining.

Among many things, this local data source shows that the overall property crime rate in the entire City of McAllen is decreasing annually. To that end, when this data is extrapolated for specific property crime categories (*i.e.*, *larceny/theft, burglary, and motor vehicle theft*) then the Las Palomas Village census block group, census tract, and City of McAllen are all witnessing property crime rates that are either decreasing annually or remaining statically less than 26 per 1000 in 2016, which is the most reliable year for calculating current property crime rates and trends. Ultimately, we are using those rates and trends to claim this opportunity index menu item.

Although the Neighborhood Scout (NS) score for census tract 208.03 is one of the lowest property crime rates in all of McAllen – e.g., 26.66 per 1000 – all indications suggest that Neighborhood Scout is unreliable for current statistics and localized crime reporting. The reason for this is because it is an extrapolation of old data. Moreover, it uses a proprietary blend of algorithms that calculates this stale data, and the results can be as much as two years old. In essence, to use the old Neighborhood Scout rates alone for our purposes would not make sense when newer local data from the McAllen Police Department is available.

Local data is only provided on city wide basis

Therefore for our purposes, the local data source provided by the MPD is put forth in the following extrapolated calculations that best mirror the older Neighborhood Scout rate and its property crime categories. By comparing and contrasting the assumed 2014 NS data and 2014 FBI data with the current MPD data from 2014, 2015, and 2016, the overall result is:

Neighborhood Scout Report not in application

No data by census tract or block provided

Las Palomas Village - Census Tract	=	<b>23.06 per 1000</b> residents (2016)
Las Palomas Village - Census Block	=	<b>22.00 per 1000</b> residents (2016)
City of McAllen - City Limits	=	<b>25.93 per 1000</b> residents (2014)
		<b>23.78 per 1000</b> residents (2015)
		<b>22.42 per 1000</b> residents (2016)
(decreasing annually)		



**MCALLEN CITY LIMITS**

**PROPERTY CRIME RATE**

The McAllen Police Department releases local data sources annually, which are called crime data reports. See attached, *MPD Crime Data Report*. To best mirror the Neighborhood Scout information – which is typically two years behind current local data sources – we are using the City of McAllen’s local crime data reports for 2014, 2015, and 2016. In addition, we are specifically looking at property crime data only – i.e., all larceny (theft), burglary, and motor vehicle theft – which similarly mirrors how Neighborhood Scout reports its categories.

**McAllen Police Department / Crime Data Reports**

---

**City of McAllen**

	2014		2015		2016
Larceny (Theft) √	30.79		28.25		27.17
Burglary	2.90		3.00		2.24
Motor Vehicle Theft	1.21		0.77		0.79
<b>Total</b>	34.90*	<b>&lt;-8.3%&gt;</b>	32.02*	<b>&lt;-5.7%&gt;</b>	30.20*
		<b>% annual decrease</b>		<b>% annual decrease</b>	

\* All figures per 1000 residents

√ Figures can include larceny below \$50. Typically Neighborhood Scout and the FBI does not track this data.

**FBI – uniform crime reported by MPD in 2014**

When contrasting and comparing the above decreasing trend % with the local property crime reported by the MPD to the FBI in 2014, the property crime rate for the city limits of McAllen is less than 26 per 1000 annually. Like Neighborhood Scout which also uses this FBI data, the below figures are indicative of the consistent trends within the city limits: (to better mirror NS, this data may not include larceny below \$50)

POPULATION	PROPERTY CRIME RATE	TOTAL	
138,122	3581.6	<b>25.93</b> per 1000 residents	<b>2014</b>
		<b>&lt;-8.3%&gt;</b>	% decrease
		<b>23.78</b> per 1000 residents	<b>2015</b>
		<b>&lt;-5.7%&gt;</b>	% decrease
		<b>22.42</b> per 1000 residents	<b>2016</b>

See Attached, MPD Crime Data Report / Crime Trends & Analysis

See Attached, FBI Uniform Crime Reporting Statistics



## City of McAllen Crime Report

# McAllen Police Department



# Crime In McAllen 2016



# CRIME TRENDS & ANALYSIS

- ❑ Crime trends are analyzed using two methods: Crime Volume and Crime Rates.
- ❑ Crime analysis studies two categories of crime: Violent Crimes and Property Crimes

## CRIME VOLUME:

- Crime Volume is the collective sum of the seven index crimes.
- By comparing the crime volume of index crimes from year to year, trends can be evaluated.

## CRIME RATES:

- Crime Rates are compiled to compensate for the changes in population and to show the number of people affected by crime in a given population.
- Crime rates are generally expressed in the number of crimes per 100,000 residents.

## VIOLENT CRIMES:

- Involve the element of personal confrontation between the perpetrator and the victim.
- This category is comprised of Homicide, Rape, Robbery, and Aggravated Assault.

## PROPERTY CRIMES:

- Involve only the taking of money or property.
- This category is comprised of Burglary, Theft, and Motor Vehicle Theft.

City of McAllen Crime Volume Analysis				
Table: 2				
	Offense	2016	2015	% Change
Violent Crimes	Murder	3	2	50.0%
	Rape	40	16	150.0%
	Robbery	65	51	27.5%
	Aggravated Assault	107	83	28.9%
	Violent Crime Total	215	152	41.4%
Property Crimes	Burglary	331	435	-23.9%
	Theft	4022	4091	-1.7%
	Motor Vehicle Theft	117	111	5.4%
	Property Crime Total	4470	4637	-3.6%
Index Crime Total		4685	4789	-2.2%

City of McAllen Crime Rate Analysis				
Table: 3				
	Offense	2016	2015	% Change
Violent Crimes	Murder	2.0	1.4	46.8%
	Rape	27.0	11.0	144.6%
	Robbery	43.9	35.2	24.7%
	Aggravated Assault	72.3	57.3	26.1%
	Violent Crime Total	145.2	104.9	38.4%
Property Crimes	Burglary	223.6	300.3	-25.5%
	Theft	2716.9	2824.5	-3.8%
	Motor Vehicle Theft	79.0	76.6	3.1%
	Property Crime Total	3019.6	3201.4	-5.7%
Index Crime Total		3164.8	3306.3	-4.3%

- ◆ During the calendar year 2016, there were a total 4685 index offenses in the City of McAllen. The crime volume decreased 2.2% when compared to 2015.
- ◆ During the calendar year 2016, the City of McAllen’s crime rate was 3164.8 crimes per 100,000 persons. The crime rate decreased 4.3% when compared to 2015.



**City of McAllen Crime Report**

# **McAllen Police Department**



# **Crime In McAllen 2015**

# CRIME TRENDS & ANALYSIS

- ❑ **Crime trends are analyzed using two methods, Crime Volume and Crime Rates.**
- ❑ **Crimes are also categorized according to: Violent Crimes and Property Crimes.**

## CRIME VOLUME:

Volume is the collective sum of the seven index crimes. By comparing the volume of index crimes from year to year, trends can be evaluated.

## CRIME RATES:

Crime rates on the other hand, are compiled to compensate for the changes in population and to show the number of people affected by crime in a given population. Crime rates are usually expressed in the number of crimes per 100,000 residents.

## VIOLENT CRIMES:

Involve the element of personal confrontation between the perpetrator and the victim. This category is comprised of Homicide, Forcible Rape, Robbery, and Aggravated Assault.

## PROPERTY CRIMES:

Involve only the taking of money or property. This category is comprised of Burglary, Theft, and Motor Vehicle Theft.

McAllen Crime Volume –Table: 2				
	Offense	2015	2014	% Change
Violent Crimes	Murder	2	6	-66.7%
	Rape	16	18	-11.1%
	Robbery	51	68	-25.0%
	Aggravated Assault	83	90	-7.8%
	Violent Crime Total	152	182	-16.5%
	<hr/>			
Property Crimes	Burglary	435	411	5.8%
	Theft	4091	4364	-6.3%
	Motor Vehicle Theft	111	172	-35.5%
	Property Crime Total	4637	4947	-6.3%
	Index Crime Total	4789	5129	-6.6%

McAllen Crime Rate- Table: 3				
	Offense	2015	2014	% Change
Violent Crimes	Murder	1.4	4.2	-67.4%
	Rape	11.0	12.7	-13.0%
	Robbery	35.2	48.0	-26.6%
	Aggravated Assault	57.3	63.5	-9.8%
	Violent Crime Total	104.9	128.4	-18.3%
	<hr/>			
Property Crimes	Burglary	300.3	290.0	3.6%
	Theft	2824.5	3079.4	-8.3%
	Motor Vehicle Theft	76.6	121.4	-36.9%
	Property Crime Total	3201.4	3490.8	-8.3%
	Index Crime Total	3306.4	3619.2	-8.6%

- ◆ During the calendar year 2015, there were a total 4789 index offenses in the City of McAllen. The index decreased 6.6% when compared to 2014.
- ◆ During the calendar year 2015, McAllen’s crime rate was 3306.4 crimes per 100,000 persons. The crime rate decreased 8.6%





# UCR

## UNIFORM CRIME REPORTING STATISTICS

Database-driven, customizable access to official UCR statistics

U.S. Department of Justice  
Federal Bureau of Investigation

FBI

[FBI Home](#) ➔ [UCR](#) ➔ [UCR Data Online](#) ➔ [Reported Crime](#) ➔ [Local Level](#) ➔ [Single Agency](#)

[Contact Us](#)

Results from local-level reported crime database

[Spreadsheet of this table \(.csv file\)](#) | [Spreadsheet help](#)    [Revise this query](#) | [Get a different type of table](#)

**Definitions.** Also see notes at the end of the page.

For caution, see [Caution against ranking](#)

### Crime reported by McAllen Police Dept, Texas

Crime rate per 100,000 population						
Property crime						

Year	Months reporting	Population coverage	Property crime rate*	Burglary rate	Larceny-theft rate	Motor vehicle theft rate
*** 2014	12	*** 138,122	3,581.6	297.6	3,159.5	124.5

**Notes:** When data are unavailable, the cells are blank or the year is not presented.  
 Variations in population coverage and reporting practices may cause differences in reporting from year to year. (See [definitions](#)).  
 MSA and non-MSA county populations are not available.  
 Crime rates are not available for agencies that report data for less than 12 months of a year.

**Sources:** FBI, Uniform Crime Reports as prepared by the National Archive of Criminal Justice Data

[Home page](#) | [Top of this page](#)

**LAS PALOMAS VILLAGE / CENSUS TRACT**

**PROPERTY CRIME RATE**

Because Neighborhood Scout is only showing a census tract property crime rate in its reports utilizing old 2014 data, then it stands to reason that the 2015 and 2016 census tract property crime rates need to be projected for census tract 208.03 as per the downward percentage (%) trends evidenced in the current McAllen Police Reports for those same years. For example, if NS indicates a 2014 census tract rate of 26.66, then in 2015 it would be decreased by 8.3%, and then in 2016 it would decrease by 5.7% in the same fashion that the City of McAllen is trending.

This is city wide data and not census tract data as required by the QAP

**Neighborhood Scout / Projected Trend**

**Census Tract 208.03 / Las Palomas Village**

Combined Categories	2014		2015		2016
Larceny (Theft), Burglary, and Motor Vehicle Theft	26.66*	<-8.3%>	24.45*	<-5.7%>	23.06*

\*All figures per 1000 residents

No documentation included in application

This is a city wide decrease, not by census tract

This is a city wide decrease, not by census tract

## LAS PALOMAS VILLAGE / CENSUS BLOCK GROUP

### PROPERTY CRIME RATE

The population data used for census block group calculations is based on the 2010-2014 ACS / B01003. This population is 135,048 for the City of McAllen and 2,237 for Census Block Group 3, CT 208.03. See attached, *ACS Population Table and Census Block Map*.

When the MPD data is calculated with these population figures using the 2016 property crime total, the **City of McAllen witnesses a crime rate in larceny, burglary, and motor vehicle theft combined that is less than 26 per 1000**. In addition, when these percentages are calculated into the census block group population for Las Palomas Village, the result is a rate of 22.00 per 1000 in 2016, which more closely underscores the near vicinity to the development site on a local level.

#### **City (pop. 135,048)**

---

YEAR	POPULATION	PROPERTY CRIME RATE	TOTAL
2016	135,048	3019.6	22.36 per 1000 residents

#### **Census Block Group (pop. 2,237)**

---

**Percentage of population affected by larceny, burglary, or motor vehicle theft in 2016:**

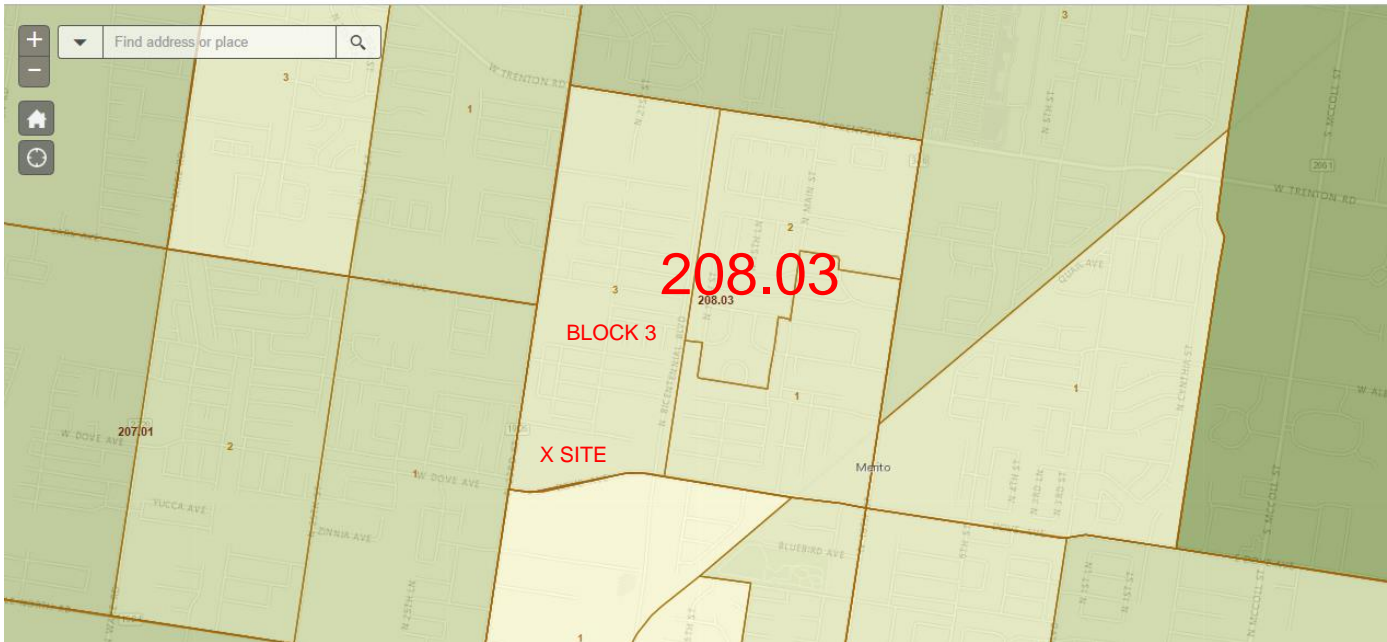
$$3019.6 \text{ property crimes} / 135,048 \text{ population} = 2.2\%$$

2.2% of 2,237 = 49.214 probable property crimes occurring inside Census Block Group 3

$$49.214 / 2,237 = \mathbf{22.00 \text{ property crimes per 1000 residents}}$$



Thematic Map of Estimate; Total  
Geography: by Block Group within Census Tract



B01003 TOTAL POPULATION  
Universe: Total population  
2010-2014 American Community Survey 5-Year Estimates

Table View

Map View

BACK TO ADVANCED SEARCH

Actions: Modify Table | Add/Remove Geographies | Bookmark/Save | Print | Download | Create a Map

Click on a data value in the table to map.

CANCEL

View Geography Notes | View Table Notes

American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, and estimates of housing units for states and counties.

« 127 - 144 of 678 »

	Block Group 2, Census Tract 208.02, Hidalgo County, Texas		Block Group 3, Census Tract 208.02, Hidalgo County, Texas		Block Group 4, Census Tract 208.02, Hidalgo County, Texas		Block Group 5, Census Tract 208.02, Hidalgo County, Texas		Block Group 1, Census Tract 208.03, Hidalgo County, Texas		Block Group 2, Census Tract 208.03, Hidalgo County, Texas		Block Group 3, Census Tract 208.03, Hidalgo County, Texas		Block Group 1, Census Tract 208.04, Hidalgo County, Texas		Block Group 2, Census Tract 208.04, Hidalgo County, Texas	
	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Total	826	+/-398	1,983	+/-714	1,376	+/-906	2,937	+/-713	1,623	+/-458	1,784	+/-420	2,237	*****	931	+/-326	977	+/-414

« 127 - 144 of 678 »



**Advanced Search** - Search all data in American FactFinder

1 [Advanced Search](#) 2 [Table Viewer](#)

Result 1 of 1 [VIEW ALL AS PDF](#)

B01003 | TOTAL POPULATION  
Universe: Total population ⓘ  
2010-2014 American Community Survey 5-Year Estimates

Table View

[BACK TO ADVANCED SEARCH](#)

Actions: [Modify Table](#) | [Add/Remove Geographies](#) | [Bookmark/Save](#) | [Print](#) | [Download](#) | [Create a Map](#)

[View Geography Notes](#) | [View Table Notes](#)

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

»  
1  
1  
1 of 1  
«

McAllen city, Texas			
		Estimate	Margin of Error
Total	****	135,048	+/-115



**CITY OF McALLEN  
OFFICE OF THE CHIEF OF POLICE**

Victor Rodriguez  
Chief of Police

May 31, 2017

Mr. Steve Lollis  
Texas Grey Oaks, LLC  
710 North Post Oak Road, Ste. 400  
Houston, Texas 77204

Re: McAllen Property Crime Statistics

Dear Mr. Lollis,

I have reviewed "pages from 17390-Property Crime Analysis" as represented in the attachment herewith.

The analysis report reflects that selected "Census Tract" and "Census Block" data is "extrapolated" and "projected" from Uniformed Crime Reports (UCR) prepared by the City of McAllen Police Department and the US Department of Justice FBI.

Please know that these (McAllen and FBI) UCR reports are a reflection of city-wide data. These reports are **not prepared or are reflective** of any census tract or census block. Therefore, "extrapolation" for purposes of determining the UCR crime activity of any census tract or census block is not an accurate analysis of UCR crime activity for any census tract or census block.

Respectfully, I remain.

A handwritten signature in blue ink, appearing to be "V. Rodriguez", is written over the typed name.

Victor Rodriguez,  
Chief of Police



Application #17390  
Las Palomas  
Third Party Request for Administrative  
Deficiency

Applicant Response



6517 Mapleridge  
Houston, TX 77081  
T. 713.432.7727  
F. 713.432.0120

June 20, 2017

Marni Holloway, Director of Multifamily Finance  
Texas Department of Housing and Community Affairs (TDHCA)  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: 17390 – 9% HTC Application Deficiency Notice / Response

Dear Ms. Holloway,

The following is our timely response to the Application Deficiency Notice issued to #17390 Las Palomas (the “Application”) on June 13, 2017. For reference, the capitalized terms used but not defined in this letter will have the meanings given them in the 2017 State of Texas Qualified Allocation Plan (“QAP”).

**Deficiencies.** The three (3) Administrative Deficiencies pertaining to the Application are listed as follows:

1. While the rule states that “The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground”, and not from the playground as the requester asserts, the accessible route to the park entrance (not the boundary) appears to be slightly longer than ½ mile. Provide evidence that the route is less than ½ mile and that the entire route to the playground is accessible.
2. Considering the information provided in the request, explain how the route to public transportation meets the requirement that that “The Development Site is located less than ½ mile on an accessible route from Public Transportation...”.
3. The crime data supplied appears to extrapolate from data that is associated with city-wide data, not from data that is specific to the census tract. Provide evidence that the Application is eligible to score points under this item.

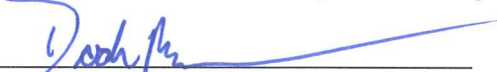
**Responses.** The three (3) responses to the aforementioned Administrative Deficiencies are enclosed hereto and presented in order for your convenience. (See, *Responses & Exhibits*). For the reasons stated in each response herein, we firmly believe the Application should retain all scoring points at issue.

If there is any additional information or further clarification needed, please do not hesitate to contact our office at your earliest convenience.

Kind Regards,

Brownstone Affordable Housing, Ltd., a Texas limited partnership

By: Three B Ventures, Inc., a Texas corporation, its general partner

By:   
Doak D. Brown, Vice President  
doak@thebrownstonegroup.net

Enclosure: *Responses & Exhibits*



## **Responses & Exhibits**

## DEFICIENCY #1

*While the rule states that “The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground”, and not from the playground as the requester asserts, the accessible route to the park entrance (not the boundary) appears to be slightly longer than 1/2 mile. Provide evidence that the route is less than 1/2 mile and that the entire route to the playground is accessible.*

### Summary

---

To claim this menu item, it is not the route that must be less than 1/2 mile. Rather, it is the distance (*as a crow flies*) that must be less than 1/2 mile. And while it is true that the entire route to the playground is required to be accessible, we provided a letter from a Registered Accessibility Specialist that attests to this requirement in our Application.

### Response

---

**Primary Issue** - *Provide evidence that the route is less than 1/2 mile and that the entire route to the playground is accessible.*

To better understand this menu item, it is best to break down the QAP language into its three major components that are applicable to our purposes – **distance**, **route**, and **amenity**.

DISTANCE

ROUTE

*(I) The Development site is located less than 1/2 mile on an accessible route from a **public park** with an accessible playground, both of which meet 2010 ADA standards. --- Opportunity Index §11.9(c)(4)(B)(i)(I).*

AMENITY

**Distance.** As it applies to distance, developers are only required to measure from the boundary of the amenity (public park) to the boundary of the property (Development Site). This boundary-to-boundary measuring technique is both part of precedent and it has been clearly stated by staff:

How is **distance measured**?

- I assume the playground's distance away is measured as a crow flies from the nearest point of the proposed development site to the playground.
- What is the point of measurement for the playground? Is it the edge of the play area or the edge of the park in which the playground is located?
- I assume there is no distance requirement for the accessible route as it may be longer than the ½ mile requirement given the winding of streets etc.

--- Commenter 57 / TDHCA Board Book, November 10, 2016

*In response to commenters (57) and (58), staff clarifies that distance is measured as linear distance, or “as the crow flies” from the closest points of the boundaries of the amenity and Development Site.* --- Staff / TDHCA Board Book, November 10, 2016

*Every reference to the measurement of distance indicates measuring boundary-to-boundary “unless otherwise noted”* --- QAP & Multifamily Rules / §11.3(c)(1) One Mile Three Year Rule; §11.7(6) Distance Tie-break Factor; §11.9(c)(8) Proximity to the Urban Core; §10.101(a)(2) Undesirable Site Features; §10.101(a)(3) Undesirable Neighborhood Characteristics; and §10.302(g)(2) Proximity to Other Development

The Opportunity Index is silent on how distances are to be measured and therefore, a reasonable person should be able to rely on the same measuring technique codified in every other section of the Rules, when measuring for amenity distances. To date, the Opportunity Index distance measurement has never been otherwise noted, neither in the FAQ or the QAP. The only clarification by staff simply confirms that the amenity must be within ½ mile of the site – i.e., measured – but the entire route only needs to be accessible – i.e., not measured.

**Q:** *Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long?* **A:** *The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable).* --- 2017 FAQ

DISTANCE TO AMENITY MEASURED

ROUTE NOT MEASURED, ONLY ACCESSIBLE



By answering the FAQ question in this manner, staff expressly applies the ½ mile requirement to the distance component and the accessibility requirement to the route component. In other words, a developer is only required to measure one component – i.e., the distance, which is consistently defined *as the crow flies boundary-to-boundary from the Development Site to the amenity*.

As a prudent note, there was never a requirement that developers were to provide staff with three measurement distances in order to claim this menu item – e.g., 1) distance to the park entrance; 2) distance to the playground; and 3) distance of the entire ADA accessible route. On the contrary, it would be reasonable to conclude that staff was only looking for one measured distance on this menu item and stated as much on the record, especially when they implied that static boundaries are the proper means to measure any distance requirement found in the scoring criteria of the QAP. [Note, again: “*as the crow flies*” from the closest points of the boundaries of the amenity and Development Site. --- Staff / TDHCA Board Book, November 10, 2016].

In conclusion, we complied with the rules and measured the distance from the closest boundary point of the amenity (Garza Park) to the closest boundary point of our Development Site (Las Palomas). This boundary-to-boundary measurement is precisely 0.499 miles which is indeed less than ½ mile and is evidenced by a professional surveyor. See, *Exhibit 1A*. In essence, since this is fully in compliance with the distance component of menu item §11.9(c)(4)(B)(i)(I), we should maintain the point that staff confirmed in our scoring notice.

**Route.** As it applies to route, the only requirement within the QAP is that the route must be accessible using 2010 ADA standards. In addition, staff extended this to mean the “entire route”.

*The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground, both of which meet 2010 ADA standards. --- §11.9(c)(4)(B)(i)(I).*

*[...] the entire route must be accessible (including transit as applicable). --- 2017*  
**FAQ**

Evidenced already in the Application is our letter from a Registered Accessibility Specialist, licensed by the State of Texas, which specifically states that the route from the Development Site “to the park and playground”...“meets the 2010 ADA accessibility standards”. See, *Exhibit 1B*. This same letter further states that “the playground located at this park also meets these standards.”

By having included this letter from a third-party accessibility expert who both confirmed that the entire route from the Development Site to the park and playground meets the 2010 ADA accessibility standards, as well as, confirmed that the playground equipment itself meets the 2010

ADA accessibility standards, then we are in full evidentiary compliance with menu item §11.9(c)(4)(B)(i)(I) both now and at the time of full application.

It is also important to note that at the TDHCA Board Meeting on May 25, 2017, Marni Holloway was asked by the Board what type of documentation would be accepted as evidence of accessibility. On the record she replied, “a letter from the local official regarding the design of that public path or a report from a third-party accessibility expert.” See, *Exhibit 1C*.

In conclusion, since we submitted a report from a third-party accessibility expert in the form of a confirmation letter that clearly states we are in full compliance with the QAP, we should maintain the point that staff confirmed in our scoring notice to the extent that this ADA accessible route component is both clarified and achieved.

**Amenity.** Regarding the amenity component for this menu item, staff correctly points out in the deficiency notice that it is not the playground, but rather the park itself that is the amenity.

*While the rule states that “The Development site is located less than 1/2 mile on an accessible route from a public park with an accessible playground”, and **not from the playground as the requester asserts**, the accessible route to the **park entrance (not the boundary)** appears to be slightly longer than 1/2 mile. Provide evidence that the route is less than 1/2 mile and that the entire route to the playground is accessible. --- Deficiency #1*

Because the park is the primary amenity, it becomes the measuring point for this menu item. The only requirement concerning the playground is that it is completely ADA accessible. In other words, it is a required feature within the park amenity, but it is not the amenity to measure distance from.

Importantly, if staff were to now require a measured distance to the *park entrance*, then staff would effectively be changing the spirit of the Rule. As already mentioned, historical precedent and the plain language of the Rule states the measurement uses the “*boundaries of the amenity to the Development Site*”. In this instance, the park entrance is not a boundary.

Ultimately, it is critical to draw this distinction between the park “amenity” and the park “entrance”. It is also important to understand that the playground is a feature within the park amenity, but it is not required that we measure a distance specifically to the playground itself, as staff expressly points out in the deficiency notice language.

In conclusion, since the park is the amenity and the boundary from which distance is measured, we should maintain the point that staff confirmed in our scoring notice to the extent that the amenity component is achieved.

### **Conclusion**

---

The Application is eligible to score points under this menu item because the entire route to the playground is ADA accessible and the measured distance as the crow flies from boundary-to-boundary is less than ½ mile. It is not required that the distance from the Development Site to the playground be measured, nor is it required that the distance to the park entrance be measured. Rather, it is the closest point of the park amenity itself that creates the boundary measurement for this scoring item. As the evidence submitted in the Application and further attachments hereto indicate, we are in compliance with Opportunity Index §11.9(c)(4)(B)(i)(I) and should maintain the point that staff confirmed in our scoring notice.



**Exhibit 1A**

---



  
 BEARING BASIS AS PER TEXAS STATE  
 PLANE GRID COORDINATE SYSTEM NAD 83  
 TEXAS SOUTH 4205  
 SCALE: 1" = 300'

S.E. COR.  
GARZA PARK

5003  
park

2634.18 FT. (0.499 MI.)

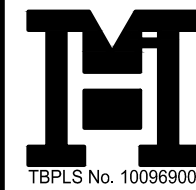
BUS STOP

1015.05 FT.  
(0.192 MI.)

N.W. COR.  
LAS PALOMAS VILLAGE

# LAS PALOMAS VILLAGE AMENITIES DISTANCES

LEGEND  
 FT. - FEET  
 MI. - MILE  
 S.E. COR. - SOUTH EAST CORNER



**MELDEN & HUNT INC.**  
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--	---

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**Exhibit 1B**

---



**Alejandro (ALEX) Arreguin**  
**REGISTERED ACCESSIBILITY SPECIALIST**

**1901 Convent Ave**

*Laredo, TX 78040-4852*

(956) 285-4091 Fax (956) 602-0340



February 21, 2017

MHA Las Palomas Village, Ltd.  
Attn: Arnold Padilla, Executive Director of McAllen Housing Authority  
2301 Jasmine Avenue  
McAllen, TX 78501

RE: ADA accessibility to Garza Park/Playground for the proposed Las Palomas Village located at the NW corner of W. Dove Ave. and N. Bicentennial Blvd. in McAllen, Texas

Mr. Padilla,

I hereby confirm that there is an accessible route that meets the 2010 ADA accessibility standards from the proposed site location to the park and playground. See attached map.

\*\*\*\*\*

The sidewalks and route along N. 23<sup>rd</sup> St. and then west along Lark Avenue from the proposed Las Palomas Village development site to Garza Park meet the above accessibility standards. In addition, the playground located at this park also meets these standards.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Arreguin'.

Alejandro Arreguin

TDLR Lic #396

**Exhibit 1C**

---

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

The University of Texas at Austin  
Thompson Conference Center  
Room 3.102  
2405 Robert Dedman Drive  
Austin, Texas

May 25, 2017  
9:02 a.m.

BOARD MEMBERS:

J.B. GOODWIN, Chair  
LESLIE BINGHAM ESCAREÑO, Vice Chair  
PAUL BRADEN, Member  
TOM H. GANN, Member  
ASUSENA RESÉNDIZ Member  
LEO VASQUEZ, Member

TIMOTHY K. IRVINE, Executive Director



1           But so my understanding, Marni, it is like on  
2 the application, it is a checkbox, right? And so when you  
3 have your tiebreaker points, I am looking at it.

4           It has the list of all the different additional  
5 tiebreaker attributes. And then you just check the box  
6 saying yes, it has got some of these.

7           MS. HOLLOWAY: And provide evidence that --

8           MS. BINGHAM ESCAREÑO: And then in a tab back,  
9 you provide the evidence. Okay. I have got you. Do you  
10 have any idea like, what that looks like, to meet the  
11 say -- the half mile within a playground.

12           MS. HOLLOWAY: Had I received the question, I  
13 would have said a letter from the local official regarding  
14 the design of that public path --

15           MS. BINGHAM ESCAREÑO: I have got you.

16           MS. HOLLOWAY: -- or a report from a third  
17 party accessibility expert.

18           MS. BINGHAM ESCAREÑO: I have got you. Great.

19           MR. GOODWIN: Okay. Any other questions?

20           (No response.)

21           MR. GOODWIN: More comment?

22           (No response.)

23           MS. ANDERSON: Good afternoon. Terri Anderson,  
24 Anderson Development and Construction. I am not  
25 affiliated with the Applicant, nor am I affiliated with S.

## DEFICIENCY #2

*Explain how the route to public transportation meets the requirement that that “The Development Site is located less than ½ mile on an accessible route from Public Transportation...”*

### Summary

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To claim this menu item, it is not the route that must be less than ½ mile. Rather, it is the distance (*as a crow flies*) that must be less than ½ mile. And while it is true that the entire route to the bus stop is required to be accessible, we provided a letter from a Registered Accessibility Specialist that attests to this requirement in our Application.

### Response

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**Primary Issue** - *Explain how the route to public transportation meets the requirement that that “The Development Site is located less than ½ mile on an accessible route from Public Transportation...”*

To better understand this menu item, it is best to break down the QAP language into its two major components that are applicable to our purposes – **distance** and **route**.

DISTANCE

ROUTE

*(II) The Development Site is located less than ½ mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service. --- Opportunity Index §11.9(c)(4)(B)(i)(II).*

**Distance.** As it applies to distance, developers are only required to measure from the boundary of the amenity (bus stop) to the boundary of the property (Development Site). This boundary-to-boundary measuring technique is both part of precedent and it has been clearly stated by staff:

How is **distance measured**?

- I assume the playground's distance away is measured as a crow flies from the nearest point of the proposed development site to the playground.
- What is the point of measurement for the playground? Is it the edge of the play area or the edge of the park in which the playground is located?
- I assume there is no distance requirement for the accessible route as it may be longer than the ½ mile requirement given the winding of streets etc.

--- **Commenter 57 / TDHCA Board Book, November 10, 2016**

*Clause (B)(i)(I): What is meant by "accessible route" in this context. If you mean drivable rather than as the crow flies, please so clarify. Clause (B)(i)(II): Same comment re "accessible route."* --- **Commenter 58 / TDHCA Board Book, November 10, 2016**

*In response to commenters (57) and (58), staff clarifies that distance is measured as linear distance, or "as the crow flies" from the closest points of the boundaries of the amenity and Development Site.* --- **Staff / TDHCA Board Book, November 10, 2016**

*Every reference to the measurement of distance indicates measuring boundary-to-boundary "unless otherwise noted" --- **QAP & Multifamily Rules / §11.3(c)(1) One Mile Three Year Rule; §11.7(6) Distance Tie-break Factor; §11.9(c)(8) Proximity to the Urban Core; §10.101(a)(2) Undesirable Site Features; §10.101(a)(3) Undesirable Neighborhood Characteristics; and §10.302(g)(2) Proximity to Other Development***

The Opportunity Index is silent on how distances are to be measured and therefore, a reasonable person should be able to rely on the same measuring technique codified in every other section of the Rules, when measuring for amenity distances. To date, the Opportunity Index distance measurement has never been otherwise noted, neither in the FAQ or the QAP. The only



clarification by staff simply confirms that the amenity must be within ½ mile of the site – i.e., measured – but the entire route only needs to be accessible – i.e., not measured.

*Q: Do the playground and public transit stop need to be within ½ mile of the site, or must the accessible route be no more than ½ mile long? A: The playground has to be within ½ mile of the site, and the entire route must be accessible (including transit as applicable). --- 2017 FAQ*

DISTANCE TO AMENITY MEASURED

ROUTE NOT MEASURED, ONLY ACCESSIBLE

By answering the FAQ question in this manner, staff expressly applies the ½ mile requirement to the distance component and the accessibility requirement to the route component. In other words, a developer is only required to measure one component – i.e., the distance, which is consistently defined as *the crow flies boundary-to-boundary from the Development Site to the amenity*.

It would be reasonable to conclude that staff was only looking for one measured distance on this menu item and stated as much on the record, especially when they implied that closest points of boundaries are the proper means to measure any distance requirement found in the scoring criteria of the QAP. [Note, again: “*as the crow flies*” from the closest points of the boundaries of the amenity and Development Site. --- TDHCA Board Book, November 10, 2016].

In conclusion, we measured the distance from the closest boundary point of the amenity (#2 Bus Route Stop) to the closest boundary point of our development (Las Palomas). This measured precisely 0.192 miles which is indeed less than ½ mile and is evidenced by a professional surveyor. See *infra*, Exhibit 1A. In essence, since this is fully in compliance with the distance component of menu item §11.9(c)(4)(B)(i)(II), we should maintain the point that staff confirmed in our scoring notice.

**Route.** As it applies to route, the only requirement within the QAP is that the route must be accessible using 2010 ADA standards. In addition, staff extended this to mean the “entire route”.

*II) The Development Site is located less than ½ mile on an accessible route from Public Transportation with a route schedule that provides regular service to employment and basic services. For purposes of this scoring item, regular is defined as scheduled service beyond 8 a.m. to 5 p.m., plus weekend service. ---*

**Opportunity Index §11.9(c)(4)(B)(i)(II).**

[...] the entire route must be accessible (including transit as applicable). --- 2017  
FAQ

Evidenced already in the Application is our letter from a Registered Accessibility Specialist, licensed by the State of Texas, which specifically states that the route from the Development Site “to its bus stop” is a fully accessible route. See, *Exhibit 2A*.

By having included this letter from a third-party accessibility expert, which confirms that the route from the Development Site to the bus stop meets the 2010 ADA accessibility standards, we are in compliance with menu item §11.9(c)(4)(B)(i)(II).

It is also important to note that at the TDHCA Board Meeting on May 25, 2017, Marni Holloway was asked by the Board what type of documentation would be accepted as evidence of accessibility. On the record she replied, “a letter from the local official regarding the design of that public path or a report from a third-party accessibility expert.” See *infra*, Exhibit 1C.

In conclusion, since we submitted a report from a third-party accessibility expert in the form of a confirmation letter that clearly states we are in full compliance with the QAP, we should maintain the point that staff confirmed in our scoring notice to the extent that this ADA accessible route component is both clarified and achieved.

**Public Transportation Amenity.** Despite this component not being at issue in the deficiency, the #2 Bus Stop evidenced in the Application is clearly the amenity in question for this menu item.

**Regular Route Schedule.** Despite this component not being at issue in the deficiency, the regular service bus schedule providing weekday and weekend service is fully evidenced in the Application.

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### Conclusion

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The Application is eligible to score points under this menu item because the entire route to the bus stop is ADA accessible and the measured distance as the crow flies from boundary-to-boundary is less than ½ mile. It is not required that the entire accessible route to the bus stop be measured and total less than ½ mile, despite the route being less than that in Option 1 of the Application. As the evidence submitted in the Application and further attachments hereto indicate, we are in compliance with Opportunity Index §11.9(c)(4)(B)(i)(II) and should maintain the point that staff confirmed in our scoring notice.

**Exhibit 2A**

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**Alejandro (ALEX) Arreguin**  
REGISTERED ACCESSIBILITY SPECIALIST  
**1901 Convent Ave**  
*Laredo, TX 78040-4852*  
(956) 285-4091 Fax (956) 602-0340



February 23, 2017


MHA Las Palomas Village, Ltd.  
Attn: Arnold Padilla, Executive Director of McAllen Housing Authority  
2301 Jasmine Avenue  
McAllen, TX 78501

RE: ADA accessibility to Public Transportation for the proposed Las Palomas Village located at the NW corner of W. Dove Ave. and N. Bicentennial Blvd. in McAllen, Texas

Mr. Padilla,

I hereby confirm that there is an accessible route that meets the 2010 ADA accessibility standards from the proposed site location to its bus stop. See attached map. If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Alejandro Arreguin  
TDLR Lic # 396

### DEFICIENCY #3

*The crime data supplied appears to extrapolate from data that is associated with city-wide data, not from data that is specific to the census tract. Provide evidence that the Application is eligible to score points under this item.*

#### Summary

The Application is eligible to score points under this menu item because the data provided in the full application and the data provided in this deficiency both prove that the Development Site is located in a census tract with a property crime rate of less than 26 per 1,000 persons. This data is a combination of crime data and population data, which comes from local data sources. The crime data is sourced from the City of McAllen Police Department (MPD), Neighborhood Scout (NS), and the FBI. The population data is sourced from the U.S. Census Bureau's 2010-2014 American Community Survey (ACS) and is specific to our census tract. In summary, the property crime rate of census tract 208.03 is approximately 20.90 per 1,000 persons in 2017.

#### Response

##### I.

**Primary Issue** – *Provide evidence that the Application is eligible to score points under this item.*

The following information includes evidence that again proves how the Application is eligible to receive points under this scoring item. In order to respond both clearly and effectively to the primary issue of this deficiency, we feel that it is best to break down the menu item into its four main scoring components:

*(VI) The Development Site is located in a census tract with a property crime rate of 26 per 1,000 persons or less as defined by neighborhoodscout.com, or local data sources. --- **Opportunity Index §11.9(c)(4)(B)(i)(VI).***

When the menu item is applied to our Development Site, we get the following for our purposes:

1. The census tract is 48215020803 (“**208.03**”)
2. The property crime is defined by Neighborhood Scout as being **burglary, larceny, and vehicle theft**.
3. The rate is approximately **20.90 per 1000**, which is substantially less than 26 per 1000; and
4. The local data sources are the MPD's **Crime Records Bureau** (for crime data) and the **U.S. Census Bureau – 2010 to 2014 (ACS) American Community Survey** (for population data).

**1. Census Tract.** The development site is located within census tract 208.03. See, *Exhibit 3A*. Being inside a specified census tract allows us to determine the exact population of that census tract, which is one of the key elements of any rate calculation for this menu item. Staff requires developers to use one consistent local data source to determine population data, which is defined as the U.S. Census Bureau 2010-2014 ACS data.

*Q: For the opportunity index property crime item ... What population figure should we use? A: ... For consistency, use the population data included in the Site Demographics Report, which is based on 2010-2014 ACS. --- 2017 FAQ*

We have determined that census tract 208.03 has an approximate population of 5,644 persons based on the 2010-2014 ACS. See, *Exhibit 3B*.

**2. Property Crime.** Staff requires that the property crime categories within our local data source reflect the subject data categories of Neighborhood Scout.

*Q: For the opportunity index property crime item, are you going to specify the data to be used for the "or local data sources"? Should the "local data sources" be 2015 data or can it be 2016 data? A: We will not specify which local data to use; though the subject data should mirror as much as possible that of Neighborhood Scout. --- 2017 FAQ*

We have determined that the subject data that mirrors as much as possible that of Neighborhood Scout is indeed **burglary, larceny, and motor vehicle theft**. See, *Exhibit 3C*.

**3. Rate.** The current property crime rate within our census tract can only be calculated using the following: population data and crime data. Our population data is defined as 5,644 persons and our crime data is defined as the burglary, larceny, and motor vehicle theft categories. The final element of crime data is the total number of offenses. In our case, the MPD logged 118 property crime offenses in these categories from 01/25/16 to 01/25/17. See, *Exhibit 3D*. These offenses were 208.03 census tract specific, as highlighted in Exhibit 3D. Taken as a whole, our census tract population data (5,644 persons) and our census tract crime data (118 offenses of burglary, larceny, and motor vehicle theft) result in a **rate of 20.90 per 1,000 persons**. See below calculation:



Population Data	=	<u>5,644</u> persons
Crime Data		
7 burglary + 106 larceny + 5 motor vehicle	=	<u>118</u> total offenses
Calculated Rate:		
5,644 persons / 1000 = 5.644		
118 / 5.644	=	<b>20.90 offenses per 1000</b>

For the purposes of complying with this deficiency and scoring this menu item, we have again determined that our property crime rate is less than 26 per 1,000 persons.

**4. Local Data Sources.** As previously mentioned, our local data sources are the MPD’s Crime Records Bureau (for crime data) and the U.S. Census Bureau’s 2010 - 2014 ACS (for population data). Regarding our crime data, the MPD Crime Records Bureau is directed by Lieutenant Joel A. Morales. In his attached letter, he confirms that the Crime Records Bureau is indeed a local data source that makes available its crime data to the public. See, *Exhibit 3E*. Regarding our population data, again we turn to the U.S. Census Bureau’s 2010 - 2014 ACS as our local data source that makes available to the public the specific population of a census tract. In the FAQ, staff confirmed that the 2010 – 2014 ACS was indeed the local data source required for achieving consistency in population data.



To conclude, the foregoing information again provides more evidence that the Application is eligible to score points under this item, which is the primary issue of Deficiency #3. It details the census tract, the property crime, the rate, and the local data sources. In no instance is this strictly city-wide crime data or city-wide population data. On the contrary, it is crime data and population data specific to the census tract that can be confirmed by the MPD Crime Records Bureau and the 2010-2014 ACS. In sum, this evidence concludes unequivocally that census tract 208.03 is 20.90 per 1000 persons, which is significantly lower than threshold. To that end, we are deserving of the opportunity index menu item point found within §11.9(c)(4)(B)(i)(VI).

**II.**

**Secondary Issue** – *The crime data supplied appears to extrapolate from data that is associated with city-wide data, not from data that is specific to the census tract.*

The following information explains how the crime data supplied in the Application was not merely an extrapolation from data associated with city-wide data. On the contrary, the data was specific to the census tract, census block, and city, which all serve as the **area** where the Development Site is located. In other words, we opted to provide staff with as much detail as possible, so that one could see how our Development Site is positioned in one of the safest property crime areas in all of Region 11.

In order to respond both clearly and effectively to this secondary issue within the deficiency notice, we feel that it is best to inspect the term “area” and the term “local data”:

***Q:** Please confirm comments made in QAP training that if a site address (or in the case where such address is not available a closest street intersection or similar description) is provided from neighborhood scout that such data generated for the address would qualify for the “Census tract”. **A:** Neighborhood Scout uses a broad area to get to a score, so when you put in an address, you aren’t getting data that is pinpointed to that address. You may use the neighborhood scout score of less than 26 per 1,000 or local data that indicates a rate of less than 26 per 1,000 for the **area** in which the site is located. --- 2017 FAQ*

***Q:** For the opportunity index property crime item, are you going to specify the data to be used for the "or local data sources"? Should the "local data sources" be 2015 data or can it be 2016 data? **A:** We will not specify which **local data** to use; though the subject data should mirror as much as possible that of Neighborhood Scout. -- - 2017 FAQ*

**Area.** According to Neighborhood Scout, the area in which our site is located has the lowest property crime rate for all new construction developments competing in Region 11. See, chart below. We have always viewed Neighborhood Scout as a reference tool or area guide to indicate

Region 11/Urban (Neighborhood Scout Census Tract Property Crime Rates per 1000)				
17390	Las Palomas	NC	McAllen	26.66
17388	West Pecan Village	NC	McAllen	27.28
17120	Vista Laredo Apartment Homes	NC	Brownsville	34.02
17042	Huntington at Paseo de la Resaca	NC	Brownsville	41.72
17094	Catalon at Paseo de la Resaca	NC	Brownsville	41.72
17360	Paseo Plaza, Phase II	NC	Brownsville	41.72
17221	Twin Oaks	NC	Mission	47.94
17267	Industrial Lofts	NC	McAllen	48.69
17368	Cielo	NC	McAllen	48.69
17024	Dove Ranch	NC	McAllen	48.69
17230	The Oasis on McColl	NC	McAllen	56.88
17287	Jackson Place	NC	Edinburg	60.80


crime rates for census tracts, and even though it does have merit, the City of McAllen Police Department’s Crime Records Bureau would be a more accurate and consistent source. To that point, it is clear that NS is capable of changing at a moment’s notice, so it can only be relied on to a certain degree. In fact, staff has admitted as much at roundtable discussions to date, and all developers have felt this impact when

NS shifted its ratings (in some cases dramatically) after the QAP was approved by the governor. Despite that past situation and the fact that NS has a reputation for supplying old and dynamic data to the public, we still felt it was necessary to use the NS scoring as a guide for our calculations in our Application, particularly since TDHCA also relies heavily on it as their local data source, not just for this menu item but for undesirable neighborhood characteristics as well. In short, NS provided our Application with not just city-wide data, but census-tract-wide data that served as a guide too.

At a minimum, our Application used this census tract data simply as a blueprint to illuminate for staff that not only is our Development Site in a great opportunity area to achieve this menu item, but that the property crime rate is undeniably trending downward in the McAllen area. To that end, the MPD Crime Records Bureau data – listed in Part I above – has literally confirmed this. That is, while NS data could provide a guided starting point for our census tract score (26.66), in reality it has now trended downward to 20.90 per 1000 persons in 2017 according to the MPD data.

Again, we essentially evidenced this precise downward trend in our Application, and we broadened it from census-block to census-tract and then to city-wide using a combination of local data sources which were all associated to property crime, population, census tract, census block, and city. See below, Application Excerpt.

Therefore for our purposes, the local data source provided by the MPD is put forth in the following extrapolated calculations that best mirror the older Neighborhood Scout rate and its property crime categories. By comparing and contrasting the assumed 2014 NS data and 2014 FBI data with the current MPD data from 2014, 2015, and 2016, the overall result is:

Las Palomas Village - Census Tract	=	<b>23.06 per 1000</b> residents (2016)	
Las Palomas Village - Census Block	=	<b>22.00 per 1000</b> residents (2016)	
City of McAllen - City Limits	=	<b>25.93 per 1000</b> residents (2014)	
		<b>23.78 per 1000</b> residents (2015)	
		<b>22.42 per 1000</b> residents (2016)	

(decreasing annually)

Ultimately, our crime data supplied in the full application totaled three (3) City of McAllen Crime Reports for 2014; 2015; and 2016, one (1) Uniform Crime Report from the FBI, one (1) Neighborhood Scout score specific to census tract 208.03, and three (3) categories – larceny, burglary, and motor vehicle theft – which are all specific to our census tract and to the uniform



categories used to calculate property crime by the McAllen Police Department, Neighborhood Scout, and the FBI.

Therefore in sum, it is not accurate to claim that our full application did not have crime data for our census tract because we were using a combination of crime data that specifically included our Neighborhood Scout census tract score. This was strictly to provide staff with the best possible snapshot of the area in which our Development Site is located. What held true in our full application still holds true today, which is that census tract 208.03 has a property crime rate that is less than 26 per 1,000 persons.

**Local Data.** Staff never specified what local data to use, but clarified that *the subject data should mirror as much as possible that of Neighborhood Scout*. We believe we achieved this by obtaining and submitting: McAllen’s city crime data; its city, census tract, and census block population data; the Neighborhood Scout data for census tract 208.03; an FBI Crime Records Report; and evidence categorized as burglary, larceny, and motor vehicle theft. Below describes the NS subject data:

[NS is] ... *using identified relationships between criminal activity and population characteristics (excluding any data on race, ethnicity, ancestry, language, or religion) to build crime data for census tracts, zip codes, neighborhoods, address vicinities, and other spatial units where appropriate geographic and demographic data are available.* --- **www.neighborhoodscout.com**

Despite not knowing what local data to use, we offered in our Application the best reflection of Neighborhood Scout’s subject data above. Moreover, by using the NS categories for property crimes – see infra, Exhibit 3C – we not only specified exactly what our local data was, but we further specified precisely who our local data sources were going to be – i.e., the City of McAllen Police Department, the FBI, the U.S. Census Bureau, and Neighborhood Scout itself.

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To conclude, the foregoing information indicates how the crime data supplied in the Application was not merely an extrapolation from data associated with city-wide data. Rather, it was a collective combination of city, census tract, and census block data (all in the form of either crime data or population data) that rendered the calculated outcomes. Because the QAP references *census tract* in this menu item language, and because staff attempted to make a clarification in the FAQ

that stated they were looking for an “area”, we opted in good faith to interpret all of this to mean city, census tract, and census block. In essence, to be on the safe side we gave staff more data and area calculations than what they probably were looking for; however, we did this so that there would be more accurate numbers and projections for staff to rely on. At the end of the day, our Application did indeed include data specific to a census tract, which was a large part of the rate calculations and conclusions we made. In sum, as it stood both then and now, we are still in compliance with Opportunity Index §11.9(c)(4)(B)(i)(VI) and deserve award of this menu item’s scoring point.

### **Conclusion**

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The Application is eligible to score points under this menu item because the property crime rate of census tract 208.03 is 20.90 per 1,000 persons. Moreover, all the crime data supplied to date has indeed included data that is specific to the census tract of the Development Site. We are therefore in compliance with Opportunity Index §11.9(c)(4)(B)(i)(VI) and should maintain the point that staff confirmed in our scoring notice.

**Exhibit 3A**

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**Exhibit 3B**

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**TOTAL POPULATION**  
 Universe: Total population  
 2010-2014 American Community Survey 5-Year Estimates

**Legend:**   show/hide rows and columns   collapse/expand data categories   rearrange columns   rearrange rows   sort ascending/descending   filter rows

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the [Data and Documentation](#) section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the [Methodology](#) section.

Census Tract 208.03, Hidalgo County, Texas			
		Estimate	Margin of Error
1 - 1 of 1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Total	5,644	+/-503

Versions of this table are available for the following years:

2015  
 2014  
 2013  
 2012  
 2011  
 2010

Source: U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates

**Explanation of Symbols:**

An '\*\*' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.

An '-' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.

An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.

An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.

An '\*\*' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.

An '\*\*\*\*\*' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.

An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.

An '(X)' means that the estimate is not applicable or not available.

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see [Accuracy of the Data](#)). The effect of nonsampling error is not represented in these tables.

While the 2010-2014 American Community Survey (ACS) data generally reflect the February 2013 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2010 data. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.



**Exhibit 3C**

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The results are fine resolution, highly accurate crime data that are comparable nationally.



(https://production-nscout-content-lrstdmrzmrhqefpb9o.netdna-ssl.com/wp-content/uploads/2016/12/28190631/4.png) This is superior to and quite different from the FBI data, or even the reporting of crime locations by calling the local police department. For one, the FBI data only provides statistics in aggregate by agency (i.e., scores for the entire agency, not for small areas), so you really can't use them to look at individual neighborhoods or addresses. Even when we know locations for crimes – as we know and use more than 2 million geocoded crime incidents in a GIS as part of our data development – the incidents have not been normalized based on resident and visitor population in the vicinity of an address, so risks simply cannot be accurately quantified. More crimes doesn't necessarily mean more risk. It depends on how many people live or work in the vicinity.



Our approach provides you the ability to look at small areas effectively.

In some cases a city agency is in charge of law enforcement, while in other areas it's a county. In many cases it is more than one agency for a geographic area. Since the geography varies, it's difficult to compare the scores among jurisdictions, or to get a true and complete picture of crime risk. This is why we use a relational database to assess the true count of reported crimes in a locality.

(https://production-nscout-content-lrstdmrzmrhqefpb9o.netdna-ssl.com/wp-content/uploads/2016/12/28192153/crimes\_per\_sq\_mile.png) Over the years, it has been alleged that many jurisdictions under report crime figures, due to the stigma attached to high crime rates. This is why we look at areas compared to national and state averages, rather than only raw crime counts. The data are normalized to account for resident and visitor population, including day time worker populations, to arrive at true crime rates, and hence a superior assessment of crime risk to individuals in the area.



Although most agencies report, not all do. This creates holes in the data. Our method allows us to accurately fill in the holes based on the crime experience of many like locales, and provide accurate crime data for anywhere in the U.S.

### Crime Types Defined

#### Property Crimes:

- **Burglary** : The unlawful entry of a structure to commit a felony or a theft.
- **Larceny-Theft** : The unlawful taking of property from the possession of another (excluding motor vehicles).
- **Vehicle Theft** : The theft or attempted theft of a motor vehicle.

#### Violent Endangerment / Violent Crimes:

- **Homicide** : The willful (nonnegligent) killing of one human being by another.
- **Rape** : All forms of non-consensual sexual penetration.
- **Armed Robbery** : The taking or attempting to take anything of value from a person(s) by force or threat of violence.
- **Aggravated Assault** : An attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury.

## SIGN UP FOR DATA ALERTS.

GET NOTIFIED WHEN SCOUT'S DATA GETS UPDATED.

**Exhibit 3D**

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McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020803;  
 Addresses provided/Yr 2016

Date	UCR Offense	St No	St Dir	St Name	St Suffix
12/28/2016	BURGLARY - HAB/BUILDING	7005	N	15TH	LN
8/9/2016	BURGLARY - HAB/BUILDING	1613		GOLDCREST	AVE
9/25/2016	BURGLARY - HAB/BUILDING	1300		JAY	AVE
9/13/2016	BURGLARY - HAB/BUILDING	1900		JAY	AVE
8/22/2016	BURGLARY - HAB/BUILDING	2139		MYNAH	AVE
9/8/2016	BURGLARY - HAB/BUILDING	2313		ROBIN	AVE
8/9/2016	BURGLARY - HAB/BUILDING	1121		SANDPIPER	AVE
1/30/2016	DESTRUCTION/DAMAGE/VANDALISM	5800	N	10TH	ST
2/26/2016	DESTRUCTION/DAMAGE/VANDALISM	6000	N	10TH	ST
12/12/2016	DESTRUCTION/DAMAGE/VANDALISM	6112	N	10TH	ST
10/16/2016	DESTRUCTION/DAMAGE/VANDALISM	7017	N	10TH	ST
4/16/2016	DESTRUCTION/DAMAGE/VANDALISM	6220	N	11TH	ST
8/13/2016	DESTRUCTION/DAMAGE/VANDALISM	6300	N	11TH	ST
11/19/2016	DESTRUCTION/DAMAGE/VANDALISM	6508	N	12TH	ST
4/7/2016	DESTRUCTION/DAMAGE/VANDALISM	7025	N	15TH	LN
5/4/2016	DESTRUCTION/DAMAGE/VANDALISM	6221	N	16TH	ST
10/28/2016	DESTRUCTION/DAMAGE/VANDALISM	5300	N	17TH	ST
3/16/2016	DESTRUCTION/DAMAGE/VANDALISM	7005	N	17TH	ST
2/5/2016	DESTRUCTION/DAMAGE/VANDALISM	6323	N	19TH	LN
2/5/2016	DESTRUCTION/DAMAGE/VANDALISM	6323	N	19TH	ST
7/25/2016	DESTRUCTION/DAMAGE/VANDALISM	5908	N	22ND	LN
10/20/2016	DESTRUCTION/DAMAGE/VANDALISM	6100	N	22ND	LN
11/1/2016	DESTRUCTION/DAMAGE/VANDALISM	5917	N	23RD	ST
11/12/2016	DESTRUCTION/DAMAGE/VANDALISM	5917	N	23RD	ST
12/20/2016	DESTRUCTION/DAMAGE/VANDALISM	6720	N	23RD	ST
7/9/2016	DESTRUCTION/DAMAGE/VANDALISM	7144	N	23RD	ST
4/11/2016	DESTRUCTION/DAMAGE/VANDALISM	5600	N	BICENTENNIAL	BLVD
3/15/2016	DESTRUCTION/DAMAGE/VANDALISM	7100	N	BICENTENNIAL	BLVD
3/22/2016	DESTRUCTION/DAMAGE/VANDALISM	7100	N	BICENTENNIAL	BLVD
6/9/2016	DESTRUCTION/DAMAGE/VANDALISM	1101		DOVE	AVE
7/5/2016	DESTRUCTION/DAMAGE/VANDALISM	1600		DOVE	AVE

McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020803;  
 Addresses provided/Yr 2016

Date	UCR Offense	St No	St Dir	St Name	St Suffix
12/27/2016	DESTRUCTION/DAMAGE/VANDALISM	1600		DOVE	AVE
7/4/2016	DESTRUCTION/DAMAGE/VANDALISM	2113		GOLDCREST	AVE
5/8/2016	DESTRUCTION/DAMAGE/VANDALISM	1613		HAWK	AVE
10/4/2016	DESTRUCTION/DAMAGE/VANDALISM	2013		HERON	AVE
5/14/2016	DESTRUCTION/DAMAGE/VANDALISM	1300		JAY	AVE
12/22/2016	DESTRUCTION/DAMAGE/VANDALISM	1417		JAY	AVE
11/29/2016	DESTRUCTION/DAMAGE/VANDALISM	1913		JAY	AVE
11/23/2016	DESTRUCTION/DAMAGE/VANDALISM	2100		JAY	AVE
5/28/2016	DESTRUCTION/DAMAGE/VANDALISM	2133		JAY	AVE
11/10/2016	DESTRUCTION/DAMAGE/VANDALISM	5812	N	MAIN	ST
9/28/2016	DESTRUCTION/DAMAGE/VANDALISM	5912	N	MAIN	ST
10/30/2016	DESTRUCTION/DAMAGE/VANDALISM	7200	N	MAIN	ST
3/25/2016	DESTRUCTION/DAMAGE/VANDALISM	1504		MARTIN	AVE
3/29/2016	DESTRUCTION/DAMAGE/VANDALISM	1504		MARTIN	AVE
6/14/2016	DESTRUCTION/DAMAGE/VANDALISM	1504		MARTIN	AVE
3/29/2016	DESTRUCTION/DAMAGE/VANDALISM	1909		MYNAH	AVE
2/20/2016	DESTRUCTION/DAMAGE/VANDALISM	1612		QUAIL	AVE
9/23/2016	DESTRUCTION/DAMAGE/VANDALISM	1421		ROBIN	AVE
3/3/2016	DESTRUCTION/DAMAGE/VANDALISM	1913		ROBIN	AVE
8/26/2016	DESTRUCTION/DAMAGE/VANDALISM	1201		SANDPIPER	AVE
10/10/2016	DESTRUCTION/DAMAGE/VANDALISM	1201		SANDPIPER	AVE
3/17/2016	DESTRUCTION/DAMAGE/VANDALISM	1404		THUNDERBIRD	AVE
3/16/2016	DESTRUCTION/DAMAGE/VANDALISM	1604		THUNDERBIRD	AVE
11/3/2016	LARCENY - THEFT	5800	N	10TH	ST
10/23/2016	LARCENY - THEFT	5800	N	10TH	ST
3/30/2016	LARCENY - THEFT	6100	N	10TH	ST
5/7/2016	LARCENY - THEFT	6400	N	10TH	ST
6/10/2016	LARCENY - THEFT	6500	N	10TH	ST
4/26/2016	LARCENY - THEFT	6500	N	10TH	ST
1/31/2016	LARCENY - THEFT	6521	N	10TH	ST
11/4/2016	LARCENY - THEFT	6900	N	10TH	ST



<u>Date</u>	<u>UCR Offense</u>	<u>St No</u>	<u>St Dir</u>	<u>St Name</u>	<u>St Suffix</u>
1/9/2017	LARCENY - THEFT	7017	N	10TH	ST
7/25/2016	LARCENY - THEFT	7017	N	10TH	ST
1/9/2017	LARCENY - THEFT	6300	N	11TH	ST
8/26/2016	LARCENY - THEFT	7114	N	11TH	LN
9/6/2016	LARCENY - THEFT	5813	N	12TH	ST
12/3/2016	LARCENY - THEFT	7103	N	12TH	LN
8/2/2016	LARCENY - THEFT	7107	N	12TH	LN
8/2/2016	LARCENY - THEFT	7107	N	12TH	LN
3/8/2016	LARCENY - THEFT	7115	N	12TH	LN
6/29/2016	LARCENY - THEFT	5904	N	14TH	ST
3/19/2016	LARCENY - THEFT	6108	N	14TH	ST
3/5/2016	LARCENY - THEFT	6704	N	16TH	ST
9/12/2016	LARCENY - THEFT	6501	N	17TH	ST
8/27/2016	LARCENY - THEFT	6613	N	22ND	ST
2/4/2016	LARCENY - THEFT	5600	N	23RD	ST
3/29/2016	LARCENY - THEFT	5600	N	23RD	ST
5/23/2016	LARCENY - THEFT	5600	N	23RD	ST
2/1/2016	LARCENY - THEFT	5700	N	23RD	ST
3/31/2016	LARCENY - THEFT	5700	N	23RD	ST
2/11/2016	LARCENY - THEFT	5700	N	23RD	ST
2/26/2016	LARCENY - THEFT	5700	N	23RD	ST
3/3/2016	LARCENY - THEFT	5700	N	23RD	ST
3/22/2016	LARCENY - THEFT	5700	N	23RD	ST
6/15/2016	LARCENY - THEFT	5700	N	23RD	ST
6/23/2016	LARCENY - THEFT	5700	N	23RD	ST
10/14/2016	LARCENY - THEFT	5700	N	23RD	ST
11/20/2016	LARCENY - THEFT	5700	N	23RD	ST
12/11/2016	LARCENY - THEFT	5700	N	23RD	ST
12/21/2016	LARCENY - THEFT	5700	N	23RD	ST
1/5/2017	LARCENY - THEFT	5700	N	23RD	ST
7/27/2016	LARCENY - THEFT	5809	N	23RD	LN



McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020803;  
 Addresses provided/Yr 2016

Date	UCR Offense	St No	St Dir	St Name	St Suffix
11/10/2016	LARCENY - THEFT	5921	N	23RD	ST
10/28/2016	LARCENY - THEFT	6001	N	23RD	ST
3/18/2016	LARCENY - THEFT	6313	N	23RD	ST
10/29/2016	LARCENY - THEFT	6313	N	23RD	ST
3/31/2016	LARCENY - THEFT	6313	N	23RD	ST
8/8/2016	LARCENY - THEFT	6313	N	23RD	ST
11/29/2016	LARCENY - THEFT	6620	N	23RD	ST
8/28/2016	LARCENY - THEFT	6800	N	23RD	ST
9/16/2016	LARCENY - THEFT	6800	N	23RD	ST
6/3/2016	LARCENY - THEFT	7108	N	23RD	ST
8/13/2016	LARCENY - THEFT	7144	N	23RD	ST
2/4/2016	LARCENY - THEFT	7144	N	23RD	ST
4/24/2016	LARCENY - THEFT	7144	N	23RD	ST
8/17/2016	LARCENY - THEFT	7144	N	23RD	ST
10/8/2016	LARCENY - THEFT	7144	N	23RD	ST
2/23/2016	LARCENY - THEFT	5713	N	24TH	ST
2/6/2016	LARCENY - THEFT	6305	N	25TH	LN
3/27/2016	LARCENY - THEFT	6700	N	26TH	ST
5/17/2016	LARCENY - THEFT	5908	N	BROADWAY	ST
10/16/2016	LARCENY - THEFT	1101		DOVE	AVE
11/17/2016	LARCENY - THEFT	1101		DOVE	AVE
5/7/2016	LARCENY - THEFT	1200		DOVE	AVE
1/30/2016	LARCENY - THEFT	1200		DOVE	AVE
6/12/2016	LARCENY - THEFT	1200		DOVE	AVE
7/24/2016	LARCENY - THEFT	1200		DOVE	AVE
10/25/2016	LARCENY - THEFT	1200		DOVE	AVE
11/15/2016	LARCENY - THEFT	1200		DOVE	AVE
2/27/2016	LARCENY - THEFT	1401		DOVE	AVE
4/19/2016	LARCENY - THEFT	1401		DOVE	AVE
10/6/2016	LARCENY - THEFT	1401		DOVE	AVE
4/7/2016	LARCENY - THEFT	1508		DOVE	AVE

McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

C: Census Tract 48215020803;  
 Addresses provided/Yr 2016

Date	UCR Offense	St No	St Dir	St Name	St Suffix
2/22/2016	LARCENY - THEFT	1600		DOVE	AVE
6/26/2016	LARCENY - THEFT	1600		DOVE	AVE
7/25/2016	LARCENY - THEFT	1601		DOVE	AVE
8/2/2016	LARCENY - THEFT	1601		DOVE	AVE
8/9/2016	LARCENY - THEFT	1601		DOVE	AVE
1/18/2017	LARCENY - THEFT	1601		DOVE	AVE
4/15/2016	LARCENY - THEFT	1901		DOVE	AVE
6/12/2016	LARCENY - THEFT	1901		DOVE	AVE
12/7/2016	LARCENY - THEFT	1516		GOLDCREST	AVE
3/19/2016	LARCENY - THEFT	2113		GOLDCREST	AVE
12/8/2016	LARCENY - THEFT	1522		HAWK	CIR
3/5/2016	LARCENY - THEFT	1613		HAWK	AVE
7/12/2016	LARCENY - THEFT	2028		HAWK	AVE
6/29/2016	LARCENY - THEFT	1317		HERON	AVE
10/4/2016	LARCENY - THEFT	2013		HERON	AVE
3/22/2016	LARCENY - THEFT	1909		JAY	AVE
11/30/2016	LARCENY - THEFT	1916		JAY	AVE
11/30/2016	LARCENY - THEFT	1917		JAY	AVE
2/26/2016	LARCENY - THEFT	1929		JAY	AVE
5/11/2016	LARCENY - THEFT	5700	N	MAIN	ST
9/14/2016	LARCENY - THEFT	1500		MARTIN	AVE
8/22/2016	LARCENY - THEFT	2201		MARTIN	AVE
7/21/2016	LARCENY - THEFT	1912		MYNAH	AVE
4/24/2016	LARCENY - THEFT	2108		MYNAH	AVE
8/16/2016	LARCENY - THEFT	1213		NIGHTINGALE	AVE
7/19/2016	LARCENY - THEFT	1909		NIGHTINGALE	AVE
10/17/2016	LARCENY - THEFT	2121		NIGHTINGALE	AVE
12/14/2016	LARCENY - THEFT	2321		NIGHTINGALE	AVE
5/26/2016	LARCENY - THEFT	2008		ORIOLE	AVE
2/16/2016	LARCENY - THEFT	2017		ORIOLE	AVE
4/6/2016	LARCENY - THEFT	2113		ORIOLE	AVE

McAllen Police Department - Crime Records Bureau  
 Open Records Request: Property Cases - Crime Statistics

\*\*\* C: Census Tract 48215020803;  
 Addresses provided/Yr 2016

Date	UCR Offense	St No	St Dir	St Name	St Suffix
3/15/2016	LARCENY - THEFT	2013		PELICAN	AVE
12/23/2016	LARCENY - THEFT	1121		SANDPIPER	AVE
9/8/2016	LARCENY - THEFT	1121		SWALLOW	AVE
11/3/2016	LARCENY - THEFT	1801		TRENTON	RD
4/12/2016	LARCENY - THEFT	2200		TRENTON	RD
6/21/2016	MOTOR VEHICLE THEFT	5700	N	14TH	ST
10/14/2016	MOTOR VEHICLE THEFT	1401		DOVE	AVE
12/27/2016	MOTOR VEHICLE THEFT	1600		DOVE	AVE
11/18/2016	MOTOR VEHICLE THEFT	1301		NIGHTINGALE	AVE
10/21/2016	MOTOR VEHICLE THEFT	2013		ROBIN	AVE

UCR Offense	Count
Criminal Mischief	47
Graffiti	0
*** Burglary	7
*** Larceny - Theft	106
*** Motor Vehicle Theft	5
<b>Grand Total</b>	<b>165</b>

Per 1000 persons in the City of McAllen	1.11
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**Exhibit 3E**

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**CITY OF McALLEN**



**POLICE DEPARTMENT**

June 8, 2017

McAllen Housing Authority  
Mr. Arnold Padilla, Executive Director  
2301 Jasmine Ave.  
McAllen, Texas 78501

RE: Property Crime for Census Tract 208.03

Mr. Padilla,

The annual Uniformed Crime Reports prepared by the City of McAllen Police Department are available as a local data source to the public at our website:

<http://www.mcallen.net/departments/pd/records-bureau/crime-reports>.

In addition, the local data that details the property crimes found within census tract 208.03 is attached. This local police data ranges from 01/25/2016 to 01/25/2017 and has been confirmed by our Crime Records Bureau.

In the event that any additional information is needed, please do not hesitate to ask.

Sincerely,

\_\_\_\_\_  
Lieutenant Joel A. Morales  
Director, Crime Records Bureau

Application #17390  
Las Palomas  
Third Party Request for Administrative  
Deficiency

Department Determination





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

Greg Abbott  
GOVERNOR

BOARD MEMBERS

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Leo Vasquez, Member

July 5, 2017

Writer's direct phone # (512) 475-1676  
Email: [marni.holloway@tdhca.state.tx.us](mailto:marni.holloway@tdhca.state.tx.us)

Mr. Doak D. Brown  
Vice President  
The Brownstone Group  
6517 Mapleridge  
Houston, TX 77081

RE: REQUEST FOR ADMINISTRATIVE DEFICIENCY: 17390 LAS PALOMAS

Dear Mr. Brown:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of three Third Party Requests for Administrative Deficiency ("RFAD") requesting that the Department review the application above to determine whether it should be awarded several tie-breakers under 10 TAC §11.9 (c)(4) related to Opportunity Index. The requests assert that the Application did not contain sufficient evidence that the Development Site is located less than ½ mile on an accessible route from a public park with an accessible playground and that the route is accessible, that the site is located less than ½ mile on an accessible route from public transportation, that the library and playground are the same facility, and that crime data provided is not specific to the census tract.

Consistent with similar decisions made by the Department's Governing Board at its May 25, 2017, meeting, an Administrative Deficiency was issued on June 13, 2017, and a response was received timely.

The response asserts the park and public transit must be less than ½ mile "as the crow flies" from the site. The response states that "(e)very reference to the measurement of distance indicates measuring boundary-to boundary 'unless otherwise noted' ". In this case the measurement is "otherwise noted," the distance from the public park or transit must be "less than ½ mile on an accessible route." The Application and response indicate that the park is .49 miles from the development site in a straight-line measurement; however the route to the park is approximately .79 miles. The route to public transportation indicated in the Application is approximately .24 miles long. The requester provided specific evidence of why the routes to both the park and to public transportation are not accessible. Your response did not address this specific evidence.

The response asserts that "all the crime data supplied to date has indeed included data that is specific to the census tract of the Development Site." The explanation for the "projected trend" for the census tract states that:



“Because Neighborhood Scout is only showing a census tract property crime rate in its reports utilizing old 2014 data, then it stands to reason that the 2015 and 2016 census tract property crime rates need to be projected for census tract 207.24 as per the downward percentage (%) trends evidenced in the current McAllen Police Reports for those same years. For example, if NS indicates a 2014 census tract rate of 27.28, then in 2015 it would be decreased by 8.3%, and then in 2016 it would decrease by 5.7% in the same fashion that the City of McAllen is trending.”

This assumes that as crime decreases in the City of McAllen, one can apply that same percentage decrease to the census tract, which is not a valid assumption. The response did not address the email from the Chief of Police which states:

“Please know that these (McAllen and FBI) UCR reports are a reflection of city-wide data. These reports are not prepared or are reflective of any census tract or census block. Therefore, “extrapolation” for the purposes of determining the UCR crime activity of any census tract or census block is not an accurate analysis of UCR crime activity for any census tract or census block”

The response included entirely new data from data submitted in the Application. As such, the response to the deficiency does not provide clarification or correction of information submitted in the Application as required by §10.201(7) related to the Administrative Deficiency Process:

**(7) Administrative Deficiency Process.** The purpose of the Administrative Deficiency process is to allow an Applicant to provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. ...

Regarding the claim that the library and the playground are the same facility, it is clear that they are not. The library is its own structure, and the playground is a part of the park, which is on the tract of land as the library. The Department has determined that it is a reasonable expectation that since these are both owned and operated by the city, these would share property controlled by the city.

Staff has determined that the points raised in response to multiple RFADs clearly demonstrate that the Application qualifies for the accessible routes to a public park or to public transit, or that it qualifies for having a crime rate within the given threshold. The Application does qualify for the library. For purposes of the request the matter is considered resolved. The Applicant will receive a scoring notice indicating the loss of three tie-breaker selections. If you have questions or require further information, please contact me.

Sincerely,



Marni Holloway  
Multifamily Division Director

Cc: Mark Musemeche  
Steve Lollis  
Manish Verma

3



**BOARD ACTION REQUEST**  
**HOME AND HOMELESS PROGRAMS DIVISION**  
**JULY 13, 2017**

Presentation, discussion, and possible action on Orders repealing all sections of 10 TAC Chapter 23, Single Family HOME Program, and Orders adopting new 10 TAC Chapter 23, Single Family HOME Program (“HOME Rule”), concerning HOME single family activities, and directing their publication in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, proposed changes to 10 TAC Chapter 23 were approved in draft form at the Board meeting of April 27, 2017, and published for public comment in the *Texas Register*; and

**WHEREAS**, public comment was received and the Department has carefully considered the public comment and made changes in response to public comment;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Governing Board hereby adopts the new 10 TAC Chapter 23, Single Family HOME Program, and directs their publication in the *Texas Register*, together with preamble, in the form presented to this meeting; and

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

**BACKGROUND**

The purpose of repealing 10 TAC Chapter 23, Single Family HOME Program rule (“HOME Rule”) and proposing a new 10 TAC Chapter 23, HOME Rule is to add award selection criteria to the Rule, revise programmatic benchmarks to strengthen the Department’s ability to meet HOME Program requirements, increase the maximum amount of funding available for construction activities, and update processes. Changes were made to every Subchapter; therefore, the Department is repealing and proposing a new Chapter instead of amending the existing Chapter.

The Department held four roundtable discussions in February 2017, regarding the Single Family HOME Program. Roundtable discussions included TDHCA initiatives and activities, plans to release HOME Single Family NOFA(s), 2017 HOME allocation updates, and proposed HOME Single Family Rule changes for the 2017 annual HOME allocation. Comments and suggestions received from the roundtable discussions were taken into consideration during the preparation of

the proposed HOME Rule. The proposed changes to the HOME Rule were approved in draft form at the TDHCA April 27, 2017, meeting and were published for public comment in the May 12, 2017, issue of the *Texas Register* to allow for public comment. Public comments were accepted in writing and by e-mail through June 12, 2017, and comments in addition to any changes made as a result of comment are included in the preamble to the new rule below.

## **Attachment A: Preamble for repeal of 10 TAC Chapter 23**

The Texas Department of Housing and Community Affairs (the “Department”) adopts the repeal of 10 TAC Chapter 23 without changes to the proposed text as published in the May 12, 2017 issue of the *Texas Register* (42 TexReg 2484) and will not be republished.

REASONED JUSTIFICATION: The Department held four roundtable discussions in February of 2017 regarding the Single Family HOME Program, including proposed revisions to 10 TAC Chapter 23, HOME Single Family Program. Substantial changes to each subchapter within 10 TAC Chapter 23 were recommended; therefore the Department determined that repeal of the existing 10 TAC Chapter 23 and adoption of a new 10 TAC Chapter 23 was appropriate. The proposed repeal of 10 TAC Chapter 23, Subchapters A, B, C, D, E, F, and G and proposed 10 TAC Chapter 23 was approved by the Board on April 27, 2017.

The Department accepted public comment between May 12, 2017 and June 12, 2017. No comments were received concerning the repeal.

The Board approved the final order adopting the repeal on July 13, 2017.

STATUTORY AUTHORITY: The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

The proposed repeal affects no other code, article, or statute.

### Subchapter A General Guidance

§23.1 Purpose

§23.2 Definitions

### Subchapter B Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds

§23.20 Availability of Funds and Regional Allocation Formula

§23.21 Application Forms and Materials and Deadlines

§23.22 Contract Award Application Review Process

§23.23 Reservation System Participant Review Process

§23.24 General Threshold and Selection Criteria

§23.25 Contract Limitations

§23.26 Reservation System Participant (RSP) Agreement

§23.27 Procurement of Contractor

§23.28 General Administrative Requirements

§23.29 Resale and Recapture Provisions

### Subchapter C Homeowner Rehabilitation Assistance Program

§23.30 Homeowner Rehabilitation Assistance (HRA) Program Threshold and Selection Criteria,

§23.31 Homeowner Rehabilitation Assistance (HRA) Program Requirements

§23.32 Homeowner Rehabilitation Assistance (HRA) Administrative Requirements

### Subchapter D Homebuyer Assistance Program

§23.40 Homebuyer Assistance (HBA) Threshold and Selection Criteria

§23.41 Homebuyer Assistance (HBA) Program Requirements



§23.42 Homebuyer Assistance (HBA) Administrative Requirements

Subchapter E Contract for Deed Conversion Program

§23.50 Contract for Deed Conversion (CFDC) Threshold and Selection Criteria

§23.51 Contract for Deed Conversion (CFDC) Program Requirements

§23.52 Contract for Deed Conversion (CFDC) Administrative Requirements

Subchapter F Tenant-Based Rental Assistance Program

§23.60 Tenant-Based Rental Assistance (TBRA) Threshold and Selection Criteria

§23.61 Tenant-Based Rental Assistance (TBRA) Program Requirements

§23.62 Tenant-Based Rental Assistance (TBRA) Administrative Requirements

Subchapter G Single Family Development Program

§23.70 Single Family Development (SFD) Threshold and Selection Criteria

§23.71 Single Family Development (SFD) Program Requirements

§23.72 Single Family Development (SFD) Administrative Requirements

## **Attachment B: Preamble and adoption of new 10 TAC Chapter 23, Subchapter A, concerning General Guidance**

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 23, Subchapter A, §§23.1,23.2, 23.20-23.29, 23.30-23.32, 23.40-23.42, 23.50-23.52, 23.60-23.62, 23.70-23.72, concerning Single Family HOME Program as published in the May 12, 2017 issue of the *Texas Register* (42 TexReg 2486).

REASONED JUSTIFICATION. The Department held three roundtable discussions in February, 2017, regarding the Single Family HOME Program, including proposed revisions to 10 TAC Chapter 23, HOME Single Family Program. Substantial changes to each subchapter within 10 TAC Chapter 23; therefore the Department determined that repeal of the existing 10 TAC Chapter 23 and adoption of a new 10 TAC Chapter 23 was appropriate. The proposed repeal of 10 TAC Chapter 23, Subchapter A and proposed 10 TAC Chapter 23 was approved by the Board on April 27, 2017.

SUMMARY OF PUBIC COMMENT AND STAFF RECOMMENDATIONS. The Department accepted public comments between May 12, 2017, and June 12, 2017. Comments regarding the new sections were accepted in writing and by fax.

Twenty organizations submitted comments on the rule: Bee County (1), the City of Bay City (2), the City of Belton (3), the City of Bronte (4), the City of Carrizo Springs (5), the City of Eagle Lake (6), the City of Eldorado (7), the City of Hempstead (8), the City of Josephine (9), the City of Kountze (10), the City of Navasota (11), the City of O'Donnell (12), the City of Trinity (13), the City of Wolfe City (14), Culberson County (15), Jim Wells County (16), Refugio County (17), Langford Community Management Services (18), New Braunfels Housing Authority (19), and the Texas Historical Commission (20).

The substantive comments to the rule and corresponding Departmental responses are set out below. If comment resulted in recommended language changes to the draft rule as presented to the Board in April, such changes are indicated.

### **10 TAC Chapter 23 Subchapter B Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds**

#### **§23.25(b)(2)(E) General Threshold and Selection Criteria**

COMMENT SUMMARY: Commenter 18 noted the proposed rule does not allow Applicants to receive the maximum number of points under the Previous HOME Award scoring criterion if the Applicant has requested deobligation of funds from a contract of the same assistance type within five years of the date of Application.

STAFF RESPONSE: The comment as a general observation is true. The commenter did not include a suggestion as to whether this criterion should be amended; staff recommends no change to the proposed rule in response to this comment.

#### **§23.25(b)(2)(F) General Threshold and Selection Criteria**

COMMENT SUMMARY: Commenters 1-18 noted that Applicants may receive up to five points under competitive Applications under the general set-aside for attending First Thursday Income Eligibility Training. The commenters requested that the training either be conducted online or in each of the 13 state service regions because travel to attend training interrupts day-to-day operations of small entities. Seven commenters recommended removing the scoring item

in its entirety, while 10 commenters recommended replacement of First Thursday Income Eligibility with an online fair housing training to be created and presented by TDHCA.

STAFF RESPONSE: Staff agrees that awarding points for attending First Thursday Income Eligibility Training in person may create an administrative and financial burden for some Applicants. Staff has included changes to the proposed rule to allow for additional HUD sponsored on-line training options which may provide a comparable benefit for scoring purposes. The additional options include completion of Financial Management 101: Introduction or Financial Management 201: A Closer Look, available through the HUD Exchange website.

**§23.25(b)(2)(K) General Threshold and Selection Criteria**

COMMENT SUMMARY: Commenter 18 noted that up to five points are given under a competitive application for Applicants who propose to serve at least one colonia. Commenter recommends striking the scoring item as it provides a scoring advantage to counties over cities.

STAFF RESPONSE: The scoring criterion that awards five points to entities applying under a competitive Application cycle was included to meet the requirement in Tex Gov't Code 2306.127 to give priority through its housing program scoring criteria to communities that are wholly or partly in a colonia. Staff recommends no change to the proposed rule in response to this comment.

**§23.26(b) Contract Benchmarks and Limitations**

COMMENT SUMMARY: Commenter 18 noted a reduction in the contract term from 24 months to 21 months. Commenter states that the contract period should be 24 months for ease of tracking and because the difference between 24 months and 21 months is insubstantial.

STAFF RESPONSE: On December 2, 2016, HUD published an interim final rule making changes with respect to HOME Program commitment and expenditure requirements. Beginning with FY 2015 HOME allocations, HUD is no longer using the cumulative method for measuring compliance with the requirement that Participating Jurisdictions (“PJs”) commit HOME funds within 24 months of obligation. Instead HUD is determining compliance with the deadlines on a grant-specific basis instead of the “cumulative average” approach HUD previously employed. The rule was effective on January 3, 2017. Staff has determined that a significant amount of funds may be subject to a return to HUD treasury accounts unless HOME funds can be re-committed to HOME eligible projects. The reduction in the contract term from 24 months to 21 months is one of many strategies recommended by staff to preserve the HOME funds remaining at the end of the contract term. Staff recommends no change to the proposed rule in response to this comment.

**§23.26(c) Contract Benchmarks and Limitations**

COMMENT SUMMARY: Commenter 18 noted implementation of a new performance benchmark for environmental clearance of six months from the start date of the contract and extend the existing benchmark requiring submission of activities eligible for commitment of funds to nine months from the start date of the contract. Commenter recommends that both benchmarks should be extended by three months, making the environmental clearance benchmark nine months and the submission of activities twelve months. Commenter states that proposed revisions to 10 TAC Chapter 20 related to households with existing delinquent property tax impact the amount of time needed to qualify households for HRA.

STAFF RESPONSE: The current HOME Rules include only one performance benchmark for submission of eligible activities within 6 months of the contract start date. Achievement of



environmental clearance is one requirement of submission of an eligible activity. The proposed rule allows up to nine months for submission of eligible activities, which is a three month increase in the benchmark deadline. This provision of additional time to meet the submission benchmark was included in the draft rule in response to feedback received at a series of roundtables which indicated that the benchmark was too onerous, and provides more time for the applicant homeowner to meet requirements in changes proposed related to payment of delinquent property tax in 10 TAC Chapter 20. While staff has agreed and proposed that the six month benchmark for activity submission be extended to nine months, it is imperative contracts progress in a timely manner; therefore an additional benchmark was included in the draft rule to allow staff to adequately track contract progress. Staff recommends no change to the proposed rule in response to this comment.

#### **§23.26(f) Contract Benchmarks and Limitations**

COMMENT SUMMARY: Commenter 18 noted that §23.26(f) allows for eligible administrative and Activity soft costs to be reimbursed if they were incurred within six months of the effective date of the contract in accordance with 24 C.F.R. §92.212 at the sole discretion of the Department. Commenter states that the costs should be further defined in 10 TAC §23.26(f) and that the Department should further describe how it will utilize its discretion.

STAFF RESPONSE: The federal regulations related to limitations set forth for pre-award costs are detailed in those regulations and the language in the proposed rule allows for limited flexibility in extenuating circumstances while allowing TDHCA to manage HUD's 25% limitation across its annual allocation. Staff recommends no change to the proposed rule in response to this comment.

### **10 TAC CHAPTER 23. SUBCHAPTER C. HOMEOWNER REHABILITATION ASSISTANCE PROGRAM**

#### **§23.31(a)(4) Homeowner Rehabilitation Assistance (HRA) Program Requirements**

COMMENT SUMMARY: Commenter 18 noted that homes may be classified as "New Construction" if they were destroyed and will be rebuilt within five years of a disaster that made them uninhabitable but will be classified as "Reconstruction" if HOME funds are committed within 12 months of the date that the home became uninhabitable. Commenter requests that all homes being rebuilt after a disaster are classified as "Reconstruction" and therefore eligible to be served under a conditional grant agreement rather than a loan.

STAFF RESPONSE: The HOME Final Rule at 24 C.F.R. §92.2 includes rebuilding of housing that was destroyed within 12 months of commitment of funds in the definition of Reconstruction. The proposed language in 10 TAC §23.31(a)(1) was written to provide maximum flexibility for rebuilding after a disaster while imposing the federally required period of affordability when necessary, hence the disparity in the form of assistance. Staff recommends no change to the proposed rule in response to this comment.

#### **§23.31(d)(3) Homeowner Rehabilitation Assistance (HRA) Program Requirements**

COMMENT SUMMARY: Commenter 20 noted that the Direct Activity Cost limitation for Rehabilitation Activities increased from \$40,000 to \$60,000, and appreciates the proposed \$20,000 increase. The commenter recommends an increase in Direct Activity Costs limitation from \$40,000 to \$100,000 for Rehabilitation of homes listed in or eligible for listing in the National Register of Historic Places. Commenter states that less than 4% of homes reviewed by the Texas Historical Commission for HUD funded projects meet this criterion, and that the increase in Direct Activity Cost limitations proposed would help meet the objectives of the

Texas Historical Commission with minimal fiscal impact to the HOME Program.

STAFF RESPONSE: Staff agrees with Commenter (20) and has made changes to the proposed rule to align with the commenter's recommendation. Conforming changes to Subchapter E concerning Contract for Deed and Subchapter G concerning Single Family Development which were not specifically cited within the comment have also been included in response to the comment in order to make requirements consistent across activity types.

#### **§23.31(f) Homeowner Rehabilitation Assistance (HRA) Program Requirements**

COMMENT SUMMARY: Commenters 1-18 noted that Direct Activity Cost limitations were increased, but Activity soft cost limitations did not increase. 7 commenters recommend increasing soft costs by \$1,000 for Reconstruction projects, \$2,000 for Rehabilitation projects, and \$2,000 for manufactured housing unit ("MHU") replacement projects. 10 commenters recommended increasing the soft cost limitation by \$3,000 for Reconstruction projects only. One commenter (18) stated that soft costs should be increased proportionate to the increase in Direct Activity Costs for all Activity types.

STAFF RESPONSE: In response to Commenters (1-18), staff agrees that an increase in the limitation for Activity soft costs is warranted due to an increase in expense for these types of services. Staff recommends changes to allow a \$1,000 increase in Activity soft costs for Reconstruction to a total of \$10,000 and a \$2,000 increase in Activity soft costs for Rehabilitation to a total of \$7,000. The contract management activities of a replacement MHU are not as extensive and do not require the same level of oversight expense as required of a stick built dwelling; therefore no changes are recommended to the limitation for MHU replacement projects. Conforming changes to Subchapter E concerning Contract for Deed which was not specifically cited within the comment have also been included in response to the comment in order to make requirements consistent across activity types.

#### **§23.31(f)(4) Homeowner Rehabilitation Assistance (HRA) Program Requirements**

COMMENT SUMMARY: Commenter 18 states that third party costs for tax certificates are not subject to a limitation, but that staff has required the purchase of tax certificates at a cost of \$10 from the taxing jurisdiction rather than a third party tax service at a cost of about \$43. Commenter states that third party tax service is customary and should be a reimbursable expense under this line item.

STAFF RESPONSE: Staff has applied the cost principles at 2 CFR §200.404 when requiring purchase and submission of tax certificates from the taxing jurisdiction rather than third party tax services. Staff recommends no change to the proposed rule in response to this comment.

#### **§23.32(a)(10) Homeowner Rehabilitation Assistance (HRA) Administrative Requirements**

COMMENT SUMMARY: Commenter (18) states that it is not always possible to submit a quote for flood insurance with the submission of the Activity prior to commitment of funds. Commenter refers to new regulations in the National Flood Insurance Program which require an elevation certificate prior to issuance of a quote for flood insurance. Commenter recommends reevaluating this provision in light of the new NFIP requirements.

STAFF RESPONSE: Staff has researched this issue based on this comment and agrees with Commenter. Conforming changes to Subchapter D concerning Homebuyer Assistance and Subchapter E concerning Contract for Deed which were not specifically cited within the comment have also been included in response to the comment in order to make requirements

consistent across activity types.

## **10 TAC CHAPTER 23. SUBCHAPTER F. TENANT-BASED RENTAL ASSISTANCE PROGRAM**

### **§23.61(e)(1)(A) Tenant-Based Rental Assistance (TBRA) Program Requirements**

COMMENT SUMMARY: Commenter 19 noted that the lifetime limitation for households receiving tenant-based rental assistance may be up to sixty months if the tenant is on a waiting list for Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program. The commenter stated that Public Housing should be included on the list of eligible waiting lists since waiting lists for Public Housing are more accessible than the other assisted housing types, specifically Section 8 Housing Choice Vouchers.

STAFF RESPONSE: HOME Tenant-Based Rental Assistance (“TBRA”) is a tenant-based program which serves populations normally at or below 50% AMI, and which provides tenants choice of where to live, allowing them to choose housing near services that promote self-sufficiency. There is not a programmatic limitation which precludes a TBRA recipient from applying for Public Housing, LIHTC, or another place based program. The existing limitations on the lifetime assistance term for a TBRA participant is an appropriate balance between having TBRA funds available for a greater number of households that need only short-term rental assistance while allowing those households who need longer term rental assistance or support services to transition into a more permanent solution while retaining housing choice. Staff recommends no change to the proposed rule in response to this comment.

The Board approved the final order adopting the new sections on July 13, 2017.

STATUTORY AUTHORITY. The new rule and repeals are adopted pursuant to Tex. Gov’t Code §2306.053, which authorizes the Department to promulgate rules.

The adopted new rule and repeals affect no other code, article or statute.

## **SUBCHAPTER A. GENERAL GUIDANCE**

### **10 TAC §23.1, §23.2**

#### *§23.1. Applicability and Purpose.*

(a) Applicability. This Chapter governs the use and administration of all HOME single family Activities funds provided to the Texas Department of Housing and Community Affairs (the "Department") by the U.S. Department of Housing and Urban Development (HUD) pursuant to Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 as amended (42 U.S.C. §§12701 - 12839) and HUD regulations at 24 CFR, Part 92 as amended. Chapter 20 of this title relating to Single Family Programs Umbrella Rule and other Chapters 1 and 2 of this title will apply to all single family activities, including Single Family Development. Unless otherwise noted herein or required by law, all provisions of this Chapter apply to any Application received on or after the date of adoption of this Chapter. Existing Agreements executed within the preceding twelve (12) months from the date of adoption of this Chapter or current pending



Applications may be amended in writing at the request of the Administrator or Applicant, and with Department approval, so that all provisions of this Chapter apply to the Agreement or Application. Amendments proposing only partial adoption of this Chapter are prohibited. No amendment adopting this Chapter shall be granted if, in the discretion of the Department, any of the provisions of this Chapter conflict with the Notice of Funding Availability (NOFA) under which the existing Agreement was awarded or Application was submitted. The Governing Board may waive rules subject to this Chapter for good cause to meet the purpose of the HOME Program as described further in subsection (b) of this section, provided the action does not conflict with the federal regulations governing the use of these funds, or impact federally imposed obligation or expenditure deadlines governing the HOME Program.

(b) Purpose. The State's HOME Program is designed to:

- (1) focus on the areas with the greatest housing need described in the State Consolidated Plan;
- (2) provide funds for home ownership and rental housing through acquisition, New Construction, Rehabilitation, and Tenant-Based Rental Assistance;
- (3) promote partnerships among all levels of government and the private sector, including nonprofit and for-profit organizations; and
- (4) provide low, very low, and extremely low income families with affordable, decent, safe, and sanitary housing.

*§23.2. Definitions.*

These words when used in this Chapter shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions may be found in Tex. Gov't Code Chapter 2306 or Chapter 20 of this title relating to Single Family Programs Umbrella Rule.

- (1) Area Median Family Income--The income limits published annually by the U.S. Department of Housing and Urban Development (HUD) for the Housing Choice Voucher Program that is used by the Department to determine the eligibility of Applicants for the HOME Program, also referred to as AMFI.
- (2) CFR--Code of Federal Regulations.
- (3) Commitment of Funds--Occurs when the funds are awarded to an Administrator for a specific Activity approved by the Department and set up in the Integrated Disbursement and Information System (IDIS) established by HUD.
- (4) Construction Completion Date--The Construction Completion Date shall be the date of completion of all improvements as stated on the affidavit of completion, provided that the affidavit is filed within ten (10) days of the stated date of completion or the date of filing as outlined in Tex Prop. Code §53.106.
- (5) Development Site--The area, or if scattered site, areas on which the development is proposed to be located.

(6) Direct Activity Costs--The total costs of hard construction costs, demolition costs, aerobic septic systems, refinancing costs (as applicable), acquisition and closing costs, rental and utility subsidy and deposits, and Match Funds.

(7) HOME Final Rule--The regulations with amendments promulgated at 24 CFR, Part 92 as published by HUD for the HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.

(8) Homeownership--Ownership in fee simple title in a 1 to 4 unit dwelling or in a condominium unit, or equivalent form of ownership approved by the Department. Homeownership is not right to possession under a contract for deed, installment contract, or land contract (pursuant to which the deed is not given until the final payment is made).

(9) Identity of Interest--An acquisition will be considered to be an Identity of Interest transaction when the purchaser has any financial interest whatsoever in the seller or lender or is subject to common control, or any family relationship by virtue of blood, marriage, or adoption exists between the purchaser and the seller or lender.

(10) Match--Funds contributed to an Activity that meet the requirements of 24 CFR §§92.218 - 92.220. Match contributed to an Activity does not include mortgage revenue bonds, non HOME-assisted projects, and cannot include any other sources of Department funding unless otherwise approved in writing by the Department.

(11) New Construction--Construction of a new Single Family Housing Unit which involves:

(A) Construction on a lot that was not the site of a Single Family Housing Unit on the date HOME assistance was requested;

(B) Construction of a new Single Family Housing Unit following acquisition; or

(C) Construction of a site-built Single Family Housing Unit which replaces a unit of manufactured housing.

(12) Person--Any individual, partnership, corporation, association, unit of government, community action agency, or public or private organization of any character.

(13) Persons with Special Needs--Individuals or categories of individuals determined by the Department to have unmet housing needs as provided in the Consolidated Plan and the State's One Year Action Plan.

(14) Predevelopment Costs--Costs consistent with 24 CFR §92. 212 related to a specific eligible Activity including:

(A) Predevelopment housing project costs that the Department determines to be customary and reasonable, including but not limited to consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, and site control;

(B) Pre-construction housing project costs that the Department determines to be customary and reasonable, including but not limited to, the costs of obtaining firm construction loan

commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees; and

(C) Predevelopment costs do not include general operational or administrative costs.

(15) Principal--A Person, or Persons, that will exercise Control over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:

(A) Partnerships: Principals include all General Partners, special limited partners, and Principals with ownership interest;

(B) Corporations: Principals include any officer authorized by the board of directors to act on behalf of the corporation, including the president, vice president, secretary, treasurer, and all other executive officers, and each stock holder having a 10 percent or more interest in the corporation; and

(C) Limited liability companies: Principals include all managing members, members having a 10 percent or more interest in the limited liability company or any officer authorized to act on behalf of the limited liability company.

(16) Reconstruction--Defined term in 24 CFR Part 92.

(17) Rehabilitation--Improvements and repairs made to an existing Single Family Housing Unit which do not require demolition of the entire existing Single Family Housing Unit. Additionally, replacement of a unit of manufactured housing with a new unit of manufactured housing is Rehabilitation.

(18) Reservation System Participant (RSP)--Administrator who has executed a written Agreement with the Department that allows for participation in the Reservation System.

(19) Service Area--The city(ies), county(ies) and/or place(s) identified in the Application and/or Agreement that the Administrator will serve.

(20) Texas Minimum Construction Standard (TMCS)--The program standard used to determine the minimum acceptable housing condition for the purposes of Rehabilitation.

(21) Third Party--A Person who is not:

(A) An Applicant, Administrator, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(B) An Affiliate, Affiliated Party to the Applicant, Administrator, Borrower, General Partner, Developer, Development Owner, or General Contractor; or

(C) A Person receiving any portion of the administration, contractor fee, or developer fee.

**SUBCHAPTER B. AVAILABILITY OF FUNDS, APPLICATION REQUIREMENTS, REVIEW AND AWARD PROCEDURES, GENERAL ADMINISTRATIVE REQUIREMENTS, AND RESALE AND RECAPTURE OF FUNDS**



## 10 TAC §§23.20 - 23.29

### *§23.20. Availability of Funds and Regional Allocation Formula.*

Funds subject to regional allocation formula shall be made available as described in paragraphs (1) - (3) of this section:

(1) Applicants applying in response to a Competitive Application Cycle NOFA will be ranked highest to lowest by region and subregion. Funds remaining after awarding all eligible Applications in a subregion shall collapse and be directed to the next Application across all regions and subregion regardless of the type of assistance being proposed, based on descending scoring order;

(2) Funds made available through an open Application cycle and subject to regional allocation formula shall be made available to each region and subregion for a time period to be specified in the applicable NOFA, after which the funds remaining shall collapse and be made available statewide; and

(3) In the event of a tie between rankings of two or more Applicants, the Department reserves the right to determine which Application will receive a recommendation for funding, or as otherwise specified in the NOFA. Tied Applicants may be awarded through a random selection process.

### *§23.21. Application Forms and Materials and Deadlines.*

(a) The Department will produce an Application, which if properly completed in accordance herein by an eligible Applicant and approved by the Department, can satisfy the Department's requirements to be qualified to administer HOME activities.

(b) The Department must receive all Applications by the deadline specified in the NOFA.

### *§23.22. Contract Award Application Review Process for Open and Competitive Application Cycles.*

(a) An Application received by the Department in response to an open Application cycle NOFA will be assigned a "Received Date." An Application will be prioritized for review based on its "Received Date." Application acceptance dates may be staggered under an open Application cycle to prioritize Applications which propose to serve areas identified in Tex. Gov't Code §2306.127 as priority for certain communities. An Application with outstanding administrative deficiencies may be suspended from further review until all administrative deficiencies have been cured or addressed to the Department's satisfaction. Applications that have completed the review process may be presented to the Board for approval with priority over Applications that continue to have administrative deficiencies at the time Board materials are prepared, regardless of "Received Date." If all funds available under a NOFA are awarded, all remaining Applicants will be notified and the remaining Applications will not be processed.

(b) For Applications received by the Department in response to a Competitive Application Cycle NOFA, the Department will accept Applications on an ongoing basis during the Application acceptance period as specified in the NOFA. Applications will be reviewed and scored then ranked based on the score of the Application.

### *§23.23. Reservation System Participant Review Process.*

An Application for a Reservation System Participant (RSP) Agreement shall be reviewed and if approved under §1.303 of this title as amended or superseded and not denied under §23.24 of this Chapter, will be drafted and processed in the order in which it was accepted by to be executed and made effective.

*§23.24. Administrative Deficiency Process.*

(a) The administrative deficiency process allows staff to request that an Applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. Staff will request such information via a deficiency notice. Staff will send the deficiency notice via an email or if an email address is not provided in the Application, by facsimile to the Applicant. Responses are required to be submitted electronically to the Department. A review of the Applicant's response may reveal that issues initially identified as an administrative deficiency are actually determined to be beyond the scope of an administrative deficiency process, meaning that they are in fact matters of a material nature not susceptible to being resolved. Department staff may in good faith provide an Applicant confirmation that an administrative deficiency response has been received or that such response is satisfactory. Communication from staff that the response was satisfactory does not establish any entitlement to points, eligibility status, or to any presumption of having fulfilled any requirements. Final determination regarding the sufficiency of documentation submitted to cure an administrative deficiency as well as the distinction between material and non-material missing information are reserved for the Director of the HOME Program, Executive Director, and Board, as applicable.

(b) An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, and may not add any set-asides, except in response to a direct request from the Department to remedy an administrative deficiency or by amendment of an Application after the Board approval of a HOME award. An administrative deficiency may not be cured if it would, in the Department's determination, substantially change an Application, or if the Applicant provides any new unrequested information to cure the deficiency.

(c) Administrative deficiencies for HOME Applications under an open application cycle NOFA, including an Application for an RSP Agreement. The time period for responding to a deficiency notice commences on the first business day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. Austin local time on the fifth business day following the date of the deficiency notice, the application shall be terminated. Applicants that have been terminated may reapply.

(d) Administrative deficiencies for HOME Applications under a Competitive Application Cycle NOFA. The time period for responding to a deficiency notice commences on the first business day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then one (1) point shall be deducted from the selection criteria score for each additional business day the deficiency remains unresolved. If administrative deficiencies are not resolved by 5:00 p.m. Austin local time on the seventh business day following the date of the deficiency notice, then the Application shall be terminated.

*§23.25. General Threshold and Selection Criteria.*

(a) General Threshold. All Applicants and Applications to administer a HOME Program award from the Department must submit or comply with the following:

(1) an Applicant certification of compliance with state rules promulgated by the Department, and federal laws, rules and guidance governing the HOME Program as provided in the Application;

(2) a Resolution signed and dated within the six (6) months preceding the Application submission date from the Applicant's direct governing body which includes:

(A) authorization of the submission of the Application;

(B) commitment and amount of cash reserves, if applicable, for use during the Contract or RSP Agreement term;

(C) source of funds for Match obligation and Match dollar amount, if applicable;

(D) name and title of the person authorized to represent the organization and who also has signature authority to execute a Contract and grant agreement or loan documents, as applicable, unless otherwise stated.

(3) any Applicant requesting \$25,000 or more must be registered in the System for Award Management (SAM) and have a current Data Universal Numbering System (DUNS) number;

(4) an Application fee of thirty dollars per Application;

(5) an Application must be substantially complete when received by the Department. An Application will be terminated if an entire tab of the Application is missing; has excessive omissions of documentation from the threshold or selection criteria or uniform Application documentation; or is so unclear, disjointed, or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department. Such Application will be terminated without being processed as an administrative deficiency. To the extent that a review was able to be performed, specific reasons for the Department's termination will be included in the notification sent to the Applicant but, because of the suspended review, may not include an all inclusive list of deficiencies in the Application.

(b) Selection Criteria. Applications for competitive awards consistent with a NOFA will be scored and ranked based on the following criteria. Selection criteria for which points are awarded will become a contractual requirement if the Applicant is awarded a Contract.

(1) Applicants will be required to submit a self-score within the Application. In no event will the points awarded to the Applicant exceed the point value of the self-score in any one selection criterion. Applicants must achieve a minimum staff determined score of fifteen (15) points to be awarded a Contract.

(2) Applicants may be awarded points under the following selection criteria:

(A) Homes Built to greater than or equal to IRC 2012 Standard. This selection criterion is applicable to Homeowner Rehabilitation Assistance ("HRA") Applications only. Applications may be awarded five (5) points if all reconstructed or newly constructed homes under the Contract will be built to a code that meets or exceeds IRC 2012 standards.

(B) Purchased Home Will Meet TMCS. This selection criterion is applicable to Homebuyer Assistance ("HBA") Applications only. Applications may be awarded five (5) points if all homes for which HBA is provided under the Contract pass an inspection prior to purchase that meets



or exceeds TMCS.

(C) Previous HOME Award. All Applications may receive a maximum of five (5) points for past experience in the HOME Program as follows:

(i) Applications may be awarded five (5) points if the Applicant administered a HOME Contract awarded within five (5) years of the date that Applications are first accepted under the NOFA. The previous HOME Contract for which points are requested must be of the same assistance type as that proposed in the Application and the Applicant must have met the 100 percent commitment benchmark of the Contract without requiring an amendment.

(ii) Applications may be awarded one (1) point for each reservation of the same assistance type which resulted in Commitment of Funds within twelve (12) months of the date that Applications are first accepted under the NOFA, but may not, in any event, receive more than four (4) points under this criteria.

(iii) Applications may be awarded two (2) points if the Applicant administered a HOME Contract awarded within five (5) years of the date that Applications are first accepted under the NOFA. The previous HOME Contract for which points are requested must be of the same assistance type as that proposed in the Application and all contractually required units must have been completed by the end of the Contract term in accordance with the original Contract, or as amended.

(D) Administrator Provides Expanded Services. This selection criterion is applicable to Tenant-Based Rental Assistance (TBRA) Applications only. Applicants may receive a maximum of five (5) points for the provision of services available to existing clients within twelve (12) months of the date that Applications are first accepted under the NOFA. Applicant must specify the types of services offered in the Application, and must provide documentation verifying the provision of each service within the specified timeframe. A maximum of one (1) point for each separate service may be awarded. Any service for which points are requested must be identified as provided under one of the following categories: Child Care, Nutrition, Job Training, Health, and Human Services. The services must be uniquely different as determined by the Department. The Department must be able to make a determination that the service stated in the Application was provided by the Applicant and qualifies for the corresponding point(s) when determining the points awarded under this criterion.

(E) Previous Monitoring History. All Applications may receive a maximum of five (5) points for the Applicant's previous monitoring history. The Department will consider the monitoring history for three (3) years preceding the date that Applications are first accepted under the NOFA when determining the points awarded under this criterion. Findings that were subsequently rescinded will not be considered findings for the purpose of this point criterion.

(i) Applications will be limited to a maximum of two (2) points if the Applicant has a monitoring close-out letter that included findings related to violations of procurement requirements.

(ii) Applications will be limited to a maximum of three (3) points if the Applicant has a monitoring close-out letter that included findings on miscalculation of Household income.

(iii) Applications may be awarded a maximum of four (4) points if the Applicant has a monitoring close-out letter that included findings but the findings were not related to miscalculation of Household income or violations of procurement requirements.

(iv) Applications may be awarded a maximum of five (5) points if the Applicant has not received any monitoring findings, including Applicants with no previous monitoring history.

(F) Applicant Staff with Income Eligibility Training or Financial Management Training. All Applications may receive a maximum of five (5) points if a member of the Applicant's staff that will be involved in administration of the program if awarded, has attended TDHCA's 1st Thursday Income Eligibility training or has completed Financial Management 101: Introduction or Financial Management 201: A Closer Look, available through the HUD Exchange website, no earlier than one (1) year from the date that Applications are first accepted under the NOFA, or certifies that the staff member will attend TDHCA's 1st Thursday Income Eligibility training or HUD's on-line Financial Management 101 or 102 training prior to submission of a Activity for TDHCA approval. Activities may not be approved under a Contract until the staff member has attended 1st Thursday Income Eligibility training or HUD's on-line Financial Management trainings if points are awarded under this criterion.

(G) Section 8 Housing Choice Voucher Availability. This selection criterion is applicable to TBRA Applications only. Applications may be awarded a maximum of five (5) points if the waiting list(s) for the Section 8 Housing Choice Voucher ("HCV") program maintained by the Public Housing Authority ("PHA") with jurisdiction over the Service Area outlined in the Application exceeds a twelve (12) month wait time as of the date that Applications are first accepted under the NOFA, or if the PHA does not offer rental assistance under the HCV program. The Department must be able to make a determination that PHA's wait time exceeds twelve (12) months through documentation provided in the Application by the Applicant for requested points when determining the points awarded under this criterion.

(H) Lack of Single Family Activities within the Service Area within the Previous Two (2) Years. This selection criterion is applicable to HRA and HBA Applications only.

(i) Applications may be awarded a maximum of five (5) points if TDHCA HOME funds have not been awarded thorough a competitive award or been provided to an Activity of the same type as the assistance proposed in the Application, and within the Service Area designated in the Application within two (2) years of the date that Applications are first accepted under the NOFA.

(ii) Applications may be awarded a maximum of four (4) points if TDHCA HOME funds have been committed to Activities of the same type of assistance as that proposed in the Application, and within the Service Area designated in the Application, if the Applicant was not awarded funds to administer a Contract of the same type of assistance and was not the service provider for Activities submitted under an RSP agreement, within two (2) years of the date that Applications are first accepted under the NOFA.

(I) Program Restricted to First-Time Homebuyers. This selection criterion is applicable to HBA Applications only. Applications may be awarded a maximum of five (5) points if 100 percent of Households served are first-time homebuyers defined on the Department's Certification of First-Time Homebuyer Status Form.

(J) Program Restricted to Households at or below 60 percent AMFI. This selection criterion is applicable to HRA and TBRA Applications only. Applications may be awarded a maximum of five (5) points if 100 percent of Households served will have incomes at or below 60 percent AMFI for the county in which the Activity will be located.

(K) Priority for Certain Communities. All Applications may receive a maximum of two (2) points if at least one Colonia is included in the Service Area identified in the Application. Applicants awarded points under this criterion will be contractually required to maintain a Service Area that includes at least one Colonia as identified on the Office of the Secretary of State's website.

*§23.26. Contract Benchmarks and Limitations.*

(a) Contract Award Funding Limits. Limits on the total amount of a Contract award will be established in the NOFA.

(b) Contract Award Terms. Homeowner Rehabilitation Assistance and Homebuyer Assistance awards will have a Contract term of not more than twenty-one (21) months exclusive of any applicable affordability period or loan term. Tenant-Based Rental Assistance awards will have a Contract term of not more than thirty-six (36) months.

(c) Contract Award Benchmarks. Except for acquisition only Activities, Administrators must have attained environmental clearance for the contractually required number of Households served within six (6) months of the effective date of the Contract. Contract Administrators must submit to the Department complete Activity setup information for the Commitment of Funds of all contractually required Households in accordance with the requirements herein within nine (9) months from the effective date of the Contract. All remaining funds will be deobligated and reallocated in accordance with Chapter 1 of this title relating to Reallocation of Financial Assistance.

(d) Voluntary deobligation. The Administrator may fully deobligate funds in the form of a written request signed by the signatory, or successor thereto, of the Contract. The Administrator may partially deobligate funds under a Contract in the form of a written request from the signatory if the letter also deobligates the associated number of targeted Households, funds for administrative costs, and Match and the partial deobligation would not have impacted the award of the Contract. Voluntary deobligation of a Contract does not limit an Administrator's ability to participate in an open application cycle.

(e) The Department may request information regarding the performance or status under a Contract prior to a Contract benchmark or at various times during the term of a Contract. Administrator must respond within the time limit stated in the request. Prolonged or repeated failure to respond may result in suspension of funds and ultimately in termination of the Contract by the Department.

(f) Pre-Contract Costs.

(1) The Administrator may be reimbursed for eligible administrative and Activity soft costs incurred before the effective date of the Contract in accordance with 24 CFR §92.212 and at the sole discretion of the Department.

(2) A Community Housing Development Organization may be reimbursed for Predevelopment Costs as defined in this Chapter for an Activity funded under Single Family Development.

(3) In no event will the Department reimburse expenses incurred more than six (6) months prior to Governing Board approval of the Administrator's award.

(g) Amendments to Contract ~~a~~Awards will be processed in accordance with Chapter 20 of this



title relating to Single Family Programs Umbrella Rule.

*§23.27.Reservation System Participant (RSP) Agreement.*

(a) Terms of Agreement. The term of an RSP Agreement will not exceed thirty-six (36) months. Execution of an RSP Agreement does not guarantee the availability of funds under a reservation system. Reservations submitted under an RSP agreement will be subject to the provisions of this Chapter in effect as of the date of submission by the Administrator.

(b) Limits on Number of Reservations. RSP Administrators may have no more than five (5) Reservations per county within the RSP's Service Area submitted to the Department for approval at any given time except that Tenant-Based Rental Assistance Reservations submitted for approval under an RSP Agreement is limited to thirty (30) at any given time. All required documentation for the Reservation must be submitted to the Department twenty (20) business days prior to the end of RSP Agreement term.

(c) Extremely Low-Income Households. Except for Households served with disaster relief, Homebuyer Assistance or Single Family Development assistance, each RSP will be required to serve at least one extremely low-income Household out of every four Households submitted and approved for assistance. For purposes of this subsection, extremely low-income is defined as families that are either at or below 30 percent area median family income for the county in which they will reside without the increase for poverty guidelines or have an income that is lower than the statewide 30 percent income limit without adjustments to HUD limits.

(d) Match. Administrators must meet the Match requirement per Activity approved for assistance.

(e) Completion of Construction. For Activities involving construction, construction must be complete within twelve (12) months from the Commitment of Funds for the Activity.

(f) Household commitment contract term. The term of a Household commitment contract may not exceed twelve (12) months, except that the term for Tenant-Based Rental Assistance may not exceed twenty-four (24) months.

(g) Amendments to Household Commitment contracts may be considered by the Department provided the approval does not conflict with the federal regulations governing use of these funds, or impact federally imposed obligation or expenditure deadlines.

(1) The Division Director may approve amendments that extend the terms of Household commitment contracts by not more than three (3) months, except that the term of a Household Commitment contract for Tenant-Based Rental Assistance may not be extended.

(2) The Division Director may approve amendments to a Household Commitment contract to increase Activity funds within the limitations set forth in this Chapter.

(3) The Executive Director may approve amendments to Household Commitment contracts except amendments to extend the terms of Household Commitment contracts by more than twelve (12) months.

(h) Pre-agreement costs. The Administrator may be reimbursed for eligible administrative and Activity soft costs incurred before the effective date of the RSP Agreement in accordance with

24 CFR §92.212 and at the sole discretion of the Department. In no event will the Department reimburse expenses incurred more than six (6) months prior to the effective date of the RSP Agreement.

(i) Administrators must remain in good standing with the Department, the state of Texas, and HUD. If an Administrator is not in good standing, participation in the Reservation System will be suspended and may result in termination of the RSP Agreement.

*§23.28. General Administrative Requirements.*

Unless otherwise provided in this Chapter, the Administrator or Developer must comply with the requirements described in paragraphs (1) - (20) of this section, for the administration and use of HOME funds:

(1) complete training, as applicable;

(2) provide all applicable Department Housing Contract System access request information and documentation requirements;

(3) establish and maintain sufficient records at its regular place of business and make available for examination by the Department, HUD, the U.S. General Accounting Office, the U.S. Comptroller, the State Auditor's Office of Texas, the Comptroller of Public Accounts, or any of their duly authorized representatives, throughout the applicable record retention period;

(4) for non-development Contracts, develop and establish written procurement procedures that comply with federal, state, and local procurement requirements including:

(A) develop and comply with written procurement selection criteria and committees, including appointment of a procurement officer to manage any bid process;

(B) develop and comply with a written code of conduct governing employees, officers, or agents engaged in administering HOME funds;

(C) ensure consultant or any procured service provider does not participate in or direct the process of procurement for services. A consultant cannot assist in their own procurement before or after an award is made;

(D) ensure that procedures established for procurement of building construction contractors do not include requirements for the provision of general liability insurance coverage in an amount to exceed the value of the contract and do not give preference for contractors in specific geographic locations;

(E) ensure that building construction contractors are procured in accordance with State and Federal regulations for single family HOME Activities;

(F) ensure that professional service providers (consultants) are procured using an open competitive procedure and are not procured based solely on the lowest priced bid; and

(G) ensure that any Request for Proposals or Invitation for Bid include:

- (i) an equal opportunity disclosure and a notice that bidders are subject to search for listing on the Excluded Parties List;
  - (ii) bidders' protest rights and an outline of the procedures bidders must take to address procurement related disputes;
  - (iii) a conflict of interest disclosure;
  - (iv) a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description must include complete, adequate, and realistic specifications;
  - (v) for sealed bid procedures, disclose the date, time and location for public opening of bids and indicate a fixed-price contract;
  - (vi) must not have a term of services greater than five (5) years; and
  - (vii) for competitive proposals, disclose the specific election/evaluation criteria;
- (5) in instances where a potential conflict of interest exists, follow procedures to submit a request to the Department to grant an exception to any conflicts prohibited by 24 CFR §92.356. The request submitted to the Department must include a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict by newspaper publication, a description of how the public disclosure was made, and an attorney's opinion that the conflict does not violate state or local law. No HOME funds will be committed to or reserved to assist a Household until HUD has granted an exception to the conflict of interest provisions;
- (6) perform environmental clearance procedures, as required, before acquiring any Property or before performing any construction activities, including demolition, or before the occurrence of the loan closing, if applicable;
- (7) develop and comply with written Applicant intake and selection criteria for program eligibility that promote and comply with Fair Housing requirements and the State's One Year Action Plan;
- (8) complete Applicant intake and Applicant selection. Notify each Applicant Household in writing of either acceptance or denial of HOME assistance within sixty (60) days following receipt of the intake application. For Homeowner Rehabilitation Assistance and Contract for Deed Conversion the Administrator must:
- (A) provide Rehabilitation as an available option to Households, provide Households with a general cost estimate, and to the extent that Rehabilitation would not meet the program requirements, explain these program requirements;
  - (B) unless not allowed by local code, provide replacement of an existing housing unit with a new MHU as an available option; and
  - (C) explain relocation as an available option under applicable Activities;
- (9) determine the income eligibility of a Household using the "Annual Income" as defined at 24 CFR §5.609, by using the list of income included in HUD Handbook 4350, and excluding from



income those items listed in HUD's Updated List of Federally Mandated Exclusions from Income;

(10) except for Single Family Development, complete an updated income eligibility determination of a Household if more than six (6) months has elapsed from the date of certification and the date the HOME assistance is provided to the Household. For Single Family Development, complete income eligibility determination of a Household if more than six (6) months has elapsed from the date of certification and the date the contract to purchase the housing unit is executed with the Household;

(11) for disaster relief set-aside Activities, provide evidence that the housing unit occupied by the eligible Household was damaged as a direct result of a federal, state, or locally declared disaster that occurred less than three (3) years prior to Administrator's Application for a RSP Agreement or Contract under which the Household applied for assistance;

(12) for single family Activities involving construction, perform initial inspection in accordance with Chapter 20 of this title (relating to Single Family Programs Umbrella Rule). Property inspections must include photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms. The inspection must be signed and dated by the inspector and the Administrator;

(13) submit a substantially complete request for the Commitment or Reservation of Funds, loan closing preparation, and for disbursements. Administrators must upload all required information and verification documentation in the Housing Contract System. Requests determined to be substantially incomplete will not be reviewed and may be disapproved by the Department. Expenses for which reimbursement is requested must be documented as incurred. If the Department identifies administrative deficiencies during review, the Department will allow a cure period of ten (10) business days beginning at the start of the first business day following the date the Administrator or Developer is notified of the deficiency. If any administrative deficiencies remain after the cure period, the Department, in its sole discretion, may disapprove the request. Disapproved requests will not be considered sufficient to meet the performance benchmark and shall not constitute a Reservation of Funds;

(14) submit signed program documents timely as may be required for the completion of a Commitment or Reservation of Funds, and for closing preparation of the loan or grant documents. Department reserves the right to cancel or terminate Activities when program documents are not executed timely, in the Department's sole and reasonable discretion;

(15) not proceed or allow a contractor to proceed with construction, including demolition, on any Activity or development without first completing the required environmental clearance procedures, preconstruction conference and receiving notice to proceed, if applicable, and execution of grant agreement or loan closing with the Department, whichever is applicable;

(16) submit any Program Income received by the Administrator or Developer to the Department within ten (10) business days of receipt; any fund remittance to the Department, including refunds, must include a written explanation of the return of funds, the Contract number, name of Administrator or Developer, Activity address and Activity number, and must be sent to the Department's accounting division;

(17) submit required documentation for project completion reports no later than sixty (60) days after the completion of the Activity;

(18) for Contract awards, submit certificate of Contract Completion within ten (10) business days of the Department's request;

(19) submit to the Department reports or information regarding the operations related to HOME funds provided by the Department;

(20) submit evidence with the final draw for construction related activities that the builder has provided a one-year warranty specifying at a minimum that materials and equipment used by the contractor will be new and of good quality unless otherwise required, the work will be free from defects other than those inherent in the work as specified, and the work will conform to the requirements of the contract documents;

(21) provide the Household all warranty information for work performed by the builder and any materials purchased for which a manufacturer or installer's warranty is included in the price; and

(22) if required by state or federal law, place the appropriate bonding requirement in any contract or subcontract entered into by the Administrator or Developer in connection with a HOME award.

*§23.29. Resale and Recapture Provisions.*

(a) Recapture is the primary method the Department will use to recoup HOME funds under 24 CFR §92.254(a)(5)(ii).

(b) The Department has established the recapture provisions described in paragraphs (1) - (4) of this subsection to ensure affordability as defined in 24 CFR §92.254(a)(5)(ii).

(1) In the event that a federal affordability period is required and the assisted property is rented or leased, or no member of the Household has it as the Principal Residence, the entire HOME investment is subject to recapture. The Department will include any loan payments previously made when calculating the amount subject to recapture. Loan forgiveness is not the same thing as loan payments for purposes of this subsection.

(2) In the event that a federal affordability period is required and the unit is sold, including through a short sale or foreclosure, prior to the end of the affordability period, the Department will recapture the available amount of net proceeds based on the requirements of 24 CFR §92.254 and as outlined in the State's One Year Action Plan.

(3) The Household can sell the unit to any willing buyer at any price. In the event of sale to a qualified low-income purchaser of a HOME-assisted unit, the qualified low-income purchaser may assume the existing HOME loan and recapture obligation entered into by the original buyer if no additional HOME assistance is provided to the subsequent homebuyer. In cases in which the subsequent homebuyer needs HOME assistance in excess of the balance of the original HOME loan, the HOME subsidy (the direct subsidy as described in 24 CFR §92.254) to the original homebuyer must be recaptured. A separate HOME subsidy must be provided to the new homebuyer, and a new affordability period must be established based on that assistance to the buyer.

(4) If there are no net proceeds from the sale, no repayment will be required of the Household and the balance of the loan shall be forgiven as outlined in the State's applicable One Year Action Plan.

(c) The Department has established the resale provisions described in paragraphs (1) - (7) of this subsection, in the event that the Department must impose the resale provisions of 24 CFR §92.254(a)(i).

(1) Resale is defined as the continuation of the affordability period upon the sale or transfer, rental or lease, refinancing, and no member of the Household is occupying the property as their Principal Residence.

(2) In the event that a federal affordability period is required and the assisted property is rented or leased, or no member of the Household has it as the Principal Residence, the HOME investment must be repaid.

(3) In the event that a federal affordability period is required and the assisted property is sold or transferred in lieu of foreclosure to a qualified low income buyer at an affordable price, the HOME loan balance shall be transferred to the subsequent qualified buyer and the affordability period shall remain in force to the extent allowed by law.

(4) The resale provisions shall remain in force from the date of loan closing until the expiration of the required affordability period.

(5) The Household is required to sell the home at an affordable price to a reasonable range of low income homebuyers that will occupy the home as their Principal Residence. Affordable to a reasonable range of low-income buyers is defined as targeting Households that have income between 70 and 80 percent of the area median family income and meet all program requirements.

(A) The seller will be afforded a fair return on investment defined as the sum of down payment and closing costs paid from the initial seller's cash at purchase, closing costs paid by the seller at sale, the principal payments only made by the initial homebuyer in excess of the amount required by the loan, and any documented capital improvements in excess of \$500.

(B) Fair return on investment is paid to the seller at sale once first mortgage debt is paid and all other conditions of the initial written agreement are met. In the event there are no funds for fair return, then fair return does not exist. In the event there are partial funds for fair return, then the appropriate partial fair return shall remain in force.

(6) The appreciated value is the affordable sales price less first mortgage debt less fair return.

(A) If appreciated value is zero, or less than zero, then no appreciated value exists.

(B) The initial homebuyer's investment of down payment and closing costs divided by the Department's HOME investment equals the percentage of appreciated value that shall be paid to the initial homebuyer or persons as otherwise directed by law. The balance of appreciated value shall be paid to the Department.

(7) The property qualified by the initial Household will be encumbered with a lien for the full affordability period.

(d) In the event that a federal affordability period is not required and the housing unit transfers by devise, descent, or operation of law upon the death of the assisted homeowner, forgiveness of installment payments under the loan may continue until maturity or the grant amount under the conditional grant agreement may be forgiven, if the new Household qualifies for assistance in



accordance with this subchapter.

(e) Forgiveness of installment payments under the loan may continue until maturity or the grant amount under conditional grant agreement may be forgiven if the housing unit is sold by the decedent's estate to a purchasing Household that qualifies for assistance in accordance with this Chapter.

(f) Grants subject to conditional grant agreements may be forgiven annually during the Department's affordability period and are not subject to recapture of the entire grant amount in the event the property is no longer the Principal Residence of any Household member. The outstanding amount owed will be based on the remaining affordability term.

## **SUBCHAPTER C. HOMEOWNER REHABILITATION ASSISTANCE PROGRAM**

### **10 TAC §§23.30 - 23.32**

#### *§23.30.Homeowner Rehabilitation Assistance (HRA) Threshold and Selection Criteria.*

(a) Match requirement. Excluding Applications under the disaster relief and persons with disabilities set asides, Match shall be required based on the tiers described in paragraphs (1) and (2) of this subsection:

(1) Zero percent of Direct Activity Costs, exclusive of Match, is required as Match:

(A) when the Service Area includes the entire unincorporated area of a county and where the population of Administrator's Service Area is less than or equal to 20,000 persons; or

(B) when the Service Area does not include the entire unincorporated area of a county and the population of the Administrator's Service Area is less than or equal to 3,000 persons.

(2) One percent of Direct Activity Costs, exclusive of Match, is required as Match for every 1,000 in population to a maximum of 15 percent.

(b) The Department shall use population figures from the most recently available U.S. census bureau's American Community Survey (ACS) at the date that Applications are first accepted under the NOFA to determine the applicable Match. The Department may incentivize or provide preference to Applicants committing to provide additional Match above the requirement of this subsection. Such incentives may be established as selection criteria in the NOFA.

(c) Documentation is required of a commitment of at least \$40,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in this subsection.

(d) Selection criteria for this activity will be outlined in the NOFA.

*§23.31.Homeowner Rehabilitation Assistance (HRA) General Requirements.*

(a) Program funds may be used for the following under this subchapter:

(1) the Rehabilitation or Reconstruction of existing owner-occupied housing on the same site. The Rehabilitation of a Manufactured Housing Unit (MHU) is not an eligible use of funds;

(2) the New Construction of site-built housing on the same site to replace an existing owner-occupied MHU;

(3) the replacement of existing owner-occupied housing with an MHU or New Construction of site-built housing on another site contingent upon written approval of the Department;

(4) if a housing unit is uninhabitable, within the previous five (5) years from requested assistance, as a result of a natural or man-made disaster or a condemnation order from the unit of local government, or presents an imminent threat to the life, health, or safety of occupants as determined by the local government with jurisdiction over the property, the Household may be eligible for the New Construction of site-built housing or an MHU under this section provided the assisted Household documents that the housing unit was previously their Principal Residence through evidence of a homestead exemption from the local taxing jurisdiction and Household certification. If a housing unit is destroyed due to a disaster (housing unit may no longer be standing on the site), that unit is eligible for Reconstruction provided that the HOME funds are committed within twelve (12) months of the date of destruction; or

(5) if allowable under the NOFA, the refinance of an existing mortgage meeting the federal requirements at 24 CFR §92.206(b) and any additional requirements in the NOFA.

(b) If a housing unit has an existing mortgage loan and Department funds are provided in the form of a loan, the Department will require a first lien position if the existing mortgage loan has an outstanding balance that is less than the investment of HOME funds and any of the statements described in paragraphs (1) - (3) of this subsection are true:

(1) a federal affordability period is required; or

(2) any existing mortgage has been in place for less than three (3) years from the date the Household applies for assistance; or

(3) the HOME loan is structured as a repayable loan.

(c) The Household must be current on any existing mortgage loans or home equity loans. If the Department's assistance is provided in the form of a loan, the property cannot have any existing home equity loan liens.

(d) Direct Activity Costs, exclusive of Match funds, and are limited to:

(1) Reconstruction and New Construction of site-built housing: the lesser of \$90 per square foot of conditioned space or \$100,000 or for Households of five or more Persons the lesser of \$90 per square foot of conditioned space or \$110,000 for a four-bedroom unit;

(2) replacement with energy efficient MHU: \$75,000;

(3) Rehabilitation that is not Reconstruction: \$60,000, or up to \$100,000 for properties listed in or identified as eligible for listing in the National Register of Historic Places; and

(4) refinancing of existing mortgages: in addition to the costs limited under paragraphs (1) - (3) of this subsection, the cost to refinance an existing mortgage is limited to \$35,000. To qualify, a Household's current total housing payment must be greater than 30 percent of their monthly gross income or their total monthly recurring debt payments must be greater than 45 percent of their gross monthly income. HOME funds may not be utilized to refinance loans made or insured by any federal program.

(e) In addition to the Direct Activity Costs allowable under subsection (d) of this section, a sum not to exceed \$10,000 may be requested and if approved, used to pay for any of the following as applicable:

(1) necessary environmental mitigation as identified during the Environmental review process;

(2) installation of an aerobic septic system; or

(3) homeowner requests for accessibility features.

(f) Activity soft costs eligible for reimbursement for Activities of the following types are limited to:

(1) Reconstruction or New Construction: no more than \$109,000 per housing unit;

(2) replacement with an MHU: no more than \$3,500 per housing unit;

(3) Rehabilitation that is not Reconstruction: \$75,000 per housing unit. This limit may be exceeded for lead-based paint remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Activity soft costs for housing units that are Reconstructed or if the existing housing unit was built after December 31, 1977; and

(4) third-party Activity soft costs related to costs incurred in connection with an Activity under this section, such as appraisals, title reports or insurance, tax certificates, recording fees, surveys, and first year hazard and flood insurance are not subject to a maximum per Activity.

(g) Funds for administrative costs are limited to no more than 4 percent of the Direct Activity Costs, exclusive of Match funds.

(h) In the instances described in paragraphs (1) - (4) of this subsection, the assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Activity Costs excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(1) An MHU being replaced with newly constructed housing (site-built) on the same site;



(2) Any housing unit being replaced on another site;

(3) Any housing unit that is being relocated out of the floodplain or replaced due to uninhabitability as allowed under subsection (a)(4) of this section; and

(4) Any Activity that requires a federal affordability period.

(i) For any Activity involving refinancing described in subsection (d)(4) of this section, the HOME funds used for refinancing shall be structured as a fully amortizing, repayable loan at zero percent interest. The loan term shall be calculated by setting the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance), equal to 20 percent of the Household's gross monthly income. The term shall not exceed thirty (30) years. Total debt service (back-end ratio) may not exceed 45 percent. Any Direct Activity Costs, exclusive of refinancing costs and Match funds, shall be structured as a deferred, forgivable loan with a 15-year term.

(j) In all other instances not described in subsections (h) and (i) of this section, the assistance to an eligible Household will be in the form of a grant agreement with a 5-year affordability period.

(k) To ensure affordability, the Department will impose resale and recapture provisions established in this Chapter.

(l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000 International Residential Code and all applicable local codes, standards, ordinances, and zoning requirements. In addition, Reconstruction and New Construction housing is required to meet 24 CFR §92.251(a)(2) as applicable. Housing that is Rehabilitated under this Chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. MHUs must be installed according to the manufacturer's instructions and in accordance with Federal and State laws and regulations.

(m) Each unit must meet the design and quality requirements described in paragraphs (1) - (4) of this subsection:

(1) include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans;

(2) contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(3) each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and

(4) be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square

feet for a four bedroom and two bathroom home.

(n) Housing proposed to be constructed under this subchapter must meet the requirements of Chapters 20 and 21 of this title and must be certified by a licensed architect or engineer.

(1) The Department will reimburse only for the first time a set of architectural plans are used, unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and

(2) A NOFA may include incentives or otherwise require architectural plans to incorporate "green building" elements.

*§23.32.Homeowner Rehabilitation Assistance (HRA) Administrative Requirements.*

(a) Commitment or Reservation of Funds. The Administrator must submit the true and complete information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (17) of this subsection:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Activity funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Direct Activity Cost and Soft Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) project cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion;

(7) when assistance is provided in the form of a loan, provide written consent from all Persons who have a valid lien or ownership interest in the Property for the Rehabilitation or Reconstruction Activities;

(8) in the instance of relocation and in accordance with §23.31(a)(3) of this Chapter (relating to HRA General Requirements), the Household must document Homeownership of the existing unit to be replaced and must establish Homeownership of the lot on which the replacement housing unit will be constructed. The Household must agree to the demolition of the existing housing unit. HOME Activity funds cannot be used for the demolition of the existing unit and any funding used for the demolition is not eligible Match; however, solely for a Activity under this paragraph, the Administrator Match obligation may be reduced by the cost of such demolition without any Contract amendment;

(9) identification of any Lead-Based Paint (LBP);

(10) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, ~~a quote for the cost of flood insurance and~~ certification from the Household that they understand the flood insurance requirements;

(11) consent to demolish from any existing mortgage lien holders and consent to subordinate to the Department's loan, if applicable;

(12) if applicable, documentation to address or resolve any potential conflict of interest, Identity of Interest, duplication of benefit, or floodplain mitigation;

(13) a title commitment or policy or a down date endorsement to an existing title policy, and the actual documents, or legible copies thereof, establishing the Household's ownership, such as a warranty deed or ninety-nine (99) year leasehold. For loan projects, the effective date title commitment must be no more than thirty (30) days prior to of the date of project submission. Title commitments for loan projects that expire prior to the loan closing date must be updated and must not have any adverse changes. For assistance provided in the form of a grant agreement, a title report may be submitted in lieu of a title commitment or policy. In instances of an MHU, a Statement of Ownership and Location (SOL) must be submitted. Together, these documents must evidence the definition of Homeownership is met;

(14) tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current;

(15) in the instances of replacement with an MHU, information necessary to draft loan documents or grant agreements to issue SOL;

(16) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship; and

(17) any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Loan closing or grant agreement. In addition to the documents required under subsection (a) of this section, the Administrator must submit the appraisal or other valuation method approved by the Department which establishes the post Rehabilitation or Reconstruction value of improvements for Activities involving construction prior to the issuance of grant or loan documents by the Department.

(c) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (12) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (12) of this subsection, may be required with a request for disbursement:

(1) for construction costs associated with a loan, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the Construction Completion Date;



(2) for construction costs associated with a grant agreement, an interim lien waiver or final lien waiver. For release of retainage the release on final payment must be dated at least forty (40) days after the Construction Completion Date;

(3) if applicable, a maximum of 50 percent of Activity funds for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(4) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator;

(5) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(6) the executed grant agreement or original, executed, legally enforceable loan documents and statement of location, if applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official;

(7) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all Program Rules;

(8) the request for funds for administrative costs must be proportionate to the amount of Direct Activity Costs requested or already disbursed;

(9) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after the Construction Completion Date;

(10) for final disbursement requests, submission of documentation required for Activity completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot occurred for Newly Constructed or Rehabilitated housing unit, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot for which ownership was established and on and within the same lot secured by the loan or grant agreement, if applicable, and evidence of floodplain mitigation;

(11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a

Contract; and

(12) for costs associated with title policies charged as Activity costs, the title policy must be submitted with the retainage request.

## **SUBCHAPTER D. HOMEBUYER ASSISTANCE PROGRAM**

### **10 TAC §§23.40 - 23.42**

#### *§23.40.Homebuyer Assistance (HBA) Threshold and Selection Criteria.*

(a) Except for Applications under the disaster relief and Persons with Disabilities set-asides, the amount of Match required must be at least 5 percent of Direct Activity Costs, exclusive of Match, requested.

(b) Documentation of a commitment of at least \$20,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in this subsection.

#### *§23.41.Homebuyer Assistance (HBA) General Requirements.*

(a) Program funds under this subchapter are limited to the acquisition or acquisition and Rehabilitation for accessibility modifications of single family housing units.

(b) The Household must complete a homebuyer counseling program/class.

(c) Direct Activity Costs, exclusive of Match funds, are limited to:

(1) acquisition and closing costs: the lesser of \$20,000 or the amount necessary as determined by an affordability analysis that evidences the total estimated housing payment (including principal, interest, property taxes, insurance, and any other homebuyer assistance) is no less than 20 percent of the Household's gross monthly income based on a thirty (30) year amortization schedule. If the estimated housing payment will be less than 20 percent, the Department shall reduce the amount of downpayment assistance to the homebuyer such that the total estimated housing payment is no less than 20 percent of the homebuyer's gross income; or

(2) closing costs and downpayment: the lesser of \$6,000 or the total estimated settlement charges shown on the closing disclosure that are paid by the buyer at closing which are not paid by the buyer's contribution. Households assisted under this paragraph who, at the time of application, have assets which may be liquidated without a federal income tax penalty and which exceed three

(3) months of estimated principal, interest, property tax, and property insurance payments for the unit to be purchased as shown in the truth-in-lending statement must contribute the excess

funds to the total estimated settlement charges as shown on the good faith estimate; and

(3) Rehabilitation for accessibility modifications: \$20,000.

(4) No funds shall be disbursed to the assisted Household at closing. The HOME assistance shall be reduced in the amount necessary to prevent the Household's direct receipt of funds if the closing disclosure shows funds to be provided to the buyer at closing.

(5) Total assistance to the Household must be in an amount of no less than \$1,000. Households who are not eligible for at least \$1,000 in total homebuyer assistance are ineligible for assistance under this subchapter.

(d) Activity soft costs eligible for reimbursement for Activities of the following types are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit; and

(2) Rehabilitation for accessibility modifications: \$5,000 per housing unit.

(e) Funds for Administrative costs are limited to no more than 4 percent of the Direct Activity Costs, exclusive of Match funds.

(f) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Activity Costs, excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254.

(g) Any forgiveness of the loan must follow §23.30 of this Chapter.

(h) To ensure affordability, the Department will impose the recapture provisions established in this Chapter.

(i) Housing that is Rehabilitated under this Chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule, and Chapter 21 of this title. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

#### *§23.42. Homebuyer Assistance (HBA) Administrative Requirements.*

(a) Reservation of Funds. The Administrator must submit true and complete information, certified as such, with a request for the Reservation of Funds, as described in paragraphs (1) - (7) of this subsection:

(1) head of Household name;

(2) a budget that includes the amount of Activity funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested. A maximum of 5 percent of



hard construction costs for contingency items, proposed Match to be provided, evidence that Activity and soft cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) a copy of the Household's intake application on a form prescribed by the Department;

(4) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(5) if applicable, documentation to address or resolve any potential Conflict of Interest, Identity of Interest, or duplication of benefit;

(6) if applicable, construction cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion; and

(7) any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Commitment of Funds. In addition to the documents required under subsection (a) of this section, the Administrator must submit the documents described in paragraphs (1) - (8) of this subsection, with a request for the Commitment of Funds within ninety (90) days of approval of the Reservation:

(1) address of housing unit for which assistance is being requested;

(2) verification of environmental clearance;

(3) identification of Lead-Based Paint (LBP);

(4) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, ~~a quote for the cost of flood insurance and~~ certification from the Household that they understand the flood insurance requirements;

(5) a title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanics or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. The effective date of the title commitment must be no more than thirty (30) days prior to the date of project submission. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;

(6) executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(7) appraisal which includes post Rehabilitation or Reconstruction improvements for Activities involving construction; and

(8) a loan estimate or letter from the lender confirming that the loan terms and closing costs will

be consistent with the executed sales contract, the first lien mortgage loan requirements, and the requirements of this Chapter.

(c) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (10) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (10) of this subsection, may be required with a request for disbursement:

(1) For construction costs that are a part of a loan subject to the requirements of this subsection, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the date Construction Completion Date;

(2) If applicable, a maximum of 50 percent of Activity funds for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(3) The property inspection must be signed and dated by the inspector and the Administrator or Developer;

(4) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) Original, executed, legally enforceable loan documents for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing;

(6) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all program requirements;

(7) The request for funds for Administrative costs must be proportionate to the amount of Direct Activity Costs requested or already disbursed;

(8) Table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company, request letter from title company to the Comptroller of Public Accounts with bank account wiring instructions, and invoices for soft costs being paid at closing;

(9) For Activities involving Rehabilitation, include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after the Construction Completion Date and until submission of documentation required for Activity completion reports; and

(10) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

## **SUBCHAPTER E. CONTRACT FOR DEED PROGRAM**

### **10 TAC §§23.50 - 23.52**

#### *§23.50. Contract for Deed (CFD) Threshold and Selection Criteria.*

Documentation of a commitment of at least \$40,000 in cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

- (1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or
- (2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in this section.

#### *§23.51. Contract for Deed (CFD) General Requirements.*

(a) Program funds may be used for the following under this subchapter:

(1) acquisition or acquisition and Rehabilitation, Reconstruction, or New Construction of single family housing units occupied by the purchaser as shown on an executory contract for conveyance; or

(2) refinance with Rehabilitation, Reconstruction, or New Construction of single family housing units occupied by the purchaser as shown on an executory contract for conveyance provided construction costs exceed the amount of debt that is to be refinanced;

(b) An MHU is not an eligible property type for Rehabilitation. MHUs must be installed according to the manufacturer's installation instructions and in accordance with Federal and State laws and regulations.

(c) The Household's income must not exceed 60 percent (AMFI) and the Household must complete a homebuyer counseling program/class.

(d) The property assisted must be located in a Colonia as defined in Texas Government Code, Chapter 2306. The Colonia must have a Colonia Classification Number, as assigned by the



Office of the Texas Secretary of the State.

(e) The Department will require a first lien position.

(f) Direct Activity Costs, exclusive of Match funds, are limited to:

(1) refinance, acquisition and closing costs: \$35,000. In the case of a contract for deed housing unit that involves the refinance or acquisition of a loan on an existing MHU and/or the loan for the associated land, the Executive Director may grant an exception to exceed this amount, however, the Executive Director will not grant an exception to exceed \$40,000 of assistance;

(2) Reconstruction and New Construction of site-built housing: the lesser of \$90 per square foot of conditioned space or \$100,000, or for Households of five or more Persons the lesser of \$90 per square foot of conditioned space or \$110,000 for a four-bedroom unit;

(3) replacement with an energy efficient MHU: \$75,000; and

(4) Rehabilitation that is not Reconstruction: \$60,000, or up to \$100,000 for properties listed in or identified as eligible for listing in the National Register of Historic Places.

(g) In addition to the Direct Activity Costs allowable under subsection (d) of this section, a sum not to exceed \$10,000 may be used to pay for any of the following:

(1) necessary environmental mitigation as identified during the Environmental review process;

(2) installation of an aerobic septic system; or

(3) homeowner requests for accessibility features.

(h) Activity soft costs eligible for reimbursement for Activities of the following types are limited to:

(1) acquisition and closing costs: no more than \$1,500 per housing unit;

(2) Reconstruction or New Construction: no more than \$109,000 per housing unit;

(3) replacement with an MHU: no more than \$3,500 per housing unit;

(4) Rehabilitation that is not Reconstruction: \$75,000 per housing unit. This limit may be exceeded for lead-based remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Activity soft costs for housing units that are reconstructed or if the existing housing unit was built after December 31, 1977.

(i) Funds for administrative costs are limited to no more than 4 percent of the Direct Activity Costs, exclusive of Match funds.

(j) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Activity Costs excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro rata forgiveness with a term based on the federal

affordability requirements as defined in 24 CFR §92.254. For refinancing activities, the minimum loan term and affordability period is fifteen (15) years, regardless of the amount of HOME assistance.

(k) To ensure affordability, the Department will impose resale and recapture provisions established in this Chapter.

(l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000 International Residential Code and all applicable local codes, standards, ordinances, and zoning requirements. In addition, Reconstruction and New Construction housing is required to meet 24 CFR §92.251(a)(2) as applicable. Housing that is Rehabilitated under this Chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.

(m) Each unit must meet the design and quality requirements described in paragraphs (1) - (4) of this subsection:

(1) include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans;

(2) contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(3) each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and

(4) be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(n) Housing proposed to be constructed under this subchapter must meet the requirements of Chapters 20 and 21 of this title and must be certified by a licensed architect or engineer.

(1) The Department will reimburse only for the first time a set of architectural plans are used, unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and

(2) A NOFA may include incentives or otherwise require architectural plans to incorporate "green building" elements.

*§23.52.Contract for Deed (CFD) Administrative Requirements.*

(a) Commitment or Reservation of Funds. The Administrator must submit true and correct information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (15) of this subsection:

- (1) head of Household name and address of housing unit for which assistance is being requested;
- (2) a budget that includes the amount of Activity funds specifying the acquisition costs, construction costs, soft costs and administrative costs requested, a maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Activity and soft costs limitations are not exceeded, and evidence that any duplication of benefit is addressed;
- (3) verification of environmental clearance;
- (4) a copy of the Household's intake application on a form prescribed by the Department;
- (5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;
- (6) project cost estimates, construction contracts, and other construction documents necessary to ensure applicable property standard requirements will be met at completion;
- (7) identification of Lead-Based Paint (LBP);
- (8) for housing units located within the 100-year floodplain or otherwise required to carry flood insurance by federal or local regulation, ~~a quote for the cost of flood insurance and~~ certification from the Household that they understand the flood insurance requirements;
- (9) if applicable, documentation to address or resolve any potential Conflict of Interest, Identity of Interest, duplication of benefit, or floodplain mitigation;
- (10) appraisal which includes post Rehabilitation or Reconstruction improvements for Activities involving construction;
- (11) a title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. The effective date of the title commitment must be no more than thirty (30) days prior to the date of Activity submission. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close;
- (12) in the instances of replacement with an MHU, information necessary to draft loan documents and issue Statement of Ownership and Location (SOL);
- (13) life event documentation, as applicable, and all information necessary to prepare any applicable affidavits such as marital status and heirship;
- (14) A copy of the recorded contract for deed and a current payoff statement; and



(15) any other documentation necessary to evidence that the Activity meets the program requirements.

(b) Disbursement of funds. The Administrator must comply all of the requirements described in paragraphs (1) - (11) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator's compliance with requirements described in paragraphs (1) - (11) of this subsection may be required with a request for disbursement:

(1) for construction costs, a down date endorsement to the title policy not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage the down date endorsement must be dated at least forty (40) days after the Construction Completion Date;

(2) if applicable, a maximum of 50 percent of Activity funds for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(3) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator;

(4) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) original, executed, legally enforceable loan documents, and statement of location, as applicable, for each assisted Household containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by the appropriate county official. This provision is not applicable for funds made available at the loan closing;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request Administrator or Developer to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator as may be necessary or advisable for compliance with all program requirements;

(7) the request for funds for administrative costs must be proportionate to the amount of Direct Activity Costs requested or already disbursed;

(8) table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company,

request letter from title company to the Comptroller of Public Accounts with bank account wiring instructions, and invoices for costs being paid at closing;

(9) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after the Construction Completion Date;

(10) for final disbursement requests, submission of documentation required for Activity completion reports and evidence that the demolition or, if an MHU, salvage and removal of all dilapidated housing units on the lot, certification or other evidence acceptable to Department that the replacement house, whether site-built or MHU, was constructed or placed on and within the same lot secured by the loan, and evidence of floodplain mitigation; and

(11) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

## **SUBCHAPTER F. TENANT-BASED RENTAL ASSISTANCE PROGRAM**

### **10 TAC §§23.60 - 23.62**

#### *§23.60. Tenant-Based Rental Assistance (TBR A) Threshold and Selection Criteria.*

All Applicants and Applications must submit Documentation of a commitment of at least \$15,000 for cash reserves to facilitate administration of the program and to ensure the capacity to cover costs prior to reimbursement or costs determined to be ineligible for reimbursement. The amount of the cash reserve commitment must be included in the Applicant's resolution. To meet this requirement, Applicants must submit:

(1) financial statements indicating adequate local unrestricted cash or cash equivalents to utilize as cash reserves and a letter from the Applicant's bank(s) or financial institution(s) indicating that current account balances are sufficient; or

(2) evidence of an available line of credit or equivalent in an amount equal to or exceeding the requirement in this section; and

(3) evidence that the Service Area for a Contract or RSP Agreement includes the entire rural or urban area of a county as identified in the Application, excluding Participating Jurisdictions. However, Service Areas must include Participating Jurisdictions as applicable if the Agreement includes access to the Persons with Disabilities set-aside.

#### *§23.61. Tenant-Based Rental Assistance (TBR A) General Requirements.*

(a) The Household must participate in a self-sufficiency program.

(b) The amount of assistance will be determined using the Housing Choice Voucher method.

(c) Households certifying to zero income must also complete a questionnaire which includes a series of questions regarding how basic hygiene, dietary, transportation, and other living needs are met.

(d) The minimum Household contribution toward gross monthly rent must be ten percent of the Household's gross monthly income.

(e) Activity funds are limited to:

(1) rental subsidy: Each rental subsidy term is limited to no more than twenty-four (24) months. Total lifetime assistance to a Household may not exceed thirty-six (36) months cumulatively, except that a maximum of twenty-four (24) additional months of assistance, for a total of sixty (60) months cumulatively may be approved if:

(A) the Household has applied for a Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program, and is placed on a waiting list during their TBRA participation tenure; and

(B) the Household has not been removed from the waiting list for the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program due to failure to respond to required notices or other ineligibility factors; and

(C) the Household has not been denied participation in the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program while they were being assisted with HOME TBRA; and

(D) the Household did not refuse to participate in the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program when a voucher was made available.

(2) security deposit: no more than the amount equal to two (2) month's rent for the unit.

(3) utility deposit in conjunction with a TBRA rental subsidy.

(f) The payment standard is determined at the date of assistance. The payment standard utilized by the Administrator must be:

(1) for metropolitan counties and towns, the current U.S. Department of Housing and Urban Development (HUD) Small Area Fair Market Rent for the Housing Choice Voucher Program;

(2) for nonmetropolitan counties and towns, the current HUD Fair Market Rent for the Housing Choice Voucher Program;

(3) for a HOME assisted unit, the current applicable HOME rent; or

(4). The Administrator may submit a written request to the Department for approval of a different payment standard. The request must be evidenced by a market study or documentation that the PHA serving the market area has adopted a different payment standard. An Administrator may request a Reasonable Accommodation as defined in §1.204 of this title for a specific household if the household, because of a disability, requires the features of a specific unit, and units with such features are not available in the Service Area at the payment standard.



- (g) The lease agreement start date must correspond to the date of the TBRA rental coupon contract.
- (h) Activity soft costs are limited to \$1,200 per Household assisted for determining Household income eligibility, including recertification, and conducting Housing Quality Standards (HQS) inspections. All costs must be reasonable and customary for the Administrator's Service Area.
- (i) Funds for administrative costs are limited to 4 percent of Direct Activity Costs, excluding Match funds. Funds for administrative costs may be increased an additional 1 percent of Direct Activity Costs if Match is provided in an amount equal to 5 percent or more of Direct Activity Costs.
- (j) Rental units must be inspected prior to occupancy, annually upon Household recertification, and must comply with HQS established by HUD.
- (k) Administrators must have a written agreement with Owner that the Owner will notify the Administrator within one (1) month if a tenant moves out of an assisted unit prior to the lease end date.
- (l) Administrators must maintain Written Policies and Procedures established for the HOME Program in accordance with §10.610 of this title, except that where the terms Owner, Property, or Development are used Administrator or Program will be substituted, as applicable. Additionally, the procedures in subsection (n) of this section (relating to the Violence Against Women Act (if in conflict with the provisions in §10.610 of this title)) will govern.
- (m) Administrators serving a Household under a Reservation Agreement may not issue a Certificate of Eligibility to the Household prior to reserving funds for the project.
- (n) Administrators are required to comply with regulations and procedures outlined in the Violence Against Women Act (VAWA), and provide tenant protections as established in the Act.
- (1) An Administrator of Tenant-Based Rental Assistance must provide all Applicants (at the time of admittance or denial) and Households (before termination from the Tenant-Based Rental Assistance program or from the dwelling assisted by the Tenant-Based Rental Assistance Coupon Contract) the Department's "Notice of Occupancy Rights under the Violence Against Women Act", (based on HUD form 5380) and also provide to Households "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking" (HUD form 5382) prior to execution of a Rental Coupon Contract and before termination of assistance from the Tenant-Based Rental Assistance program or from the dwelling assisted by the Tenant-Based Rental Assistance coupon contract.
- (2) Administrator must notify the Department within three (3) calendar days when tenant submits a Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and/or alternate documentation to Administrator and must submit a plan to Department for continuation or termination of assistance to affected Household members.
- (3) Notwithstanding any restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, Administrator may "bifurcate" a rental coupon contract, or otherwise remove a Household member from a rental coupon contract, without regard to whether a Household member is a signatory, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a recipient

of TBRA and who engages in criminal acts of physical violence against family members or others. This action may be taken without terminating assistance to, or otherwise penalizing the person subject to the violence.

*§23.62. Tenant-Based Rental Assistance (TBRA) Administrative Requirements.*

(a) Commitment or Reservation of Funds. The Administrator must submit the documents described in paragraphs (1) - (9) of this subsection, with a request for the Commitment or Reservation of Funds:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Direct Activity Costs, Activity soft costs, administrative costs requested, Match to be provided, evidence that Direct Activity Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the Administrator, and all Household members age 18 or over, and including the date of the income eligibility determination. Administrator must submit documentation used to determine the income and rental subsidy of the Household;

(6) identification of Lead-Based Paint (LBP);

(7) if applicable, documentation to address or resolve any potential conflict of interest or duplication of benefit;

(8) project address within ninety (90) days of preliminary set up approval, if applicable; and

(9) any other documentation necessary to evidence that the Activity meets the Program Rules.

(b) Disbursement of funds. The Administrator must comply with all of the requirements described in paragraphs (1) - (8) of this subsection for a request for disbursement of funds. Submission of documentation related to the Administrator compliance with requirements described in paragraphs (1) - (8) of this subsection may be required with a request for disbursement:

(1) If required or applicable, a maximum of 50 percent of Direct Activity Costs for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Direct Activity Costs disbursed;

(2) Certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

- (3) Expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness of each expenditure submitted for reimbursement. The Department may request Administrator to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to the Administrator or Developer as may be necessary or advisable for compliance with all Program Requirements;
- (4) With the exception of a maximum of 25 percent of the total funds available for administrative costs, the request for funds for administrative costs must be proportionate to the amount of Direct Activity Costs requested or already disbursed;
- (5) Requests may come in not more than ten (10) days in advance of the first day of the following month;
- (6) For final disbursement requests, submission of documentation required for Activity completion reports;
- (7) Household commitment contracts may be signed after the end date of an RSP only in cases where the Department has approved a project set-up with a project address to be determined at a later time; and
- (8) The final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.

## **SUBCHAPTER G. SINGLE FAMILY DEVELOPMENT PROGRAM**

### **10 TAC §§23.70 - 23.72**

#### *§23.70. Single Family Development (SFD) Threshold and Selection Criteria.*

All Applicants and Applications must submit or comply with this section.

- (1) An Application for Community Housing Development Organization (CHDO) certification. Applicants must meet the requirement for CHDO certification as defined in 10 TAC §13.2 of this title (relating to the Multifamily Direct Loan Rule).
- (2) If the total of the Department's loan equals more than 50 percent of the total development cost, except for developments also financed with U.S. Department of Agriculture (USDA) funds, the Applicant must provide:
  - (A) evidence of a line of credit or equivalent tool of at least \$80,000 from a financial institution that will be available for use during the proposed development activities; or
  - (B) a letter from a third party Certified Public Accountant (CPA) verifying the capacity of the owner or developer to provide at least \$80,000 as a short term loan for development; and
  - (C) a letter from the developer's or owner's bank(s) confirming funds amounting to at least



\$80,000 is available.

(3) A proposed development plan that is consistent with the requirements of this Chapter, all other federal and state rules, and includes:

(A) a floor plan and front exterior elevation for each proposed unit which reflects the exterior building composition;

(B) a FEMA Issued Flood Map that identifies the location of the proposed site(s);

(C) letters from local utility providers, on company letterhead, confirming each site has access to the following services: water and wastewater, sewer, electricity, garbage disposal and natural gas, if applicable;

(D) documentation of site control of each proposed lot: A recorded warranty deed with corresponding executed settlement statement; or a contract or option for the purchase of the proposed lots that is valid for at least one hundred-twenty (120) days from the date of application submission; and

(E) an "as vacant" appraisal of at least one of the proposed lots if: The Applicant has an Identity of Interest with the seller or current owner of the property; or any of the proposed property is part of a newly developed or under-development subdivision in which at least three other third-party sales cannot be evidenced. The purchase price of any lot in which the current owner has an Identity of Interest must not exceed the appraised value of the vacant lot at the time of Activity submission. The appraised value of the lot may be included in the sales price for the homebuyer transaction;

(4) The Department may prioritize Applications or otherwise incentivize Applications that partner with other lenders to provide permanent purchase money financing for the purchase of units developed with funds provided under this subchapter.

*§23.71. Single Family Development (SFD) General Requirements.*

(a) Program funds under this subchapter may be used for the acquisition and New Construction or acquisition and Rehabilitation of single family housing that complies with affordability requirements as defined at 24 CFR §92.254.

(b) Program funds under this subchapter are only eligible to be administered by a CHDO certified as such by the Department. A separate grant for CHDO operating expenses may be awarded to CHDOs that receive a Contract award if funds are provided for this purpose in the NOFA. A CHDO may not receive more than one grant of CHDO operating funds in an amount not to exceed \$50,000 within any one year period, and may not draw more than \$25,000 in CHDO operating funds in any 12 month period from any source, including CHDO operating funds from other HOME Participating Jurisdictions.

(c) The Household's income must not exceed 80 percent area median family income (AMFI) and the Household must complete a homebuyer counseling program/class. The Household must be income qualified as of the date of signature of the homebuyer's purchase contract.

(d) Each unit must meet the design and quality requirements described in paragraphs (1) - (5) of this subsection:

(1) for New Construction and Reconstruction, current applicable International Residential Code, local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the 24 CFR§92.251(a);

(2) include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Disposal and Energy-Star or equivalently rated dishwasher (must only be provided as an option to each Household); Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans; and Paved off-street parking for each unit to accommodate at least one mid-sized car and access to on-street parking for a second car;

(3) contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;

(4) each bedroom must be no less than 100 square feet; have a length or width no less than 8 feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to contain at least 5 feet of hanging space; and

(5) be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(e) Housing proposed to be constructed under this subchapter must meet the requirements in Chapters 20 and 21 of this title and plans submitted with the Application must be certified by a licensed architect or engineer.

(f) The total hard construction costs are limited as described in paragraphs (1) and (2) of this subsection:

(1) Reconstruction and New Construction of site-built housing: The hard construction costs are limited to \$90 per square foot of conditioned space and \$100,000 or for Households of five or more Persons the lesser of \$90 per square foot of conditioned space or \$110,000 for a four-bedroom unit; and

(2) Rehabilitation that is not Reconstruction: \$60,000, or up to \$100,000 for properties listed in or identified as eligible for listing in the National Register of Historic Places.

(g) In addition to the Direct Activity Costs allowable under subsection (d) of this section, a sum not to exceed \$10,000 may be used to pay for any of the following:

(1) necessary environmental mitigation as identified during the Environmental review process;

(2) installation of an aerobic septic system; or

(3) homeowner requests for accessibility features.

(h) Developer fees (including consulting fees) are limited to 15 percent of the total hard construction costs. The developer fee will be reduced by 1 percent per month or partial month

that the construction period exceeds the original term of the construction period financing.

(i) General Contractor Fees are limited to 15 percent of the total hard construction costs. The General Contractor is defined as one who contracts for the construction or Rehabilitation of an entire development Activity, rather than a portion of the work. The General contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the subcontractors. A prime subcontractor will also be treated as a General Contractor, and any fees payable to the prime subcontractor will be treated as fees to the General Contractor, in the scenarios described in paragraphs (1) and (2) of this subsection:

(1) any subcontractor, material supplier, or equipment lessor receiving more than 50 percent of the contract sum in the construction contract will be deemed a prime subcontractor; or

(2) if more than 75 percent of the contract sum in the construction contract is subcontracted to three or fewer subcontractors, material suppliers, and equipment lessors, such parties will be deemed prime subcontractors.

(j) Construction period financing for each unit shall be structured as a zero percent interest loan with a twelve (12) month term, or with a term that coincides with the end date of the Household commitment contract under a Reservation System Participation Agreement. The maximum construction loan amount may not exceed the total development cost less developer fees/profit, homebuyer closing costs, and ineligible Activity costs. Prior to construction loan closing, a sales contract must be executed with a qualified homebuyer.

(k) In the instance that the Combined Loan to Value equals more than 100 percent of the appraised value, the portion of the sales price that exceeds 100 percent of the appraised value will be granted to the developer to buy down the purchase price if the homebuyer is receiving downpayment assistance or a first lien mortgage from the Department. The cost to the Developer to close the homebuyer loan may be provided as a grant to the Developer.

(l) The HOME assistance to the homebuyer shall be structured as a first and/or second lien loan(s):

(1) the downpayment assistance is limited to ten percent of the total development costs and shall be structured as a ten (10) year deferred, forgivable loan with a subordinate lien; and

(2) a first lien conventional mortgage not provided by the Department must meet the mortgage financing requirements outlined in Chapter 20 of this title. If the Department is providing the first lien mortgage with HOME financing, the loan will be fully amortizing with a thirty (30) year term. The Department will require a debt to income ratio (back-end ratio) not to exceed 45 percent. The total estimated housing payment (including principal, interest, property taxes, and insurance) shall be no less than 20 percent and no greater than 30 percent of the Household's gross monthly income. Should the estimated housing payment be less than 20 percent of the Household's gross income, the Department shall reduce the amount of downpayment assistance and/or charge an interest rate to the homebuyer such that the total estimated housing payment is no less than 20 percent of the homebuyer's gross income. In no instance shall the interest rate charged to the homebuyer exceed 5 percent.

(m) Earnest money is limited to no more than \$1,000, which may be credited to the homebuyer at closing, but may not be reimbursed as cash. HOME funds may be used to pay other reasonable and customary closing costs that are HOME eligible costs.



(n) If a Household should become ineligible or otherwise cease participation and a replacement Household is not located within ninety (90) days of the end of the construction period, all additional funding closings and draws on the award will cease and the Department will require the Applicant to repay any outstanding construction debt in full.

(o) The Division Director may approve the use of alternative floor plans or lots from those included in the approved Application, provided the requirements of this section can still be met and such changes do not materially affect the total budget.

(p) To ensure affordability, the Department will impose resale or recapture provisions established in this Chapter.

*§23.72. Single Family Development (SFD) Administrative Requirements.*

(a) Commitment or Reservation of Funds. The Administrator must submit true and correct information, certified as such, with a request for the Commitment or Reservation of Funds as described in paragraphs (1) - (11) of this subsection:

(1) head of Household name and address of housing unit for which assistance is being requested;

(2) a budget that includes the amount of Activity funds specifying the acquisition cost, construction costs, contractor fees, and developer fees, as applicable. A maximum of 5 percent of hard construction costs for contingency items, proposed Match to be provided, evidence that Activity Cost limitations are not exceeded, and evidence that any duplication of benefit is addressed;

(3) verification of environmental clearance;

(4) a copy of the Household's intake application on a form prescribed by the Department;

(5) certification of the income eligibility of the Household signed by the Administrator and all Household members age 18 or over, and including the date of the income eligibility determination. In instances where the total Household income is within \$3,000 of the 80 percent AMFI, all documentation used to determine the income of the Household;

(6) project cost estimates, construction contracts, and other construction documents necessary, in the Department's sole determination, to ensure applicable property standard requirements will be met at completion;

(7) identification of Lead-Based Paint (LBP);

(8) executed sales contract and documentation that the first lien mortgage meets the eligibility requirements;

(9) if applicable, documentation to address or resolve any potential conflict of interest, Identity of Interest, duplication of benefit, or floodplain mitigation;

(10) appraisal, which includes post Rehabilitation or Reconstruction improvements for Activities involving construction; and

(11) any other documentation necessary to evidence that the Activity meets the Program Rules.

(b) Loan closing. The Administrator or Developer must submit the documents described in paragraphs (1) - (2) of this subsection, with a request for the preparation of loan closing with the request for the Commitment or Reservation of Funds:

(1) a title commitment to issue a title policy that evidences the property will transfer with no tax lien, child support lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest and that the definition of Homeownership will be met. The effective date of the title commitment must be no more than thirty (30) days prior to the date of project submission. Commitments that expire prior to execution of closing must be updated at closing and must not have any adverse changes in order to close; and

(2) within ninety (90) days after the loan closing date, the Administrator or Developer must submit to the Department the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within ninety (90) days after the loan closing date will result in the Department withholding payment for disbursement requests.

(c) Disbursement of funds. The Administrator must comply with the requirements described in paragraphs (1) - (10) of this subsection, for a request for disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Administrator compliance with requirements described in paragraphs (1) - (10) of this subsection may be required with a request for disbursement:

(1) for construction costs, an interim construction binder advance endorsement not older than the date of the last disbursement of funds or forty-five (45) days, whichever is later. For release of retainage a down date endorsement to the mortgagee policy issued to the homebuyer dated at least forty (40) days after the Construction Completion Date;

(2) if required or applicable, a maximum of 50 percent of Direct Activity Costs for a Activity may be drawn before providing evidence of Match. Thereafter, each Administrator must provide evidence of Match, including the date of provision, in accordance with the percentage of Activity funds disbursed;

(3) property inspections, including photographs of the front and side elevation of the housing unit and at least one picture of the kitchen, family room, one of the bedrooms and one of the bathrooms with date and property address reflected on each photo. The inspection must be signed and dated by the inspector and Administrator or Developer;

(4) certification that its fiscal control and fund accounting procedures are adequate to assure the proper disbursement of, and accounting for, funds provided, no Person that would benefit from the award of HOME funds has provided a source of Match or has satisfied the Applicant's cash reserve obligation or made promises in connection therewith; that each request for disbursement of HOME funds is for the actual cost of providing a service and that the service does not violate any conflict of interest provisions;

(5) original, executed, legally enforceable loan documents containing remedies adequate to enforce any applicable affordability requirements. Original documents must evidence that such agreements have been recorded in the real property records of the county in which the housing unit is located and the original documents must be returned, duly certified as to recordation by

the appropriate county official;

(6) expenditures must be allowable and reasonable in accordance with federal, state, and local rules and regulations. The Department shall determine the reasonableness for expenditures submitted for reimbursement. The Department may request Administrator or Developer to make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of HOME funds to Administrator or Developer as may be necessary or advisable for compliance with all Program Requirements;

(7) table funding requests must be submitted to the Department with complete documentation no later than ten (10) business days prior to the anticipated loan closing date. Such a request must include a draft settlement statement, title company payee identification information, the Administrator or Developer's authorization for disbursement of funds to the title company, request letter from title company to the Comptroller of Public Accounts with bank account wiring instructions, and invoices for costs being paid at closing;

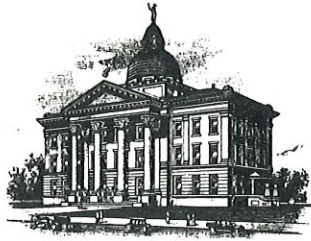
(8) include the withholding of 10 percent of hard construction costs for retainage. Retainage will be held until at least forty (40) days after the Construction Completion Date;

(9) for final disbursement requests, submission of documentation required for Activity completion reports; and

(10) the final request for disbursement must be submitted to the Department with support documentation no later than sixty (60) days after the termination date of the Contract in order to remain in compliance with Contract and eligible for future funding. The Department shall not be obligated to pay for costs incurred or performances rendered after the termination date of a Contract.



**COUNTY JUDGE:**  
*Stephanie A. Moreno*  
**COUNTY CLERK:**  
*Mirella Escamilla Davis*  
**DISTRICT CLERK:**  
*Zenaida R. Silva*  
**COUNTY ATTORNEY:**  
*Mike Knight*  
**SHERIFF:**  
*Alden E. Southmayd*  
**TAX ASSESSOR-COLLECTOR:**  
*Linda G. Bridge*



## COUNTY OF BEE

**COMMISSIONER PRECINCT 1:**  
*Carlos Salazar, Jr.*  
**COMMISSIONER PRECINCT 2:**  
*Dennis DeWitt*  
**COMMISSIONER PRECINCT 3:**  
*Sammy G. Farias*  
**COMMISSIONER PRECINCT 4:**  
*Ken Haggard*  
**COUNTY AUDITOR:**  
*April A. Cantu*

May 25, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

Dear Ms. Versyp:

The HOME HRA program is a program that our community fully supports. We have seen the huge impact it can have on homeowners, neighborhoods, and the community as a whole. However, some of the items in the new rules will make it much more difficult for us and homeowners to participate in the HRA program.

Below are comments.

***Rule: 20.8 (b) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current (including prior years). Alternatively, the Household must be satisfactorily participating in an approved payment plan with the taxing authority and must be current for at least 6 consecutive months prior to the date of the Application, ...***

Comment: Homeowners are not aware applications will be taken 6 months in advance. This is especially true if we are attempting to implement the HRA contract benchmark set-up requirements. While we understand the Department not wanting the investment to be lost due to tax liens, we believe there is another method. Applicants participating in a payment plan should be required to provide monthly proof they are current on their payments beginning the first installment due after initial application and continuing through the date of approved assistance (approved setup).

***Rule: 20.9 (b) (3) After the required outreach efforts have been made, all Administrators must accept applications from possible eligible Applicants for a minimum of a 30 day period rather than a first-come, first-served basis when selecting among eligible Applicants. At the close of the 30 day period Administrators will select Applicants through a neutral random election process developed by the Administrator. After Administrators have allowed for a 30 day period to accept applications and used a neutral random selection process to assist Households, they may accept applications on a first-come, first-served basis.***

Comment: The HRA program should be exempt from this. We understand the Department is attempting to ensure applicants least likely to apply are assisted and that applicants are all given a fair opportunity to complete their applications. A combination of both and HRA Contract and Reservation System Participation have the potential to assist every eligible applicant with clear title.

A 30 day cycle with a “neutral random election process” is counterproductive and ultimately does not achieve the goals of the program.

This method of funding applicants will hinder expenditure of funds in a timely manner. To avoid any fair housing issues, applicants must be given an equal amount of time to provide missing documents, and respond to requests. This effectively means that all applications will be held until day 31 before any request for additional information or clarification can be made. Alternatively, applications can be processed in the order received and then each homeowner given a different due date for documents and clarifications. The second method is problematic for two reasons: it creates an administrative burden to track each individual applicant’s separate due date and in small communities people talk. Homeowners will find out that their neighbor’s documents are due at a later date, this will create confusion and phone calls; once again increasing the administrative burden on us (this will be true no matter how well the process is explained during intake).

The 30-day intake combined with the “neutral random election process” will also delay the program by at least 30 days. Under this method we cannot start processing the final applications until day 31 after the initial intake date. The “neutral random election process” cannot happen until after the last application has been processed. Never mind that you may have 4 or 5 complete applications ready to go before the straggler submits their day 30 application.

Finally, HUD has determined first come first served to be a fair way to accept applications as long as there is no scoring component associated with the application. In fact HUD uses this method for many of its own programs, particularly in the PIH division (which funds public housing as well as portable and project based vouchers).

We strongly feel that administrators should have the option to implement HRA using the first *complete* first served method.

If the HRA program is not given the ability to continue using the first complete first served method, the contracts and all benchmarks will need to be extended a minimum of 30 days to accommodate this unfunded mandate.

#### Single Family HOME Rules

##### *23.25 (b) (2) (F) Income eligibility training*

If the Department is going to use this training for scoring contract applications, the Department needs to provide the workshop online or hold a training class in each of the 13 Uniform Service Regions. It is an economic burden to require travel to Austin for training. Attending a remote training means staff will be out for a minimum of 2 days. Unlike a large state agency, when we have a single person out of the office, we cannot maintain normal operations.

We suggest the Department replace the Income eligibility training with an online Fair Housing course which can be scored. The majority of HOME subrecipients use a consultant to calculate income and eligibility. As a subrecipient, income is something we rarely deal with. Fair Housing training will offer a practical benefit to our staff since we are in contact with applicants, and potential applicants, on a daily basis.

*23.31 (f) Activity soft costs eligible for reimbursement for Activities of the following are limited to:*

It is suggested the Activity Soft Cost for reimbursement be increased. Just as the cost for direct project construction has increased soft costs have also increase.

The increased project cost will provide a small increase in administration funds; this small increase will help offset some of the rising costs of administration. However, this increase does not cover the increase in providing soft costs. We suggest an increase in the soft costs.

Previously soft costs were calculated at 12% of direct project costs. Around 2010 the soft cost amount was capped at a fixed number. If the 12% method was utilized for the current rules, the soft cost amount would be \$10,200.00. Under the proposed rules the amount would be \$ 12,000.00.

Sincerely,



Stephanie Moreno  
Bee County Judge  
105 W. Corpus Christ, RM 109  
Beeville, Texas 78102  
361-621-1557 Office  
361-492-5980 Fax  
[stephanie.moreno@co.bee.tx.us](mailto:stephanie.moreno@co.bee.tx.us)



# CITY OF BAY CITY

**MARK BRICKER**  
MAYOR



**CITY COUNCIL**  
**CAROLYN THAMES**  
MAYOR PRO TEM

**GEORGE HYDE**  
CITY ATTORNEY

**RHONDA CLEGG**  
CITY SECRETARY

**BILL CORNMAN**  
**JULIE ESTLINBAUM**

**CHRYSTAL FOLSE**  
**STEVEN JOHNSON**

May 25, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

Attention: Homero Cabello, Director of Single Family Operations & Services  
Single Family Programs Umbrella Rule Comments  
P.O. Box 13941  
Austin, Texas 78711-3941  
emailed to: [homero.cabello@tdhca.state.tx.us](mailto:homero.cabello@tdhca.state.tx.us).

Dear Ms. Versyp and Mr. Cabello:

The HOME HRA program is a program that our community fully supports.

Below are comments to both the proposed Umbrella and HOME rules.

**Single Family HOME Rules**  
**23.25 (b) (2) (F) Income eligibility training**

If the Department is going to use this training for scoring contract applications, the Department needs to provide the workshop online or hold a training class in each of the 13 Uniform Service Regions. It is an economic burden to require travel to Austin for training. Attending a remote training means staff will be out for a minimum of 2 days. Unlike a large state agency, when we have a single person out of the office, we cannot maintain normal operations.

**23.31 (f) Activity soft costs eligible for reimbursement for Activities of the following are limited to:**

It is suggested the Activity Soft Cost for reimbursement be increased to \$10,000 for Reconstruction/New Construction and \$5000.00 for replacement with an MHU, and \$7000 for Rehabilitation that is not reconstruction. Just as the cost for direct project construction has increased soft costs have also increase.

The increased project cost will provide a small increase in administration funds; this small increase will help offset some of the rising costs of administration. However, this increase does not cover the increase in providing soft costs. We suggest an increase in the soft costs.

## **Umbrella Rules**

***Rule: 20.8 (b) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current (including prior years). Alternatively, the Household must be satisfactorily participating in an approved payment plan with the taxing authority and must be current for at least 6 consecutive months prior to the date of the Application, ...***

Comment: Homeowners are not aware applications will be taken 6 months in advance. This is especially true if we are attempting to implement the HRA contract benchmark set-up requirements. While we understand the Department not wanting the investment to be lost due to tax liens, we believe there is another method. Applicants participating in a payment plan should be required to provide monthly proof they are current on their payments beginning the first installment due after initial application and continuing through the date of approved assistance (approved setup).

***Rule: 20.9 (b) (3) After the required outreach efforts have been made, all Administrators must accept applications from possible eligible Applicants for a minimum of a 30 day period rather than a first-come, first-served basis when selecting among eligible Applicants. At the close of the 30 day period Administrators will select Applicants through a neutral random election process developed by the Administrator. After Administrators have allowed for a 30 day period to accept applications and used a neutral random selection process to assist Households, they may accept applications on a first-come, first-served basis.***

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## **Single Family HOME Rules**

***23.25 (b) (2) (F) Income eligibility training***

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The increased project cost will provide a small increase in administration funds; this small increase will help offset some of the rising costs of administration. However, this increase does not cover the increase in providing soft costs. We suggest an increase in the soft costs.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Bricker', with a large, stylized flourish extending to the right.

Mayor Mark Bricker





# City of Belton

– Founded 1850 –

May 26, 2017

Texas Department of Housing and Community Affairs  
Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
Via email: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

Attention: Homero Cabello, Director of Single Family Operations & Services  
Single Family Programs Umbrella Rule Comments  
P.O. Box 13941  
Austin, Texas 78711-3941  
Via email: [homero.cabello@tdhca.state.tx.us](mailto:homero.cabello@tdhca.state.tx.us).

Dear Ms. Versyp and Mr. Cabello:

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Below are comments.

***Rule: 20.8 (b) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current (including prior years). Alternatively, the Household must be satisfactorily participating in an approved payment plan with the taxing authority and must be current for at least 6 consecutive months prior to the date of the Application, ...***

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A 30 day cycle with a “neutral random election process” is counterproductive and ultimately does not achieve the goals of the program.

This method of funding applicants will hinder expenditure of funds in a timely manner. To avoid any fair housing issues, applicants must be given an equal amount of time to provide missing documents, and respond to requests. This effectively means that all applications will be held until day 31 before any request for additional information or clarification can be made. Alternatively, applications can be processed in the order received, and then each homeowner given a different due date for documents and clarifications. The second method is problematic for two reasons: it creates an administrative burden to track each individual applicant’s separate due date and creates confusion as a result of different due dates. Homeowners will find out that other applicants’ documents are due at a later date, and this will create confusion and phone calls, once again increasing the administrative burden, regardless how well the process is explained during intake.

The 30-day intake combined with the “neutral random election process” will also delay the program by at least 30 days. Under this method we cannot start processing the final applications until day 31 after the initial intake date. The “neutral random election process” cannot happen until after the last application has been processed, even if we may have 4 or 5 complete applications ready to go before the late submissions.

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We suggest the Department replace the Income eligibility training with an online Fair Housing course which can be scored. The majority of HOME subrecipients use a consultant to calculate income and eligibility. As a subrecipient, income is something we rarely deal with. Fair Housing training will offer a practical benefit to our staff since we are in contact with applicants, and potential applicants, on a daily basis.

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Previously soft costs were calculated at 12% of direct project costs. Around 2010 the soft cost amount was capped at a fixed number. If the 12% method was utilized for the current rules, the soft cost amount would be \$10,200.00. Under the proposed rules the amount would be \$ 12,000.00.

Sincerely,



Sam A. Listi  
City Manager



# City of Bronte

---

P.O. Box 370  
Bronte, Texas 76933-0370  
(325) 473-3501

May 25, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

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Sincerely,



Gerald Sandusky  
Mayor



MAYOR  
Dina Ojeda-Balderas

CITY COUNCIL  
Sofia Morones  
Oscar E. Puente  
Sandra C. Little  
Jesse Johnson

CITY MANAGER  
Lamar Schulz



## City of Carrizo Springs

308 W. Pena Street  
Carrizo Springs, TX 78834

TEL. (830)876-2476  
FAX (830)876-3127  
cityofcs@sbcglobal.net

SPECIAL COUNSEL  
Bobby Maldonado  
MD, PLLC

May 25, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

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Below are comments to both the proposed Umbrella and HOME rules.

Single Family HOME Rules  
*23.25 (b) (2) (F) Income eligibility training*

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## Single Family HOME Rules

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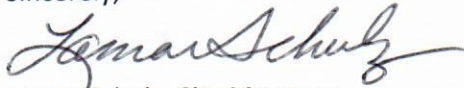
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Sincerely,

A handwritten signature in cursive script that reads "Lamar Schulz".

Lamar Schulz, City Manager  
City of Carrizo Springs





# CITY OF EAGLE LAKE

P.O. Box 38  
Eagle Lake, Texas 77434

(979) 234-2640  
Fax (979) 234-3255

May 30, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

Attention: Homero Cabello, Director of Single Family Operations & Services  
Single Family Programs Umbrella Rule Comments  
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Sincerely,

A handwritten signature in cursive script that reads "Sylvia Rucka".

Sylvia Rucka  
City Manager





# The City of Eldorado

POST OFFICE BOX 713

(325) 853-2691

ELDORADO, TEXAS 76936-0713

May 25, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

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Sincerely,

*Melissa Thelove*  
*City Secretary*





# City of Hempstead

Michael S. Wolfe, Sr., Mayor

1125 Austin Street • Hempstead, Texas 77445 • Tel: 979-826-2486 • Fax: 979-826-6703

May 25, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

Attention: Homero Cabello, Director of Single Family Operations & Services  
Single Family Programs Umbrella Rule Comments  
P.O. Box 13941  
Austin, Texas 78711-3941  
emailed to: [homero.cabello@tdhca.state.tx.us](mailto:homero.cabello@tdhca.state.tx.us)

Dear Ms. Versyp and Mr. Cabello:

The HOME HRA program is a program that our community fully supports.

Below are comments to both the proposed Umbrella and HOME rules.

Single Family HOME Rules  
*23.25 (b) (2) (F) Income eligibility training*

If the Department is going to use this training for scoring contract applications, the Department needs to provide the workshop online or hold a training class in each of the 13 Uniform Service Regions. It is an economic burden to require travel to Austin for training. Attending a remote training means staff will be out for a minimum of 2 days. Unlike a large state agency, when we have a single person out of the office, we cannot maintain normal operations.

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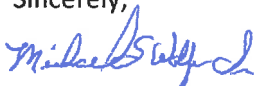
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Michael S. Wolfe, Sr.  
Mayor





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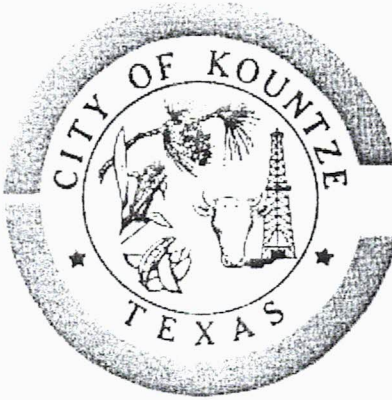
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Joe Holt  
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City of Josephine





PHONE (409) 246-3463  
FAX (409) 246-2319

P.O. BOX 188

KOUNTZE, TEXAS 77625

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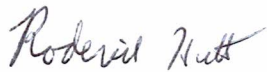
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Send all mail to:  
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Navasota, TX 77868  
[www.NavasotaTX.gov](http://www.NavasotaTX.gov)

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City Hall is located at 200 East McAlpine, Navasota, Texas.

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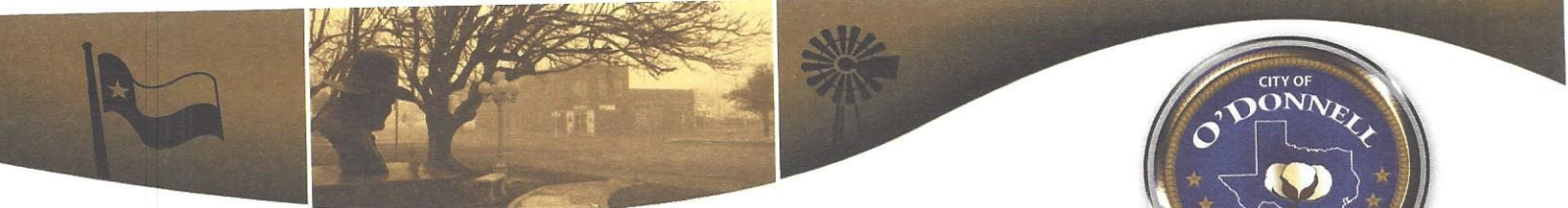
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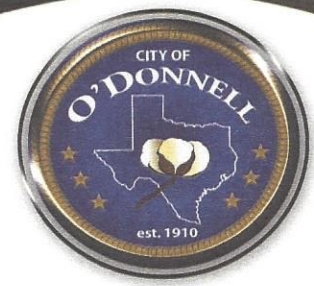
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Mayor Scott Martinez  
City of O'Donnell





PO Box 431 • Trinity, Texas 75862-0431  
Phone 936/594-2507 • Fax 936/594-8364

**Mayor**  
Billy Joe Slaughter

**Mayor Pro-Tem**  
Wayne Huffman

**Councilmembers**  
Chris Dennis  
Clegg DeWalt  
Billy Goodin  
Phillip Morrison

**City Administrator**  
Jo Bitner

**City Secretary**  
Jennifer Priddy

**Public Works Director**  
Shannon Rowe

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Sincerely,



Mayor Billy Slaughter, City of Trinity



*City of Wolfe City*

101 W. Main / P.O. Box 106  
Wolfe City, TX 75496  
Phone (903) 496-2251  
Fax (903) 496-2335

June 1, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

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Sincerely,



Sharion Scott  
Mayor



CULBERSON COUNTY  
P.O. Box 927  
Van Horn, Texas 79855-0927



Carlos Urias  
County Judge

PH. (432) 283-2059  
FAX (432) 283-9234

May 24, 2017

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

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Single Family Programs Umbrella Rule Comments  
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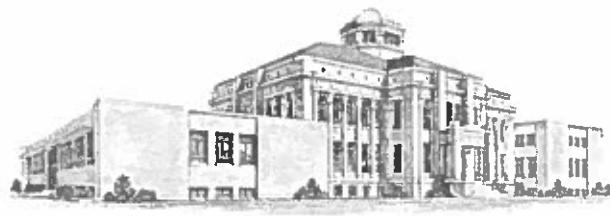
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Carlos Urias

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Culberson County Judge



# COUNTY OF JIM WELLS

STATE OF TEXAS

*Pedro "Pete" Trevino, Jr.*  
*County Judge*

May 25, 2017

*Ph: 361 668-5706*

*Fax: 361 668-8671*

*Cell: 361 219-1045*

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

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We respectfully request that you take into careful consideration the concerns and recommendations listed above. Jim Wells County relies on the HOME HRA program to improve the quality of life through equitable services for our constituents. If any additional information is needed, feel free to email or contact Pedro "Pete" Trevino, Jr., at your convenience.

Sincerely,



Pedro "Pete" Trevino, Jr.  
Jim Wells County Judge



## REFUGIO COUNTY JUDGE'S OFFICE

May 18, 2017

**Robert Blaschke**

County Judge

Attn: Abigail Versyp  
P.O. Box 13941  
Austin, Texas 78711-3941  
email to: [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us)

**Letitia Wright**

Administrative  
Assistant

Attention: Homero Cabello, Director of Single Family Operations & Services  
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P.O. Box 13941  
Austin, Texas 78711-3941  
emailed to: [homero.cabello@tdhca.state.tx.us](mailto:homero.cabello@tdhca.state.tx.us)

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Below are comments to both the proposed Umbrella and HOME rules.

Single Family HOME Rules  
*23.25 (b) (2) (F) Income eligibility training*

Mailing Address:  
808 Commerce, Room 104  
Refugio, Texas 78377

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Office Telephone:  
(361) 526-4434  
(361) 526-4433

*23.31 (f) Activity soft costs eligible for reimbursement for Activities of the following are limited to:*

Office Fax:  
(361) 526-5100

It is suggested the Activity Soft Cost for reimbursement be increased to \$10,000 for Reconstruction/New Construction and \$5000.00 for replacement with an MHU, and \$7000 for Rehabilitation that is not reconstruction. Just as the cost for direct project construction has increased soft costs have also increase.

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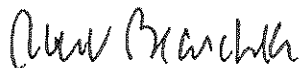
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Robert Blaschke  
Refugio County Judge

## **Proposed new 10 TAC chapter 23, Single Family Rules: Comments**

- 23.2 (11) Is a disaster from a fire classified as a new construction project since after 12 months of the disaster this can no longer be considered a grant and falls under a forgivable loan versus a grant? Recommendation is to remove the 12 month timeline and make a set date, such as 5 years from the date of the disaster, that a person must get funded before they are no longer eligible to do so. Preference is classified this as a grant.
- 23.25 If a City requests de-obligation of funds of an award prior to the benchmark timeline, will there be a deduction of points for any future application of the same type?
- 23.25 (F) Income Eligibility Training as part of a scoring criteria.
  - If this is to be a scoring criteria, the training needs to be more available to the cities without hardships to each city. Small cities have small staffing.
  - Training should be in a form of a webinar or class training on-line with various possible dates of completion which can be done in each city hall by staff members as their schedules can accommodate this.
- 23.25 (K) This should not be part of scoring criteria since it gives unfair advantages to counties over cities.
- 23.26 (b) Contract award terms should have a 2 year (twenty four month) time period. What difference does it really make to pull this back to 21 months. This is much harder to track then just saying this is a 2 year timeline.
- 23.26 (c) Contract award benchmarks for environmental clearance.
  - If the benchmark is set up having to have environmental clearance within 6 month of the effective contract date ( I would suggest 9 months) then the submission date of the environmental clearance should be use to establish the benchmark.
- 23.26 (c) Commitment of funds should be given a one year benchmark from the effective date of the contract and the date should be taken from the submission of the approved household.
- - Taking applications, scoring application, receiving clear title, appraisals, surveys etc... is a time consuming process and can be held up on many different levels. If a contract goes



for a 24 month period of time then there is really no reason to give any less than a year to get qualified homeowners.

- The tax payment new revisions which prohibits anyone from qualifying if their property taxes have not been current for 6 months going into this process will further delay homeowners ability to qualify within a shorter timeline.
  
- 23.26 (f) (1) Please define which costs this may refer to and how the department will utilize its sole discretion.
  
- 23.31 (f) (1-3) Soft cost reimbursements should be increased per the percentage increase of construction costs.
  
- 23.31 (f) (4) Title companies go thru a third party for tax certificates and they are required in some instances to perform this way. TDHCA has not been honoring these third party tax certificates or the fees associated with them. Typically 43.00. TDHCA will only accept tax certificate received directly from the tax office and will only pay 10.00 for the certificate. This is also true when it comes to loan closings. We have been repeated denied the reimbursement of the 43.00 fee which is standard practice in closing of loans. Please offer clarification since this has been an ongoing issue.
  
- 23.32 (a) (10) This section needs to be reevaluated due to the change in the new laws that prohibit insurance companies giving you a quote for flood insurance unless you have an elevation certificate.

**From:** [A Luedke](#)  
**To:** [HOME Program](#)  
**Subject:** Public Comment - HOME Program  
**Date:** Thursday, June 08, 2017 12:49:40 PM

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Abigail,

We spoke with Jennifer this morning and would like to submit the following as a public comment / request:

Jennifer sent us this:

(e) Project funds are limited to:

(1) rental subsidy: Each rental subsidy term is limited to no more than twenty-four (24) months. Total lifetime assistance to a Household may not exceed thirty-six (36) month cumulatively, except that up to an additional twenty-four (24) months of assistance, for a total of sixty (60) months cumulatively may be approved if:

(A) the Household has applied for a Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program, and is placed on a waiting list during their TBRA participation tenure; and

(B) the Household has not been removed from the waiting list for the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program due to failure to respond to required notices or other ineligibility factors; and

(C) the Household has not been denied participation in the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program while they were being assisted with HOME TBRA; and

(D) the Household did not refuse to participate in the Section 8 Housing Choice Voucher, HUD Section 811 Supportive Housing for Persons with Disabilities, HUD Section 811 Project Rental Assistance Demonstration, or HUD Section 202 Supportive Housing for the Elderly Program when a voucher was made available.

(2) security deposit: no more than the amount equal to two (2) month's rent for the unit.

(3) utility deposit in conjunction with a TBRA rental subsidy.

PUBLIC COMMENT:

Regarding the area highlighted in yellow:

We would like to request that (A) to include: The Household has applied for Public Housing.

This request is being made because so many Housing Choice Voucher programs are either closed and not taking applications or the programs are not adding new participants. Public Housing generally tends to have vacancies for both singles and families, therefore, it's usually easier to apply for Public Housing since they are almost always accepting applications.

**Annette Luedke**

Compliance Officer

New Braunfels Housing Authority

New Braunfels Community Resources, Inc.



## TEXAS HISTORICAL COMMISSION

*real places telling real stories*

June 12, 2017

Abigail Versyp  
Texas Department of Housing and Community Affairs  
Rule Comments  
P.O. Box 13941  
Austin, TX 78711-3941  
*Sent via email to home@tdhca.state.tx.us*

Re: *Proposed changes to the Texas Administrative Code, Title 10, Chapter 23, concerning the Single Family HOME Program*

Dear Ms. Versyp,

This letter is in response to the proposed repeal and replacement of parts of Texas Administrative Code, Title 10, Chapter 23, concerning the Single Family HOME Program, as published in the May 12, 2017 issue of the Texas Register. Thank you for the opportunity to review and comment on these proposed changes. This letter represents the comments of the State Historic Preservation Officer (SHPO), the Executive Director of the Texas Historical Commission.

Among other changes, the proposed rulemaking will repeal and replace Section 23.31 concerning Homeowner Rehabilitation Assistance (HRA) Program Requirements, 26.51 concerning Contract for Deed (CFD) Program Requirements, and 26.71 concerning Single Family Development (SFD) Program Requirements. These portions of the rules set limitations on the amount of program funds that can be spent on reconstruction/new construction and rehabilitation of housing. The proposed changes would increase the maximum allowable amounts for reconstruction from \$85,000 to \$100,000, or from \$90,000 to \$110,000 for families of 5 or more. The changes would also increase the maximum allowable amounts for rehabilitation from \$40,000 to \$60,000.

The Texas Historical Commission appreciates the proposed \$20,000 increases in the rehabilitation project cost caps; however, we are concerned this does not go far enough in allowing for the rehabilitation and retention of historic properties. Instead, we respectfully suggest that the program rules permit funding up to the reconstruction cost cap of \$100,000 for the rehabilitation of houses that are listed in or eligible for listing in the National Register of Historic Places. Less than 4% of HUD reviews annually result in a finding that historic properties will be affected. As such, the suggested change would impact a relatively small number of the properties served through this program but would far better accomplish our agencies' goals of improving substandard housing while preserving the state's cultural heritage.

As federal funding from the U.S. Department of Housing and Urban Development (HUD), the HOME Program is subject to Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108 and corresponding regulations at 36 CFR Part 800. Under this law and HUD environmental regulations at 24 CFR Part 58, local Responsible Entities must consider the effects of HUD-funded activities on historic properties. Reconstruction projects pose an adverse effect when they entail demolition of historic properties. In such cases, the Section 106 process requires consultation with the SHPO and other interested parties to develop alternatives that would avoid, minimize, or mitigate the adverse effect. Low rehabilitation cost caps prohibit a robust exploration of alternatives to demolition. For historic houses in salvageable condition that need work whose cost is in excess of the current rehabilitation cost caps, the only options available are the loss of the historic property or the homeowner not being served by the program.



The city of Galveston saw great success after rehabilitation caps were raised for the Community Development Block Grant-Disaster Recovery program after Hurricane Ike. Before this change, many houses in the National Register and local historic districts were excluded from assistance in part because the local landmark commission would not grant demolition permits. After raising the rehabilitation project cost cap for historic properties to match the reconstruction cost cap, significantly more homes received hurricane damage repair and upgrades to meet housing quality standards, and homeowners benefitted by being able to stay in their existing homes. The alternative likely would have resulted in ongoing deterioration of damaged and already unlivable historic properties, a disservice to these homeowners and contrary to the interests of both HUD and historic preservation.

Ideally, our agency would like to see more historic properties rehabilitated through the HOME program. It should be achievable to rehabilitate typical historic homes with average to moderate deterioration within the rehabilitation costs caps with minimal overall fiscal impact to the HOME Program. Thank you for the opportunity to comment on the proposed rules, and for your interest in the cultural heritage of Texas. We look forward to further consultation and hope to maintain a partnership that will foster effective historic preservation. **If you have any questions regarding these comments, please contact Elizabeth Brummett at 512/463-6167.**

Sincerely,



A. Elizabeth Brummett, State Coordinator for Project Review

For: Mark Wolfe, State Historic Preservation Officer

MW/aeb

Cc: David Storms, Regional Environmental Officer, U.S. Department of Housing and Urban Development  
Region VI

4a



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 13, 2017**

Presentation, Discussion, and Possible Action regarding exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Applications:

17259	Mistletoe Station	Fort Worth
17322	Provision at Wilcrest	Houston
17368	Cielo	McAllen

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to 10 TAC §10.101(a)(2) of the 2017 Uniform Multifamily Rules related to Undesirable Site Features, Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s); and

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3), staff has conducted a further review of the proposed sites and the surrounding neighborhoods and prepared a summary for the Board with recommendations with respect to the eligibility of the sites;

**NOW, therefore, it is hereby,**

**RESOLVED**, that the Board accepts staff recommendation, and finds the sites for Applications 17259, 17322, and 17368 ineligible in satisfaction of the requirements of 10 TAC §10.101(a)(2) of the Uniform Multifamily Rules.

**BACKGROUND**

The following describes the staff review and determination for three 2017 Competitive Housing Tax Credit (“HTC”) application that included a disclosure related to §10.101(a)(2) of the 2017 Uniform Multifamily Rules (the “Rules”), related to Undesirable Site Features. Pursuant to the rule, such disclosures are required if one or more of eleven undesirable site features exists where the proposed Development Site is located.

The documents identify the HTC development/application identification number (TDHCA ID#), the name of the development, city, region, and application review status, along with staff’s recommendation with respect to eligibility of the site. A brief summary of the disclosure has been included and is followed by Department staff’s analysis of the sites.

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 13, 2017**

Presentation, Discussion, and Possible Action regarding exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Application #17259, Mistletoe Station

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to 10 TAC §10.101(a)(2) of the 2017 Uniform Multifamily Rules related to Undesirable Site Features, Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s); and

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3), staff has conducted a further review of the proposed site and the surrounding neighborhoods and prepared a summary for the Board with recommendations with respect to the eligibility of the site;

**NOW, therefore, it is hereby,**

**RESOLVED**, that the Board accepts staff recommendation, and finds the site for Application 17259 ineligible in satisfaction of the requirements of 10 TAC §10.101(a)(2) of the Uniform Multifamily Rules.

**BACKGROUND**

The following table describes the staff review and determination for a 2017 Competitive Housing Tax Credit (“HTC”) application that included a disclosure related to §10.101(a)(2) of the 2017 Uniform Multifamily Rules (the “Rules”), related to Undesirable Site Features. Pursuant to the rule, such disclosures are required if one or more of eleven undesirable site features exists where the proposed Development Site is located.

The table identifies the HTC development/application identification number (TDHCA ID#), the name of the development, city, region, and application review status, along with staff’s recommendation with respect to eligibility of the site. A brief summary of the disclosure has been included and is followed by Department staff’s analysis of the site.

<b>TDHCA ID#</b>	17259	<b>Development Name:</b>	Mistletoe Station		
<b>City:</b>	Fort Worth	<b>Region:</b>	3	<b>Review Status:</b>	Complete
<b>Staff recommendation:</b>	Site is ineligible under §10.101(a)(2)				

Review of the Development Site indicates a mixed-use area southwest of downtown Fort Worth that is surrounded by West Rosedale Street to the north, Mistletoe Boulevard to the south, 12<sup>th</sup> Avenue to the east, and the railroad track to the immediate west. The median household income for the census tract is \$112,054 placing the tract in the first quartile. The poverty rate for the tract is 0.7%. The Development Site is within Fort Worth’s Near Southside Development District.

**Summary of Disclosure:** The development site is located within 500 feet of the railway located on the western property boundary of the development site.

**Site Analysis:** The plan for the site indicates an eastern property line at the easement for the tracks with a ten foot setback. This is followed by a line of parking spaces, a two-way driving lane, and another line of parking spaces. Staff estimates that the closest units will be approximately 120 feet from the tracks. Pursuant to §10.101(a)(2):

Where there is a local ordinance that regulates the proximity of such undesirable feature to a multifamily development that has smaller distances than the minimum distances noted below, then such smaller distances may be used and documentation such as a copy of the local ordinance identifying such distances relative to the Development Site must be included in the Application.

Per a letter from the City of Fort Worth, “(t)he above referenced property is currently shown on the City of Fort Worth Zoning Map and is zoned “NS-T5” Near Southside District. This zoning district allows the use for Mixed-Use Projects such as one-family attached dwellings, multi-family dwellings, retail, and medical office. The regulations for “NS-T5” Near Southside are described in Ordinance No. 13896, Chapter 4, Article 4.1305 (sic) the ordinance has no required setback from the railroad, and therefore development adjacent to the railroad is permissible.” It is correct that the Near Southside Development Standards and Guidelines, an adopted supplement to the city’s zoning ordinance, is silent on the issue of distance of development from the nearby railroad, which is the eastern border of the development district. That the ordinance and supplement are silent does not meet the requirement of the rule that “(w)here there is a local ordinance that regulates the proximity of such undesirable feature to a multifamily development that has smaller distances than the minimum distances noted below, then such smaller distances may be used ...”.

**Staff Recommendation:** The Application did not include a local ordinance that imposes a smaller distance than 500 feet from the railroad to the Development Site. Staff is recommending that the Board find the Development Site ineligible.





GARY J. COHEN  
PARTNER  
Shutts & Bowen LLP  
200 South Biscayne Boulevard  
Suite 4100  
Miami, Florida 33131  
DIRECT (305) 347-7308  
FAX (305) 347-7808  
EMAIL gcohen@shutts.com

March 1, 2017

Texas Department of Housing and Community Affairs  
Attn: Tim Irvine, Executive Director  
P.O. Box 13941  
Austin, Texas 78711-3941

**Re: Mistletoe Station; Application Number 17259**

Dear Mr. Irvine:

I write as counsel for the above-referenced proposed development, which has submitted a pre-application for 9% housing credits and was assigned application number 17259.

The applicant intends to build a 78 unit affordable housing development in the City of Fort Worth ("City") located at Mistletoe Boulevard and Beckham Place. The proposed development site is on the perimeter of the City's Near Southside Development District.

As indicated in the application submitted to you, the development site is located within 500 feet of the railway located on the western property boundary of the development site. The proposed development site is within the applicable distance of the "undesirable site feature" referenced in Section 10.101(a)(2)(E) of the 2017 Uniform Multifamily Rules ("Rules"). As per this section of the Rules, we are hereby submitting this letter setting forth mitigating factors to be considered by staff and/or the Board in evaluating the railroad in question.

Applicant has provided (by separate letter from the City) information regarding mitigation of the applicable undesirable site feature. In addition to the mitigating factors referenced in the City's letter, we believe the proposed development site should be considered eligible for funding for the reasons set forth below.

The City through a very specific and public planning process (in the development district in which the proposed development is located) has determined to allow multifamily buildings and accessory uses to be constructed with no setback from railroad rights of way, by virtue of its adoption of the Near Southside Development Standards. The City considered railroad adjacency (as the rail line is the western boundary for the Near Southside Development Planned Area), and determined to implement facade standards for railroad adjacent property without imposing additional setback requirements. As such, we believe TDHCA should consider and give precedence to the City's Development Standards, notwithstanding the 500 foot setback



referenced in Section 10.101(a)(2)(E) of the Rules. See link below to Near Southside Development Standards.

<http://fortworthtexas.gov/planninganddevelopment/urban-design-districts-overlays/near-southside-standards.pdf?v=160729>

The City has in fact already permitted and allowed market rate multifamily housing (luxury residential apartments and condominiums) to be built within 500 feet of the Fort Worth and Western Railroad. Considering the City's obligation to affirmatively further affordable housing, it would be logically inconsistent for setbacks from rail lines to be required for affordable housing when the City has already permitted market rate housing to proceed within similar distance to those same rail lines. Although not directly on point, note that Section 10.101(a)(3)(D) of the Rules (pertaining to "Undesirable Neighborhood Characteristics") specifically requires TDHCA to consider documentation from the local municipality indicating that the development in question is consistent with their obligation to affirmatively further fair housing; the City's letter expressly sets forth that mitigating factor.

Attached is a copy of Ordinance No. 20191-05-2012, amending the City's noise ordinance. In amended Section 23-8(c)(1) of the Code of the City of Fort Worth, the City specifically sets forth certain restrictions on decibel levels in residential zoning districts (70 dBA during the day, and 60 dBA at night), but (in light of that there are in fact 193 railroad crossings in the downtown Fort Worth area) provides an exemption from all noise requirements and limitations for noise generated by railway transportation (see Section 23-8(e)6. of the attached Ordinance).

It is clear that the City has determined that noise generated by railroad traffic should not inhibit or limit residential development. Section 10.101(2)(e) of the Rules (indicating development sites located within 500 feet of an active railroad track constitute an "undesirable site feature") seems to focus on the noise generated by such railroad track as the "undesirable feature", given that the referenced "undesirable site feature" is deemed not to exist if the applicant provides evidence that the City has adopted a "railroad quiet zone" or the railroad in question is commuter or light rail (presumably a quieter form of railroad). We believe that the City's noise ordinance (and exemption therefrom for railway transportation) should be taken into consideration by TDHCA in determining that the development site's proximity to the subject railway feature" should not result in ineligibility of the application in question.

The proposed development location is located in an area sorely in need of affordable housing (which is a high priority for the City), consistent with the transit oriented sub-area that the City is fostering at and around the proposed development location. The Near Southside Area is the center for over 30,000 jobs, including at least 18,000 in the healthcare industry with five hospitals located in such area. The proposed development will provide residents housing which is "walkable" to jobs, shopping, dining, parks and schools.



In light of the City's desire for affordable housing and the market rate residential development which the City has already permitted adjacent to railways in the area, and the City's lack of setback requirements, we believe it would be inappropriate for TDHCA to impose its own, stricter standards in lieu of the considered and well-planned efforts of the City in this regard.

Note that Section 10.101(a)(2) of the Rules enables the Board to provide exemptions for rehabilitation and historic developments. While the subject development is neither rehabilitation nor historic, it will provide for housing in the highly desired urban core area, given additional points under Section 11.9(c)(8) of the 2017 Qualified Allocation Plan. Given that historic developments typically involve conversion from non-residential to residential use (creating new residential units where none existed previously), the rationale underlying the grant of exemptions for historic developments is similar to that requested hereunder (for the construction of new units). Given that the proposed development is located in a downtown setting (similar to that typically encountered with historic developments), the rationale underlying the grant of exemptions for historic developments should apply equally to the determination of eligibility for the proposed development. By virtue of their location, urban core developments are more likely to be located near active railroad tracks and other "questionable" characteristics (note, for example, that the City has 193 railroad crossings), and to prioritize "urban core" sites (as done in QAP Section 11.9(c)(8)) yet have them be subject to a determination of ineligibility for proximity to features frequently found in the urban core seems somewhat contradictory and/or logically inconsistent.

Section 10.101(a)(2) of the Rules provides that when there is a local ordinance providing a stricter/smaller distance than the minimum distances noted in the foregoing rule, then such smaller/stricter distances should be used. Correspondingly, when the local ordinance does not provide for any limitation on development and therefore permits development directly adjacent to the "undesirable site feature" in question, we believe that such local determination should be honored and given appropriate weight.

The applicant has committed to construct fencing next to the railway to address safety concerns, and also to provide for sound attenuation in the building construction to assist with interior noise levels. The development will utilize a courtyard style design in order to buffer exterior noise levels in exterior common areas.

The City of Fort Worth has commenced the process of creating and adopting a Railroad Quiet Zone which will include the Mistletoe intersection, which process commenced over one year ago. It is reasonable to expect that such quiet zone will be in place by the time this development is completed in 2019. The applicant is committed to working with the City to adjust drive entrances adjacent to the railway intersection in order to help accomplish the adoption of such quiet zone, if necessary.



Most recently, the City has passed Resolution 4752-02-2017 for Mistletoe Station, specifically citing that the development is permitted within zero feet of the railroad in question. A copy of that Resolution is included in this application.

Also, please note TDHCA's recent decisions in granting exemptions to Application #17010 Baxter Lofts (a historic development located near a railroad) and Application #12252 Gulf Coast Arms (permitting reconstruction within 100 feet of railroad tracks).

Finally, this "undesirable site feature" is the only item on the Undesirable Site Feature list of concern in an area otherwise qualified to be high opportunity, proximate to downtown with good schools, transportation and employment centers.

Based on these items, we believe the undesirable site feature is sufficiently mitigated and the application should be deemed acceptable by TDHCA.

Please do not hesitate to contact us should you have any questions regarding this letter. Thank you for your consideration of this matter.

Sincerely,

Shutts & Bowen LLP

*Shutts & Bowen, LLP*  
*by: [Signature], Partner*

# A Resolution

NO. 4752-02-2017

## **SUPPORTING A HOUSING TAX CREDIT APPLICATION FOR MISTLETOE STATION AND COMMITMENT OF DEVELOPMENT FUNDING**

**WHEREAS**, the City's 2016 Comprehensive Plan is supportive of the preservation, improvement, and development of quality affordable accessible rental and ownership housing;

**WHEREAS**, the City's 2013-2018 Consolidated Plan makes the development of quality affordable accessible rental housing units for low income residents of the City a high priority;

**WHEREAS**, Mistletoe Station, LLC, an affiliate of Saigebrook Development, LLC, has proposed a development for affordable multifamily rental housing named Mistletoe Station to be located at 1916 Mistletoe Boulevard and 2116 Beckham Place in the City of Fort Worth;

**WHEREAS** Mistletoe Station, LLC has advised the City that it intends to submit an application to the Texas Department of Housing and Community Affairs ("TDHCA") for 2017 Competitive (9%) Housing Tax Credits for the Mistletoe Station, a new complex consisting of approximately 78 units, of which at least five percent (5%) of the total units will be dedicated for Permanent Supportive Housing units and at least five percent (5%) of the total units will be market rate units;

**WHEREAS**, TDHCA's 2017 Qualified Allocation Plan ("QAP") provides that an application for Housing Tax Credits may qualify for up to seventeen (17) points for a resolution of support from the governing body of the jurisdiction in which the proposed development site is located;

**WHEREAS**, the QAP also awards one (1) point for a commitment of development funding from the city in which the proposed development site is located; and

**WHEREAS**, Mistletoe Station is located adjacent to a railroad and its associated easement, and the City Planning and Zoning Codes and Ordinances provide that a development located adjacent to such an easement is permitted with 0' of required setback.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:**

The City of Fort Worth, acting through its City Council, hereby confirms that it supports the application of Mistletoe Station, LLC to the Texas Department of Housing and Community Affairs for 2017 Competitive (9%) Housing Tax Credits for the purpose of the development of the Mistletoe Station to be located at 1916 Mistletoe Boulevard and 2116 Beckham Place (TDHCA Application No. 17259), and that this formal action has been taken to put on record the opinion expressed by the City Council of the City of Fort Worth.



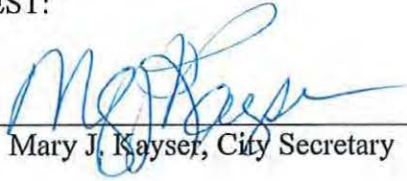
The City of Fort Worth, acting through its City Council, additionally confirms that it will commit to fee waivers in an amount not exceed \$2,500.00 to Mistletoe Station, LLC conditioned upon receipt of Housing Tax Credits. The City Council also finds that the waiver of such fees serves the public purpose of providing quality, accessible, affordable housing to low and moderate income households in accordance with the City's Comprehensive Plan and Action Plan, and that adequate controls are in place through the City's Neighborhood Services Department to carry out such public purpose.

The City of Fort Worth, acting through its City Council, further confirms that the City has not first received any funding for this purpose from the applicant, affiliates of the applicant, consultant, general contractor or guarantor of the proposed development or any party associated in any way with the applicant, Mistletoe Station, LLC.

Adopted this 21<sup>st</sup> day of February, 2017.

ATTEST:

By: \_\_\_\_\_

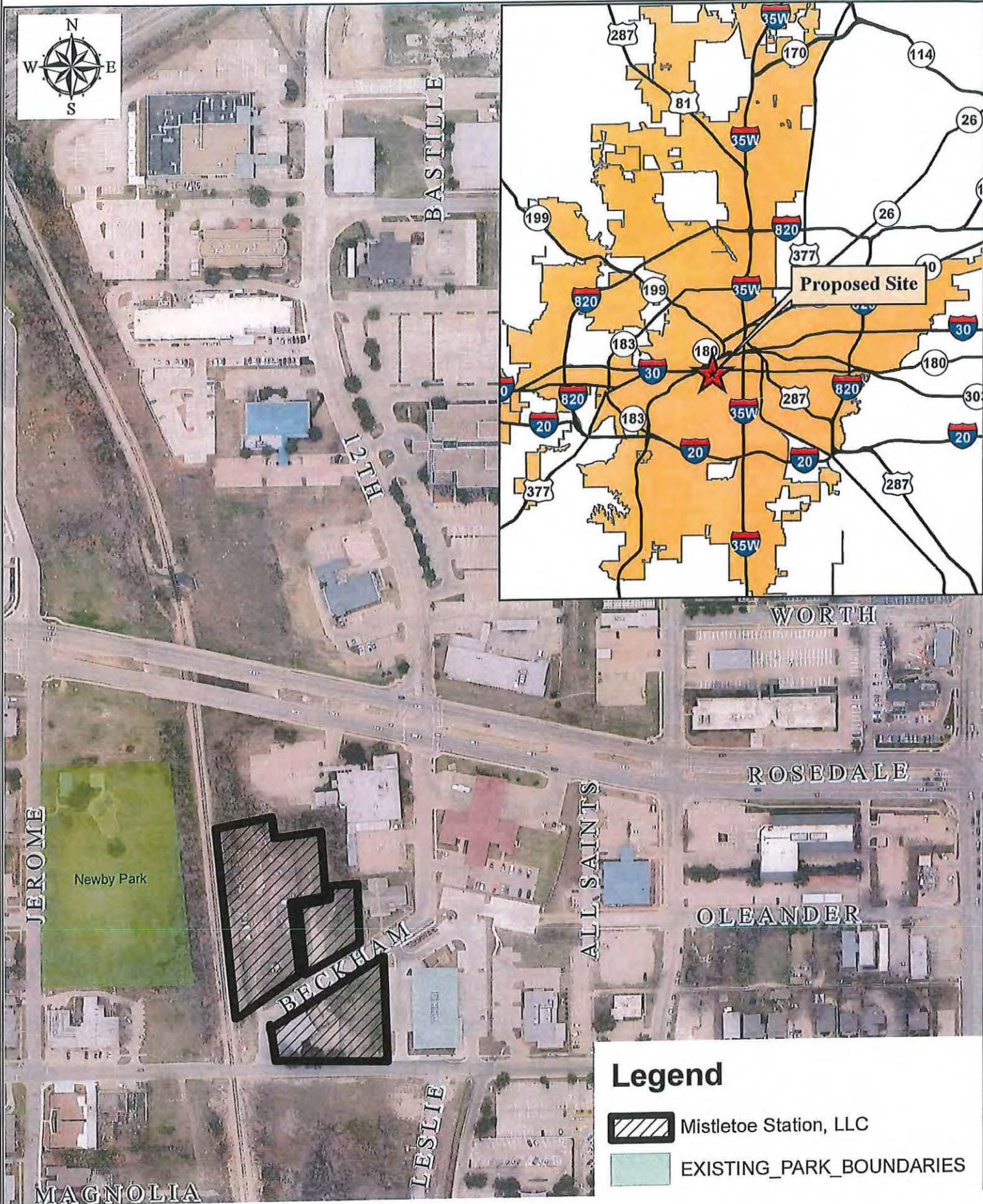
  
Mary J. Kayser, City Secretary







# Mistletoe Station, LLC

## Mistletoe Station - Council District 9



### Legend

-  Mistletoe Station, LLC
-  EXISTING\_PARK\_BOUNDARIES





February 10, 2017

Texas Department of Housing and Community Affairs  
LIHTC Program  
221 East 11th Street  
Austin, Texas 78701-2410

Re: Mistletoe Station, TDHCA App # 17259  
Fort Worth, Texas  
Mistletoe Heights Addition, Block B  
Frisco Addition, Block 3R

To Whom it May Concern:

This letter is to confirm that pursuant to City of Fort Worth ordinances that multifamily buildings and accessory uses are permitted with zero (0) setback from the railroad right of way immediately adjacent to the west of Mistletoe Heights Addition, Block B. This site is on the edge of the City of Fort Worth's Near Southside Development District. The Development District was developed after an extensive program of community participation and professional analysis reviewing all aspects of context for development in the district, including setbacks, uses and building form. Railroad adjacency was considered, and a decision was made to implement façade standards for railroad adjacent property without imposing an additional setback for residential or other uses.

Accordingly, the proposed multifamily use without additional setback from the railroad right of way is consistent with the designation for this site under the Near Southside Development Standards adopted by City Council Ordinance for the Near Southside Development District, representing the zoning for the property. The use also conforms with the 2016 City of Fort Worth Comprehensive Plan adopted by City Council ordinance within the last year, and the Near Southside Redevelopment Plan adopted in 2015 by Fort Worth Southside Development District, Inc., the nonprofit administering the Tax Increment

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**PLANNING AND DEVELOPMENT DEPARTMENT**

THE CITY OF FORT WORTH \* 200 TEXAS STREET \* FORT WORTH, TEXAS 76102-6311  
CUSTOMER SERVICE 817-392-7820 \* FAX 817-392-8116



Financing and Project Plan adopted by City Council ordinance for City of Fort Worth TIF District # 4.

The City of Fort Worth was developed as a railroad hub. There are 193 railroad crossings in the downtown Fort Worth Area. The downtown area is experiencing a surge of multifamily residential development, including twelve stories of luxury residential condominiums directly above the Texas & Pacific Railroad Terminal. Following the successful conversion of the old Montgomery Ward's warehouse immediately adjacent to a Fort Worth & Western Railroad line, new high end high density multifamily residences are also springing up in the City's West 7<sup>th</sup> area, probably the hottest, most desirable market in the City for new apartments in a dense pedestrian pattern that would have been impossible if the City had required residences to be set back from rail line right of way. Consistent with our obligation to HUD to affirmatively further fair housing, the City can't require setbacks from rail lines for workforce and affordable housing when market rate housing has been so successful in these areas.

The developer of the proposed Mistletoe Station project has informed us that it will take affirmative measures to abate sound in the design and construction of the project as well as provide appropriate safety measures such as fencing. In addition, consistent with the City's plan for this area, the City and the adjacent neighborhood are well into the process of creating a Railroad Quiet Zone that includes the Mistletoe intersection. This process was initiated over a year ago.

Given these considerations, the City of Fort Worth would allow multifamily development in the proposed location if all site plan requirements are met.

Sincerely,

Senior Planner

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**PLANNING AND DEVELOPMENT DEPARTMENT**

THE CITY OF FORT WORTH \* 200 TEXAS STREET \* FORT WORTH, TEXAS 76102-6311  
CUSTOMER SERVICE 817-392-7820 \* FAX 817-392-8116



**ORDINANCE NO. 20191-05-2012**

**AN ORDINANCE AMENDING SECTION 23.8 “NOISE” OF CHAPTER 23, “MISCELLANEOUS OFFENSES” OF THE CODE OF THE CITY OF FORT WORTH, TO AMEND THE NOISE ORDINANCE TO ADD DECIBEL LEVELS; TO ADD DEFINITIONS RELATED TO NOISE; TO SET MAXIMUM SOUND LEVELS BASED ON ZONING CATEGORIES; TO REGULATE AMPLIFIERS IN THE RIGHT OF WAY; TO RESTRICT ANIMAL NOISE; TO ALLOW EXCEPTIONS, PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND NAMING AN EFFECTIVE DATE.**

**WHEREAS**, it is the policy of the City of Fort Worth to minimize the exposure of citizens to excessive noise and to protect, promote and preserve the public health, comfort, convenience, safety and welfare; and

**WHEREAS**, it is the intent of the City to control the level of noise in a manner which promotes commerce; protects the sleep and repose of citizens; promotes the use, value and enjoyment of property; and preserves the quality of the environment; and

**WHEREAS**, it is desirable to address common noise complaints caused by repetitive and excessive noise by adding maximum decibel levels and by adding restrictions on noise from animals and from amplifiers in public right-of-way;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:**

**SECTION 1.**

Section 23.8 “Noise” is amended to repeal the language contained therein and replace with revised language, to read as follows:

**Sec. 23-8. Noise**

**(a) General Provisions.**

1. *Scope.* This Section applies to the control of all sound and noise within the City of Fort Worth.
2. *Overview.* This Section is designed to regulate noise by various alternative means in order to allow the enforcement of noise regulations at times when and by persons for whom noise meters are not available. A noise may be in violation of this Section because it is disturbing to a reasonable person of ordinary sensibilities or because it

exceeds the decibel level restrictions provided below. If a noise violates more than one of these provisions, the violation will be enforced under whichever provision is most applicable to the situation as determined by the enforcement officer of the City.

**(b) Definitions.**

*Ambient noise* shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environmental noise at a given location.

*A-Weighting (dBA)* shall mean the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

*Bounding real property line* shall mean an imaginary line at the ground and its vertical extension which separates the real property owned or occupied by one person from that owned or occupied by another person.

*Decibel (dBA)* shall mean the unit of measurement for sound pressure at a specified location.

*Governmental function* shall mean work conducted by a governmental entity in the interest of the community.

*Sound level* shall mean the instantaneous sound pressure level measured in decibels obtained by the use of a sound level meter set for A-weighting on slow integration speed, unless otherwise noted.

*Residential* shall mean: property zoned for residential use in accordance with the City's zoning ordinance

*Unreasonable noise* shall mean:

- (1) Any unreasonably loud, disturbing, and unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof; or
- (2) Any noise of such character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities.

**(c) Restrictions on Decibel Levels.**

- (1) Maximum sound levels. During the times and in the zoning districts (except for activities originating in industrial zoning districts) set out below, the activities that create a sound pressure level on the complainant's bounding real property line that exceeds the maximum allowable sound level (dBA) below are declared to be public nuisances:

All **residential** (one-, two- and multi-family) zoning districts:

Daytime: 7 a.m. to 10 p.m. = 70 dBA  
Nighttime: 10 p.m. to 7 a.m. = 60 dBA

All **non-residential and mixed-use** zoning districts (excluding industrial zoning districts) outside “H” Central Business District and “TU” Trinity Uptown:

Daytime: 7 a.m. to 10 p.m. = 80 dBA  
Nighttime: 10 p.m. to 7 a.m. = 70 dBA

**“H” Central Business District, “TU” Trinity Uptown, and West 7<sup>th</sup> Village** (per attached map)

Sunday – Thursday  
Daytime: 7 a.m. to 10 p.m. = 80 dBA  
Nighttime: 10 p.m. to 7 a.m. the following day = 70 dBA

Friday – Saturday  
Daytime: 7 a.m. to 2 a.m. the following day = 80 dBA  
Nighttime and Sunday: 2 a.m. to 7 a.m. = 70 dBA

ALL zoning where ambient noise level exceeds the prescribed maximum level:

7 a.m. to 10 p.m. = Existing Ambient (dBA) + 3 dBA  
10 p.m. to 7 a.m. = Existing Ambient (dBA)

(2) Method of noise measurement. Noise measurements shall be a minimum of 30 seconds in duration. Decibel levels are measured from the complainant’s property line. For residential districts adjacent to other districts (excluding industrial zoning districts), the residential decibel levels apply when measured from a residential complainant’s property line. Violations will be determined based on the highest registered reading in that measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time of the measurement.

**(d) Noise Prohibited.**

(1) In addition to the other noise restrictions in this Section, no person shall make, cause, suffer, allow or permit unreasonable noise in such a manner, or with such volume, intensity or duration, so as to disturb a reasonable person of ordinary sensibilities. A decibel level shall not be required for the enforcement of this subsection.

(2) This subsection is intended to apply to, but is not limited to, unreasonable noises in the form of:

a. Amplifiers in Public ROW and on City Property. The use of a bullhorn, loudspeaker, or other amplification is prohibited in the public right-of-way and on City of Fort Worth property, unless permitted as an exception below.

Exceptions:

i. Public safety official while performing their duties.



- ii. Persons with an Outdoor Event Permit as described in Section 20-405 of the City Code.
- iii. Persons with permission from pertinent City department director or designee.
- b. Animals. It shall be unlawful to keep, or to permit the keeping of, any dog(s) or rooster(s) or any other bird or animal that creates any bark, cry, crow, or other sound on a frequent, repetitive or continuous basis for ten (10) minutes or longer.
- c. Construction Work. Noise created by construction work within three hundred (300) feet of an occupied residential structure involving the erection, excavation, demolition, alteration, or repair of any building, structure, or flatwork is prohibited as follows:

Before 7:00 a.m. or after 8:00 p.m. Monday-Friday

Before 9:00 a.m. or after 8:00 p.m. Saturday-Sunday

- d. Solid Waste Collection. Noise created by solid waste haulers within three hundred (300) feet of residential zoning before 6:00 a.m. or after 11:00 p.m. is prohibited, unless a waiver is granted to the waste hauler by the Director of Code Compliance or his designee in accordance with the Grant of Privilege issued by the City to the waste hauler.
- e. Music. The playing of any music or musical instrument in such manner or with such volume or bass, particularly during the nighttime hours described in Section (c) Restrictions on Decibel Levels above, as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.
- f. Horns or other signal devices. The continued or frequent sounding of any horn, air horn, or signal device on any vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.
- g. Operation of motor vehicles. The revving of any engine, the playing of any music with such volume or bass, or the operation of any vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring, rattling, or squealing noise or vibrations.

**(e) Exemptions.**

The following acts and sounds shall be exempt from the requirements of this Section:

1. Noise generated due to normal building conditioning and ventilation and property maintenance.
2. Noise generated on public and school property, as permitted by the property owner.
3. Noise generated by an Outdoor Event that is permitted as described in Section 20-405 of the City Code.
4. Noise generated by amplifiers at entertainment venues having a capacity of 1,000 or more persons within "TU" Trinity Uptown.
5. Noise generated by any governmental body and its contractors in the performance of a governmental function.
6. Noise generated by airport, railway and vehicular transportation.

7. Noise produced by gas drilling and production, which is regulated by the Gas Drilling Ordinance in Chapter 15 of the City Code.
8. Noise generated at Texas Motor Speedway.

**(f)** Enforcement.

The provisions of this section shall be enforced primarily by the Police Department and Code Compliance Department.

**(g)** Penalties.

1. A person commits an offense if the person makes noise in violation of this Section.
2. An offense under this Section is punishable by a fine of not more than Five Hundred Dollars (\$500.00).
3. Each occurrence of a violation, or, in the case of multiple violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.
4. A violation of this Section is a nuisance. The prosecution of an offense under this Section does not limit the City's right to abate the nuisance, including the use of injunctive or other civil relief.

## **SECTION 2.**

That this ordinance shall be cumulative of all other ordinances of the City of Fort Worth, Texas, and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

## **SECTION 3.**

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil and criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 4.**

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5.**

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation exists shall constitute a separate offense.

**SECTION 6.**

That the City Secretary of the City of Fort Worth, Texas, is hereby directed to publish this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by the V.T.C.A. Local Government Code Subsection 52.013.

**SECTION 7.**

This ordinance shall take effect after adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: Melinda Rundo  
Assistant City Attorney

Adopted: May 1, 2012

Effective: 5/12/12



*City of Fort Worth, Texas*  
**Mayor and Council Communication**

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**COUNCIL ACTION: Approved As Amended on 5/1/2012 - Ordinance No. 20191-05-2012**

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**CONTINUED FROM A PREVIOUS WEEK**

**DATE:** Tuesday, April 10, 2012

**REFERENCE NO.:** G-17568

**LOG NAME:** 06NOISE ORDINANCE

**SUBJECT:**

Adopt Ordinance Amending Section 23.8 "Noise" of Chapter 23, "Miscellaneous Offenses" of the Code of the City of Fort Worth to Add Decibel Levels, Add Definitions Related to Noise, Set Maximum Sound Levels Based on Zoning Categories, Regulate Amplifiers in the Right-of-Way, and Restrict Animal Noise (ALL COUNCIL DISTRICTS)

---

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached ordinance amending Section 23.8 "Noise" of Chapter 23, "Miscellaneous Offenses" of the Code of the City of Fort Worth to add decibel levels, add definitions related to noise, set maximum sound levels based on zoning categories, regulate amplifiers in the right-of-way, and restrict animal noise.

**DISCUSSION:**

On September 13, 2011, the City Council received an Informal Report about proposed changes to the City's noise ordinance. During the fall and winter of 2011 to 2012, Staff reached out to community groups and held a public meeting on January 23, 2012. The attached ordinance incorporates public comments received to date.

The primary purpose of the ordinance is to address common noise complaints caused by repetitive and excessive noise by adding maximum decibel levels based on zoning districts and by adding restrictions on noise from animals and from amplifiers in public right-of-way.

**FISCAL INFORMATION / CERTIFICATION:**

The Financial Management Services Director certifies that this action will have no material effect on City funds.

**FUND CENTERS:**

**TO Fund/Account/Centers**

**FROM Fund/Account/Centers**

**CERTIFICATIONS:**

**Submitted for City Manager's Office by:**

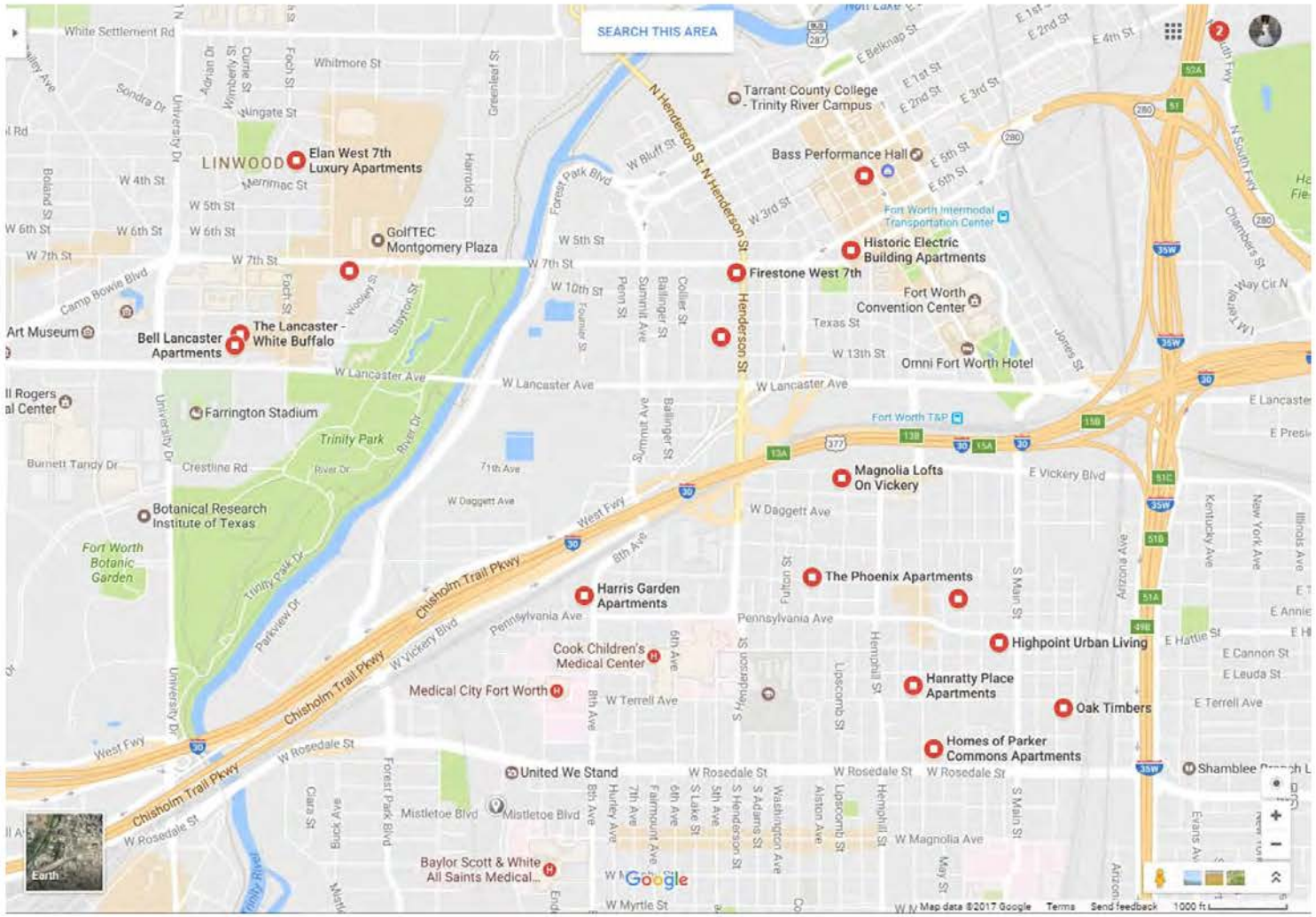
Fernando Costa (6122)

**Originating Department Head:**

Randle Harwood (6101)

**Additional Information Contact:**

Dana Burghdoff (8018)



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 13, 2017**

Presentation, Discussion, and Possible Action regarding exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Application 17322 Provision at Wilcrest

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to 10 TAC §10.101(a)(2) of the 2017 Uniform Multifamily Rules related to Undesirable Site Features, Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s); and

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3), staff has conducted a further review of the proposed site and the surrounding neighborhoods and prepared a summary for the Board with recommendations with respect to the eligibility of the site;

**NOW, therefore, it is hereby,**

**RESOLVED**, that the Board accepts staff recommendation, and finds the site for Application 17322 ineligible in satisfaction of the requirements of 10 TAC §10.101(a)(2) of the Uniform Multifamily Rules.

**BACKGROUND**

The following table describes the staff review and determination for a 2017 Competitive Housing Tax Credit (“HTC”) application that included a disclosure related to §10.101(a)(2) of the 2017 Uniform Multifamily Rules (the “Rules”), related to Undesirable Site Features. Pursuant to the rule, such disclosures are required if one or more of eleven undesirable site features exists where the proposed Development Site is located.

The table identifies the HTC development/application identification number (TDHCA ID#), the name of the development, city, region, and application review status, along with staff’s recommendation with respect to eligibility of the site. A brief summary of the disclosure has been included and is followed by Department staff’s analysis of the site.



<b>TDHCA ID#</b>	17322	<b>Development Name:</b>	Provision at Wilcrest
<b>City:</b>	Houston	<b>Region:</b>	6
<b>Review Status:</b>	Complete		

**Staff recommendation:** Site is ineligible under 10 TAC §10.101(a)(2) related to Undesirable Site Features

**Summary of Disclosure:** The Applicant did not disclose that the Development Site is located across a four-lane street from the Southern Crushed Concrete plant, which the Texas Commission on Environmental Quality (“TECQ”) considers a municipal solid waste processing plant.

**Site Analysis:** The plan for the site indicates a Development Site with commercial and industrial uses to the immediate north, east and west, a vacant lot to the south followed by the Westpark Tollway. Farther north is Westpark Drive, a four-lane divided road. Single and multifamily development exists south of the tollway and north of Westpark Drive, and to the far east and far west of the Development Site.

The Southern Crushed Concrete plant is directly across the street from the Development Site. According to a TECQ regulated entity information query, the plant is a registered municipal solid waste processing plant.

Pursuant to 10 TAC §10.101(a)(2):

Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s). ...  
 ... (B) Development Sites located within 300 feet of a solid waste or sanitary landfills;

**Staff Recommendation:** Staff is recommending that the Board find the Development Site ineligible.

[Questions or Comments >>](#)

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 [ID Search](#)   
 [Document Search](#)   
 [Search Results](#)   
 [TCEQ Home](#)  
[Query Home](#)

## Central Registry Query - Regulated Entity Information

### Regulated Entity Information

**RN Number:** RN103728242

**Name:** SOUTHERN CRUSHED CONCRETE

**Primary Business:** No primary business description on file.

**Street Address:** 14329 CHRISMAN RD, HOUSTON TX 77039 1508

**County:** HARRIS

**Nearest City:** HOUSTON

**State:** TX

**Near ZIP Code:** 77039

**Physical Location:** No physical location description ON file.

### Affiliated Customers - Current

Your Search Returned **1** Current Affiliation Records ( [View Affiliation History](#) )

*The Customer Name displayed may be different than the Customer Name associated to the Additional IDs related to the customer. This name may be different due to ownership changes, legal name changes, or other administrative changes.*

#### 1-1 of 1 Records

CN Number	Customer Name	Customer Role(s)	Details
CN603079401	SOUTHERN CRUSHED CONCRETE LLC	OWNER OPERATOR	<a href="#">↔</a>

### Industry Type Codes

Code	Classification	Name
3272	SIC	Concrete Products
5093	SIC	Scrap and Waste Materials

### Permits, Registrations, or Other Authorizations

There are a total of **5** programs and IDs for this regulated entity. Click on a column name to change the sort order.

#### 1-5 of 5 Records

Program ▲	ID Type	ID Number	ID Status
MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION	100455	ACTIVE
STORMWATER	PERMIT	TXR05AS10	ACTIVE
STORMWATER	PERMIT	TXR05P493	EXPIRED
WASTEWATER	PERMIT	2E0000215	DENIED
WASTEWATER	PERMIT	TXG111951	ACTIVE

[Questions or Comments >>](#)[Customer Search](#)[RE Search](#)[ID Search](#)[Document Search](#)[Search Results](#)[TCEQ Home](#)[Query Home](#)

## Central Registry

*The Customer Name displayed may be different than the Customer Name associated to the Additional IDs related to the customer. This name may be different due to ownership changes, legal name changes, or other administrative changes.*

Detail of: **Municipal Solid Waste Processing Registration 100455**

For: **CHRISMAN YARD (RN103728242)**

14329 CHRISMAN RD, HOUSTON

Registration Status: **ACTIVE**

Held by: **SOUTHERN CRUSHED CONCRETE LLC (CN603079401)** [View 'Issued To'](#)

History

**N/A** Since 01/04/2007 [View Compliance History](#)

Mailing Address: 9303 NEW TRAILS DR STE 200 THE WOODLANDS, TX 77381 -5020

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### Related Information:

[Correspondence Tracking](#)

[Registration Information](#)

There is no information related to this Registration in the following categories:

[Commissioners' Actions](#)

[Effective Enforcement Orders](#)

[Criminal Convictions](#)

[Proposed Enforcement Orders](#)

[Complaints](#)

[Discharges](#)

[Emergency Response Events](#)

[Emission Events](#)

[Fish Kills](#)

[Other Incidents](#)

[Investigations](#)

[Periodic Reports](#)

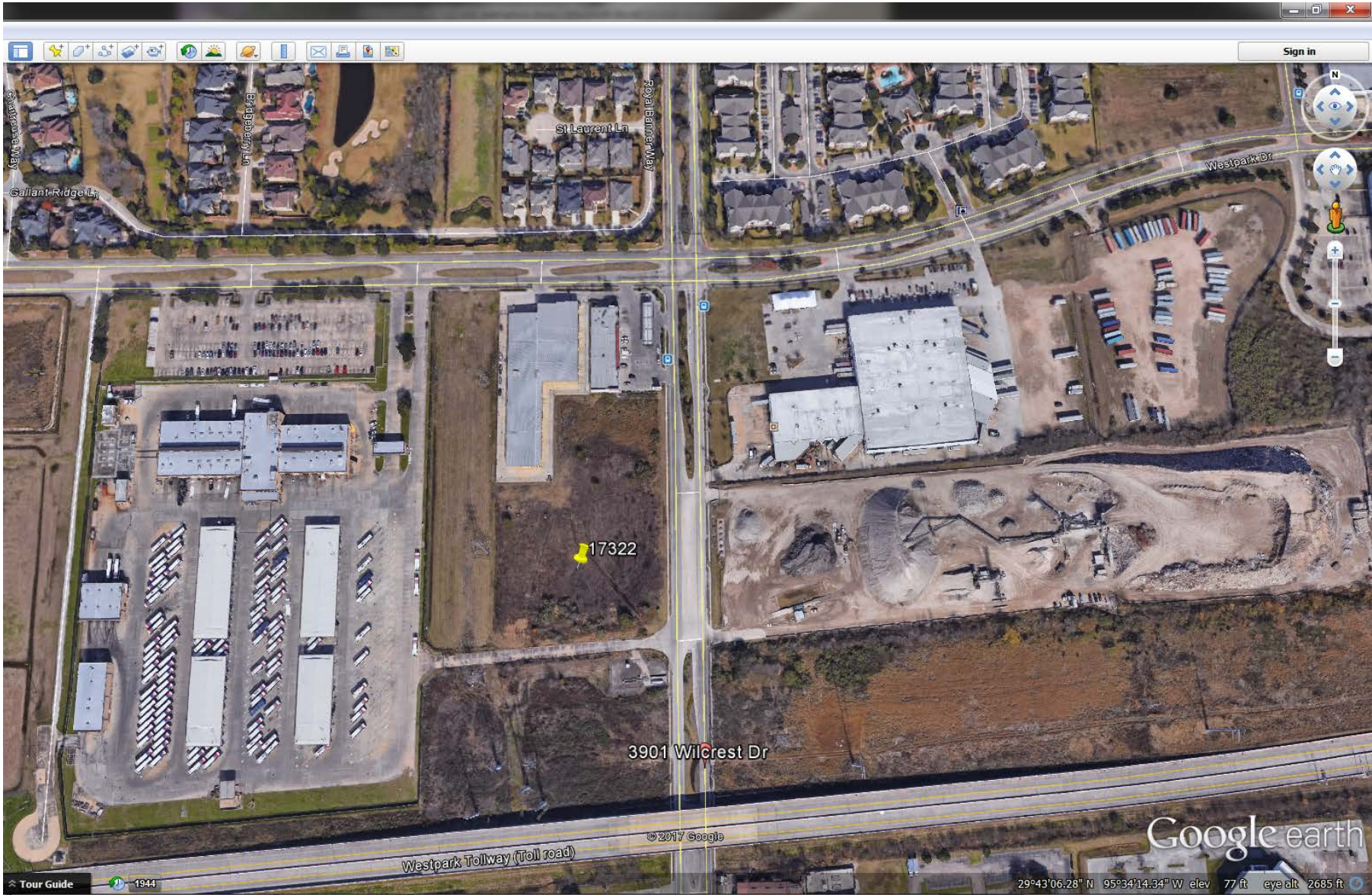
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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 13, 2017**

Presentation, Discussion, and Possible Action regarding exemption under 10 TAC §10.101(a)(2) for 2017 Housing Tax Credit (“HTC”) Application 17368 Cielo

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to 10 TAC §10.101(a)(2) of the 2017 Uniform Multifamily Rules related to Undesirable Site Features, Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph may be considered ineligible as determined by the Board, unless the Applicant provides information regarding mitigation of the applicable undesirable site feature(s); and

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3), staff has conducted a further review of the proposed site and the surrounding neighborhoods and prepared a summary for the Board with recommendations with respect to the eligibility of the site;

**NOW, therefore, it is hereby,**

**RESOLVED**, that the Board accepts staff recommendation, and finds the site for Application 17368 ineligible in satisfaction of the requirements of 10 TAC §10.101(a)(2) of the Uniform Multifamily Rules.

**BACKGROUND**

The following table describes the staff review and determination for a 2017 Competitive Housing Tax Credit (“HTC”) application that included a disclosure related to §10.101(a)(2) of the 2017 Uniform Multifamily Rules (the “Rules”), related to Undesirable Site Features. Pursuant to the rule, such disclosures are required if one or more of eleven undesirable site features exists where the proposed Development Site is located.

The table identifies the HTC development/application identification number (TDHCA ID#), the name of the development, city, region, and application review status, along with staff’s recommendation with respect to eligibility of the site. A brief summary of the disclosure has been included and is followed by Department staff’s analysis of the site.

<b>TDHCA ID#</b>	17368	<b>Development Name:</b>	Cielo
<b>City:</b>	McAllen	<b>Region:</b>	11
<b>Review Status:</b>	Application is not competitive in the region and has not been reviewed.		

**Staff recommendation:** Site is ineligible under §10.101(a)(2)

Review of the Development Site indicates a.

**Summary of Disclosure:** The development site is located within 500 feet of the railway located on the eastern and southern property boundaries of the development site.

**Site Analysis:** The plan for the site indicates an eastern property line at the easement for the tracks which curves around to a portion of the southern border of the site. There appears to be only a fence separating the site from the railroad easement, and staff estimates that the closest units will be no more than 30 feet from the tracks.

Pursuant to §10.101(a)(2):

Where there is a local ordinance that regulates the proximity of such undesirable feature to a multifamily development that has smaller distances than the minimum distances noted below, then such smaller distances may be used and documentation such as a copy of the local ordinance identifying such distances relative to the Development Site must be included in the Application.

Per a letter from the City of McAllen:

“This letter has been prepared in response to your request with regard to the above-described property. An application for zoning change to R-3A (multifamily residential apartments) District has been submitted. You have requested information related to "there are no ordinances preventing apartments from being built near (or 500 feet) from a railroad track". I am unaware of any McAllen Ordinance that prohibits apartments from being built 500 feet from a railroad track.”

That there is no ordinance preventing multifamily development near railroad tracks does not meet the requirement of the rule that “(w)here there is a local ordinance that regulates the proximity of such undesirable feature to a multifamily development that has smaller distances than the minimum distances noted below, then such smaller distances may be used ...”.

**Staff Recommendation:** The Application did not include a local ordinance that imposes a smaller distance than 500 feet from the railroad to the Development Site. Staff is recommending that the Board find the Development Site ineligible.









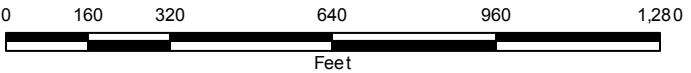
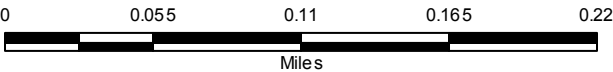
Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community,  
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS,  
AeroGRID, IGN, and the GIS User Community

February 14, 2017

1 inch = 376 feet

PREPARED BY:  
**RAILROAD COMMISSION of TEXAS**

P.O. BOX 12967  
AUSTIN, TX 78711-2967



NOTICE/DISCLAIMER: Mapping data sets are provided for informational purposes only. These data sets are continuously being updated and refined. Users are responsible for checking the accuracy, completeness, currency, and/or suitability of these data sets themselves. This is not a survey grade product and should not be used to define or establish survey boundaries.



UNIT TYPE / RENTABLE AREA		BUILDING NUMBER / BUILDING TYPE						TOTAL # OF UNITS
UNIT TYPE & RENTABLE SQ. FT.	BLDG. #1	BLDG. #2	BLDG. #3	BLDG. #4	BLDG. #5	BLDG. #6	BLDG. #7	
<b>ONE BEDROOM UNITS</b>	TYPE - III-h	TYPE - I	TYPE - V	TYPE - IV	TYPE - II	TYPE - I	CLUB	
A1 -- 721 S.F.		11				11		22
A1h -- 721 S.F.		1				1		2
								24 - 1 BEDROOMS = 20%
<b>2 BEDROOM / 2 BATH</b>								
B1 -- 951 S.F.		11		11	23	11		56
B1h -- 951 S.F.		1		1	1	1		4
								60 - 2 BEDROOMS = 60%
<b>3 BEDROOM / 2 BATH</b>								
C1 -- 1,136 S.F.	11		24					35
C1h -- 1,136 S.F.	1							1
								36 - 3 BEDROOMS = 20%
<b>GRAND TOTALS</b>	12	24	24	12	24	24		120 TOTAL UNITS

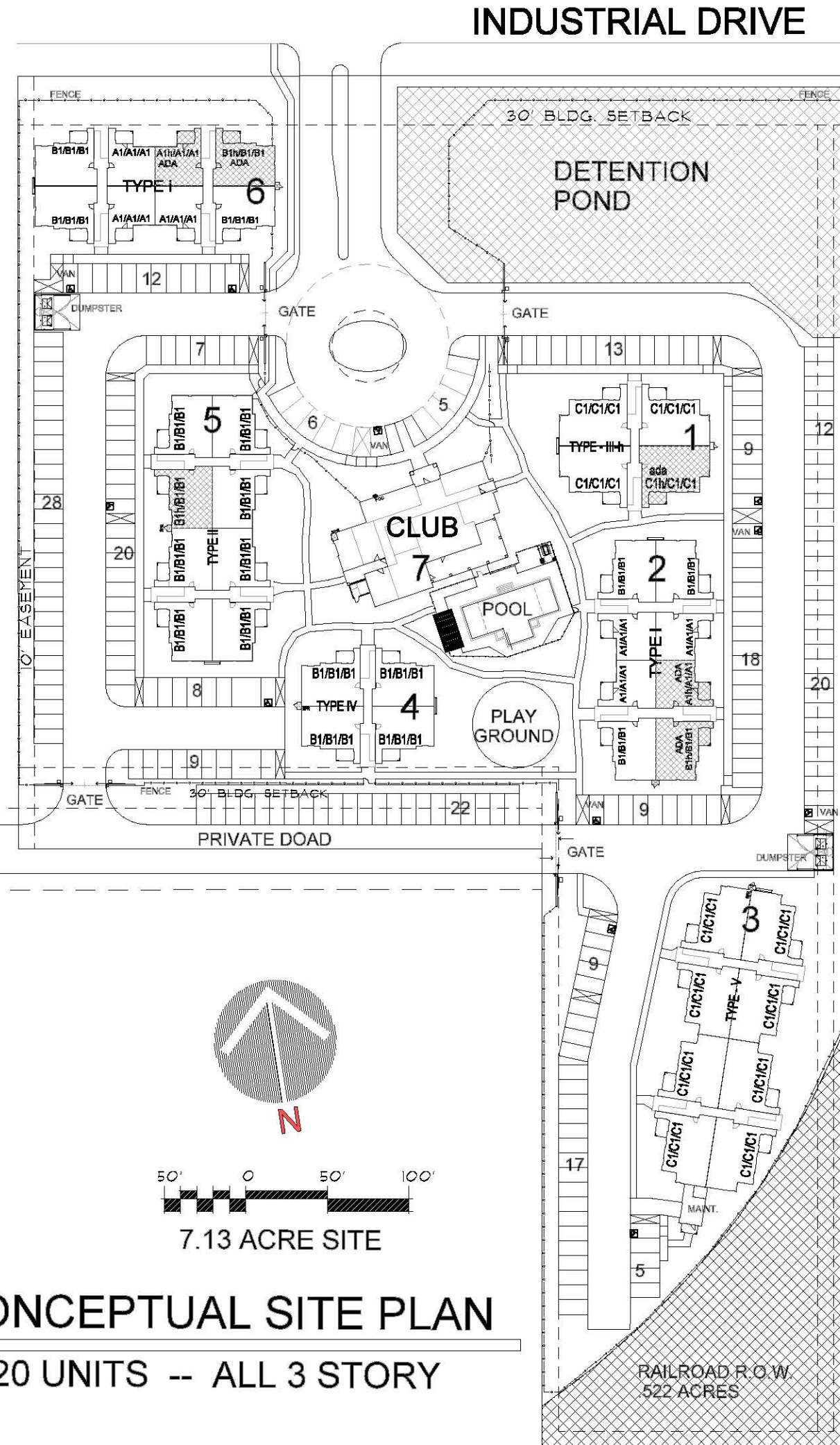
### PARKING TABULATION

215 - OPEN SPACES  
 8 - HC SPACES  
 5 - VAN SPACES  
 229 - TOTAL SPACES

### CITY PARKING REQUIREMENT

1 BEDROOM UNITS = 24 X 1.5 = 36 SPACES  
 2 BEDROOM UNITS = 12 X 2 = 24 SPACES  
 3 BEDROOM UNITS = 24 X 2 = 48 SPACES  
 TOTAL REQ. PARKING = 108 SPACES  
 120 UNITS = 1.9 SPACES / UNIT

NO FLOODPLAIN ON SITE



FEB 27, 2017



Cielo  
 McAllen, Texas

VERSA  
 DEVELOPMENT

2/27/17

NOT FOR REGULATORY APPROVAL  
 PERMITTING OR CONSTRUCTION



March 1, 2017

Mr. Tim Irvine  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

**RE: Cielo Apartments (TDHCA #17368) – McAllen, Texas**

The proposed Cielo Apartments (TDHCA #17368) is located along the S side of Industrial Rd, E of N 23rd St in McAllen, Texas 78504.

As per Subchapter B, Section §10.101(a)(2) of the Uniform Multifamily Rules, Development Sites may be considered ineligible unless the Applicant provides information regarding mitigation of applicable undesirable features as listed in the rules. The Development Site is located within 500 feet of active railroad tracks.

There are railroad spurs (Track #1) on the property. Track #1 is used as storage (to store railroad cars), as the railroad line dead ends at this point. The railroad line furthest away from the Development Site (Track #2) is an active track. Track #2 begins at approximately 250 feet from the nearest building and has just one train per day and operates at a speed of only up to 10 MPH. See Exhibit #1 as it pertains to Track #1 and Track #2.

While there is no Railroad Quiet Zone in McAllen, there is also no ordinance or regulation which prohibits housing or multifamily housing from being near or adjacent to a railroad track, and the Development Site is adjacent to tracts zoned as commercial, light industrial, etc. In fact, as depicted on Exhibit #2, there are multifamily apartments located adjacent to railroad tracks throughout the City of McAllen. I have enclosed two letters as Exhibit #3 from the City of McAllen which state that there is no documentation or ordinance prohibiting multifamily apartments from being built within 500 ft. of any railroad track. I have also enclosed as Exhibit #4 correspondence from the Rio Valley Switching Company confirming the speed and railroad activity.

Finally, our architect has studied the Development Site and its proximity to the railroad, and has determined that the proposed Development Site and all construction thereon will comply with all applicable state and federal requirements regarding separation for safety purposes. When completed, Cielo Apartments will include a fence to separate the portions of the Development Site which will have improvements from the tracks for security and to assist in reducing the noise levels caused by the railroad. If necessary, the fence will be masonry. Further, Cielo Apartments will be designed to meet HUD guidelines in regards to sound attenuation, and to mitigate any additional noise that is caused by the railroad line based on the results of a 3<sup>rd</sup>-party Noise Study, which will be conducted as part of our HUD financing. I have enclosed as Exhibit #5 a letter from the architect noting that the design of Cielo Apartments can be done in such regard to minimize any safety and noise impact caused by the railroad.

The Applicant has diligently evaluated the Development Site in regards to its proximity to railroad tracks, and for all the reasons outlined above, we believe the Development Site should be approved under Section §10.101(a)(2) of the rules.

Sincerely,



Manish Verma  
Authorized Representative, VDC Lark Kingsley, LP

**EXHIBIT #1**



CIELO PROPERTY

Track #1

Track #2



**EXHIBIT #2**



**IMAGE OF EXISTING PROPERTY (PARKLANE APTS) NEAR CIELO. PARKLANE IS LOCATED ADJACENT TO A RAILROAD TRACK.**





**IMAGE OF PARKLANE APARTMENTS NEXT TO RAILROAD TRACK**



**EXHIBIT #3**



JAMES E. DARLING, Mayor  
HILDA SALINAS, Mayor Pro-Tem and Commissioner District 3  
AIDA RAMIREZ, Mayor Pro-Tem and Commissioner District 4  
RICHARD F. CORTEZ, Commissioner District 1  
TREY PEBLEY, Commissioner District 2  
JOHN J. INGRAM, Commissioner District 5  
VERONICA VELA WHITACRE, Commissioner District 6

ROEL RODRIGUEZ, P.E., City Manager

February 27, 2017

[yosoycantu1@msn.com](mailto:yosoycantu1@msn.com)

Mr. David Cantu  
502 W. 9th St.  
San Juan, TX 78589

RE: Public Information Request W023410-021317

Dear Mr. Cantu:

This letter responds to your request for information to the City of McAllen, dated and received in our office on 2/13/2017. Information Requested: *1. Please provide any documentation or ordinance stating that multifamily apartments cannot be built w/in 500 ft. of any railroad track. 2. Please provide any documentation stating if the railroad track located on Industrial Dr. & Bicentennial Blvd is a city designated railroad quiet zone or similar?*

The City of McAllen has reviewed your request. There are no documents responsive to your request. The Public Information Act requires government entities to make any record available that is not excepted from disclosure. However, an open records request only requires a governmental body to provide copies of documents that relate to the information sought by the requestor. The Public Information Act does not require a governmental body to calculate statistics, to perform legal research, or to prepare answers to questions [Tex. Attorney Gen. ORD.555 at 1(1990), ORD-563 at 8 (1990)].

This letter does not constitute a legal opinion or determination by the City of McAllen, nor should you or any other person act in reliance of this letter, regarding the interpretation or applicability of all current municipal ordinances, rules, policies, and regulations related to the issue of "*any documentation or ordinance stating that multifamily apartments cannot be built w/in 500 ft. of any railroad track.*" You may want to retain, consult, and seek the advice of a licensed attorney of your choice regarding this matter.

The City of McAllen strictly adheres to the provisions of the Texas Public Information Act, Texas Government Code Chapter 552 (Formerly Open Records Act), and the interpretative opinions of the Texas Attorney General and the courts. The information you have requested does not exist in record form. The Texas Public Information Act does not require the City to produce documents that are not in existence.

If you have any questions, or wish to discuss this further, you may contact our Planning Director, Ms. Juli Rankin at (956) 681-1250.

Sincerely,

A handwritten signature in black ink that reads "Gary Henrichson".

Gary Henrichson  
Deputy City Attorney

GH//ds



JAMES E. DARLING, Mayor  
HILDA SALINAS, Mayor Pro-Tem and Commissioner District 3  
AIDA RAMIREZ, Mayor Pro-Tem and Commissioner District 4  
RICHARD F. CORTEZ, Commissioner District 1  
TREY PEBLEY, Commissioner District 2  
JOHN J. INGRAM, Commissioner District 5  
VERONICA VELA WHITACRE, Commissioner District 6

ROEL RODRIGUEZ, P.E., City Manager

### ZONING VERIFICATION LETTER

February 28, 2017

Versa Development, LLC  
C/O David Cantu  
502 W. 9<sup>th</sup> Street  
San Juan, TX 78589

**RE: ZONING VERIFICATION FOR: LOT 8, MCALLEN NORTHWEST INDUSTRIAL #2, HIDALGO COUNTY, TEXAS; 1801 INDUSTRIAL DRIVE, MCALLEN, TEXAS 78504**

Dear Mr. Cantu:

This letter has been prepared in response to your request with regard to the above-described property. An application for zoning change to R-3A (multifamily residential apartments) District has been submitted. You have requested information related to "there are no ordinances preventing apartments from being built near (or 500 feet) from a railroad track". I am unaware of any McAllen Ordinance that prohibits apartments from being built 500 feet from a railroad track.

If I can be of further assistance, please contact me at (956) 681-1250.

Sincerely,

*Rod Sanchez*  
Rod Sanchez  
Planner II

Disclaimer: This verification letter is the City's best efforts to indicate the information included in City records on or about the date of the request. It is intended to be only used by the addressee. It is not a guarantee of accurate information and is not a substitute for title insurance or an attorney's opinion. This letter is given with the understanding that by accepting it the addressee acknowledges it is not a warranty nor opinion of title and any liability arising hereunder shall be limited to the cost of this letter.



**EXHIBIT #4**

## Manish Verma

---

**From:** David Krukiel  
**Sent:** Wednesday, March 1, 2017 1:14 PM  
**To:** Manish Verma  
**Subject:** FW: McAllen Rail Line  
**Attachments:** RVS Map.pdf

See below and attached. One train per day. 10 MPH.

---

**From:** Greg Garcia [mailto:customerservice@riovalleyswitching.com]  
**Sent:** Wednesday, March 01, 2017 1:01 PM  
**To:** David Krukiel <davidk@versadevco.com>  
**Subject:** RE: McAllen Rail Line

Confirmed.

Speed limit is 10 MPH on that line.

Thanks

Greg Garcia

Traffic Coordinator

Rio Valley Switching Co.

956-971-9111 ext. 119

956-971-9114 fax

[Customerservice@riovalleyswitching.com](mailto:customerservice@riovalleyswitching.com)

[WWW.riovalleyswitching.com](http://WWW.riovalleyswitching.com)

---

**From:** David Krukiel [mailto:davidk@versadevco.com]  
**To:** Greg Garcia <customerservice@riovalleyswitching.com>  
**Subject:** McAllen Rail Line

Hello,

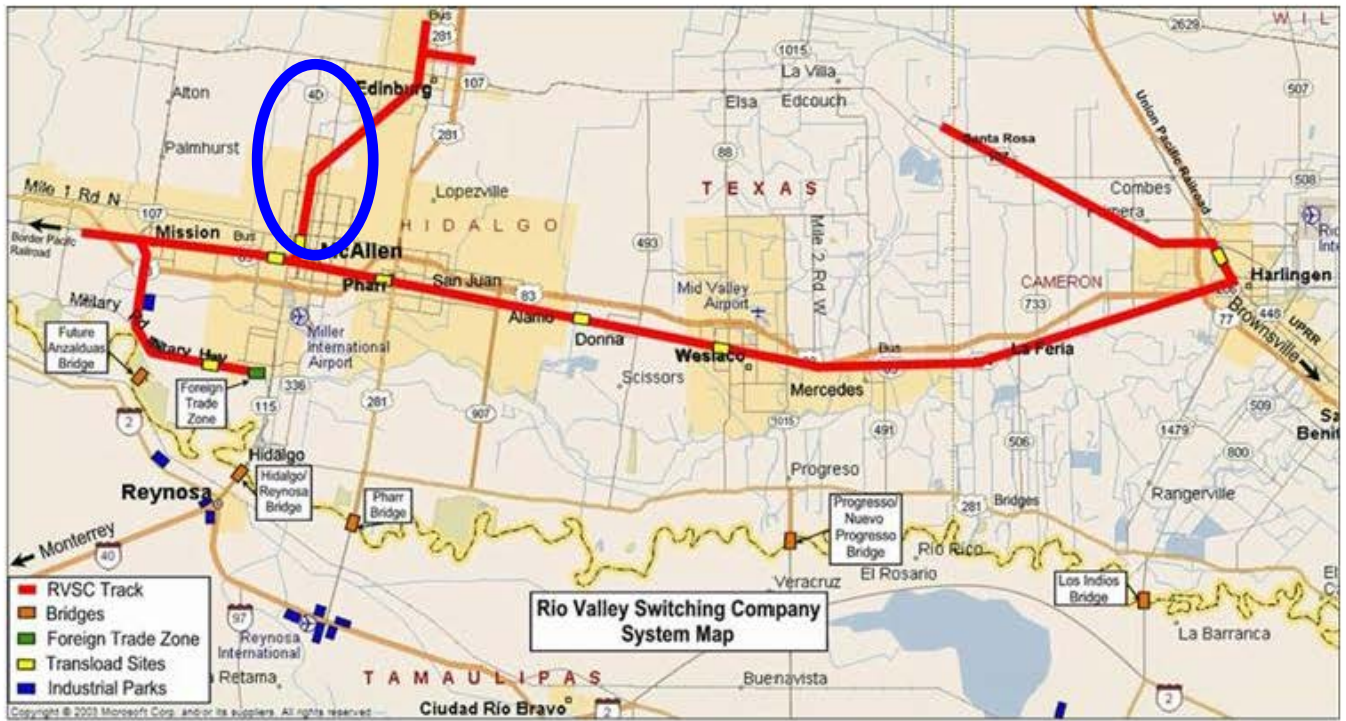
Thank you for taking the time to talk to me earlier!

Please confirm, per our convo, that the RR line that runs through McAllen, TX along N 23<sup>rd</sup> Street only has one train per day. I have attached a map from your website confirming this track, which is the red line circles in blue.

Also, if you wouldn't mind, can you give speed details on this train?

THANK YOU!!

David





**EXHIBIT #5**



# Gonzalez Newell Bender, Inc.

architecture ♦ urban design ♦ land planning ♦ interior design

1630 Lockhill Selma Road ♦ San Antonio, Texas 78213

☎ (210) 692-0331 ♦ e-mail: gonzalez@gnbarch.com

February 28, 2017

Mr. Manish Verma  
VDC Lark Kingsley, LP  
4733 College Park, Ste. 200  
San Antonio, Texas 78249

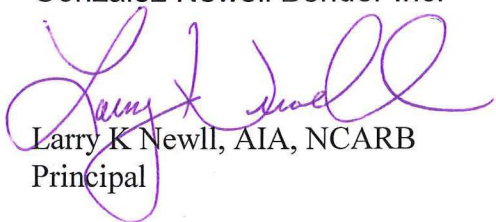
**RE: Cielo Apartments (TDHCA #17368) – McAllen, Texas**

Dear Mr. Verma:

The proposed Cielo Apartments (TDHCA #17368) is located along S side of Industrial Rd, E of N 23rd St in McAllen, Texas 78504.

We have studied the Development Site and its proximity to the railroad, and based on the information known to date it is our opinion that the proposed Development Site and all construction thereon will comply with all applicable state and federal requirements regarding separation for safety purposes. Further, based on the information known to date, it is our opinion that the design of the development can be done in such regard to minimize any noise impact caused by the railroad.

IN PURSUIT OF DESIGN EXCELLENCE  
Gonzalez Newell Bender Inc.

  
Larry K Newell, AIA, NCARB  
Principal

4b



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 13, 2017**

Presentation, Discussion, and Possible Action regarding an Award of Direct Loan funds from the 2017-1 Multifamily Direct Loan Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Department has received a total of thirty-eight applications for Multifamily Direct Loan funds under the 2017-1 Multifamily Direct Loan Notice of Funding Availability (“NOFA”);

**WHEREAS**, Application 17501, which is requesting \$760,000 in Direct Loan funds for Live Oak Trails, is a Priority 1 application that has received complete reviews for compliance with program and underwriting requirements;

**WHEREAS**, \$600,000 in Direct Loan funds were recommended by the Executive Award and Review Advisory Committee (“EARAC”) in order to replace Federal Home Loan Bank (“FHLB”) funds that were contemplated but ultimately not awarded;

**WHEREAS**, 10 TAC §13.5(d)(2) requires Applications for Developments previously awarded Department funds under any program to be found eligible by the Board; and

**WHEREAS**, this application has provided evidence of circumstances beyond the applicant’s control which could not have been prevented by timely start of construction as a criteria for the Board to consider for being found eligible;

**NOW, therefore, it is hereby**

**RESOLVED**, that an award of \$600,000 in Direct Loan funds from the NOFA for Live Oak Trails is hereby approved in the form presented at this meeting; and

**FURTHER RESOLVED**, that the Board’s approval is conditioned upon satisfaction of all conditions of underwriting and the 811 PRA Program, and completion of any other reviews required to assure compliance with the applicable rules and requirements.

**BACKGROUND**

On December 15, 2016, the Board approved the 2017-1 Multifamily Direct Loan NOFA with \$32,549,905 in funds with up to \$4,000,000 in the Supportive Housing/ Soft Repayment Set-Aside, \$4,723,589, in the CHDO Set-Aside, and \$23,826,316 in the General Set-Aside. The NOFA was amended at last month’s Board meeting to include \$2,299,235 in additional TCAP Repayment

Funds, all of which was programmed under the General Set-Aside, thereby increasing the General Set-Aside to \$26,125,551 and the overall NOFA amount to \$34,849,140.

Staff and EARAC are recommending the Board's approval of Live Oak Trails application (17501) for Direct Loan funds totaling \$600,000 under the Supportive Housing/ Soft Repayment Set-Aside. The recommended applications and award amounts are outlined in the attached award recommendations log.

Live Oak Trails (formerly known as Southwest Trails II) was awarded an allocation of 9% Housing Tax Credits ("HTC") in July 2014 for application 14069, which proposed new construction of 58 supportive housing units at 8500 Highway 71 in southwest Austin. Construction began on this project in August 2015 and completed construction and placed in service in December 2016. Building costs have increased approximately \$3.1 million (76%) since the 9% HTC application was underwritten by the Department in June 2014. This increase has led the Applicant to secure additional financing in the forms of grants, donations, and increased equity. While building costs have increased substantially, the Applicant has not increased the developer fee based on the higher costs. Therefore, none of the Direct Loan funds will be used to fund an increased developer fee. The Direct Loan funds will be used to help fill the gap between sources and increased building costs and will be awarded as a deferred forgivable loan with a 40-year term. With the addition of Direct Loan funds, 10 of the 58 units will now also be restricted under a separate Land Use Restriction Agreement. The 10 Direct Loan units will target households earning 50% or less of the Area Median Income.

As required in 10 TAC §13.11(m) of the Multifamily Direct Loan Rule, the Department's Governing Board must establish a hard closing deadline at the time of award. As such, staff recommends that closing on the Direct Loan must occur no later than August 31, 2017. Moreover, as a result of 10 TAC §10.204(16), the applicant has provided an existing development – Trails at the Park – for inclusion in the Department's Section 811 Project Rental Assistance Program. The Department has approved Trails at the Park for participation in the Section 811 PRA Program and staff recommends that the 811 Owner Participation Agreement be signed before closing on the Direct Loan award.

In accordance with 10 TAC §13.5(d)(2) regarding Applications for Developments previously awarded Department funds under any program, the applicant submitted documentation indicating that a Federal Home Loan Bank ("FHLB") grant under the Affordable Housing Program never materialized. The applicant stated that they had received 14 FHLB grants over the past 15 years, but were unable to secure the \$600,000 grant from FHLB in this instance due to an oversight by FHLB. Additionally, the City of Austin and Austin Energy required numerous changes to the site plan – increased detention pond size and redesigned irrigation system which resulted in reorientation of buildings, walkways, and parking – significantly increased the cost of the development after the time of the 9% HTC award.

Should this \$600,000 TCAP RF award be recommended, approximately \$431,000 would go toward paying off the balance of a sponsor loan from Foundation Communities, with the remainder paying off a portion of deferred developer fee that would allow deferred fee to be repaid prior to year 15.

This application has been underwritten and determined to meet the Real Estate Analysis rules and requirements and has received a previous participation review.

Should the recommended award be approved, \$41,109,669 will remain available under the NOFA with \$7,710,529 total and \$3,400,000 in TCAP RF under the Supportive Housing/ Soft Repayment Set-Aside, of which, two applications requesting \$800,000 each are still under review and an application recommended for \$300,000 is to be considered at this Board meeting. Subsequent award recommendations for applications undergoing staff reviews may appear on future Board agendas.

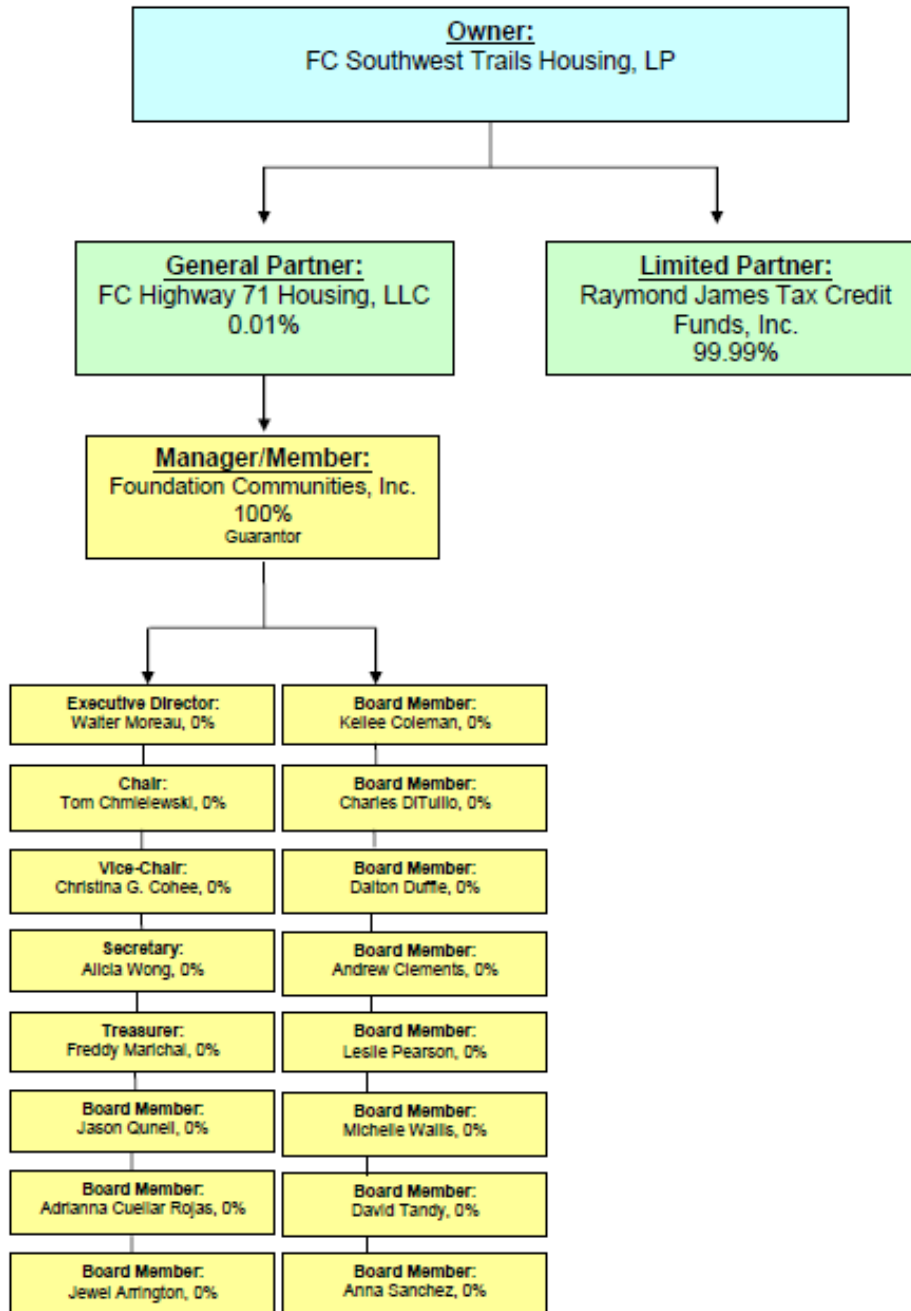
The Application and Award Recommendations Log is attached.

*Organizational Structure and Previous Participation:* The borrower is FC Southwest Trails Housing, LP and includes entities and principals as indicated in the organization chart below. At the time of the Previous Participation Review, the applicant was a Large Category 2 portfolio.

*Public Comment:* There have been no letters of support or opposition received by the Department.



## Ownership Chart





3036 South First Street  
Austin, TX 78704

tel: 512-447-2026  
fax: 512-447-0288

www.foundcom.org

March 24, 2017

Andrew Sinnott  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

RE: Live Oak Trails, 8500 Highway 71 West, Austin, TX 78735  
TDHCA #17501

Dear Andrew:

Per 10 TAC §13.5(d)(2), please accept this letter as a statement of eligibility required if a project has previously been awarded Department funds or where construction has been completed. Live Oak Trails received 9% Low Income Housing Tax Credits in 2015 and completed construction on November 21, 2016. Please note that the property was still under construction when our first application was received by the Department on August 3, 2016 under the 2016 NOFA. However, there were not enough funds available in that NOFA to fund the project at that time.

The reason that Foundation Communities applied for TCAP funds after the project had already started construction was due to a relied upon fundraising source that ended up not being awarded due to factors beyond our control.

Foundation Communities submitted an application to the Federal Home Loan Bank of San Francisco's Affordable Housing Program on March 3, 2016. The project scored competitively and we had full confidence that the grant would be awarded (as did our Bank Sponsor – Bank of America.) Foundation Communities has received 14 FHLB grants over the past 15 years. We have never not been awarded a grant as we always submit strong applications and we work with bank sponsors that vet our applications to make sure they will be competitive. We knew the cut off score for which applications would not be funded and Live Oak Trails scored above that line.

We were notified in June 2016 that our FHLB application for Live Oak Trails was not funded. We were shocked and asked to have a call with FHLB and our bank sponsor, Bank of America, to find out the cause. On this call, we learned that the reason our application was denied was because the application reviewer saw an expiration date on our building permit submitted with the application. Instead of calling us to clarify the meaning of this expiration date, they just did not award the application the readiness to proceed points.



a Partner Agency of



United Way for Greater Austin



All permits issued in the City of Austin are valid for 180 days. A new permit does not need to be issued as long as construction inspections are being called. This would have been an easy explanation to the application reviewer, but instead our application missed out on those points and was not funded.

The FHLB was very sympathetic to our plight, but awards had already been made and they had no way of reversing their decision. As soon as we learned our application to the FHLB was not funded, we immediately began work on submission of a TCAP application to help make up the gap.

Foundation Communities had no way of knowing that the FHLB funding would not be awarded. As the project has now already completed construction and a final cost certification submitted, there is no exceptional condition that exists that will delay or cause further cost increases.

We ask the Board to consider this exceptional circumstance to deem Live Oak Trails eligible to receive an award of TCAP funding under the current 2017 NOFA per 10 TAC §13.5(d)(2).

Sincerely,



Walter Moreau

Director, Foundation Communities, Inc.





**2017-1 Multifamily Direct Loan Program - Application Log - July 6, 2017**  
**Per 2017-1 Multifamily Direct Loan Notice of Funding Availability published in the Texas Register on 12/30/2016**

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §611.1(b) and 10.2(a) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications. This log will be updated periodically as staff completes application reviews and as more applications are received. The Multifamily Direct Loan Program - Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

Applications sorted by date received within set-aside.

TCAP RF \$4,000,000  
 NHTF \$4,310,529  
**Total Set Aside Funding Level: \$8,310,529**

**Supportive Housing/ Soft Repayment**

TDHCA Application #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
17501	Live Oak Trails	Austin	Travis	7	NC	\$ 600,000	Supportive Housing	58	10	9%	1/9/2017	Recommended \$160,000 reduction from \$760,000 request
17502	Freedom's Path at Kerrville	Kerrville	Kerr	9	NC	\$ 300,000	Supportive Housing	49	13	9%	1/9/2017	Recommended \$500,000 reduction from \$800,000 request
17500	Works at Pleasant Valley Phase II	Austin	Travis	7	NC	\$ 800,000	Supportive Housing	29	29		3/31/2017	
17423	Palladium Glenn Heights	Glenn Heights	Ellis	3	NC	\$ 800,000	General	270	7	4%	4/20/2017	
<b>Total Amount Requested Under SH/SR Set Aside</b>						<b>\$ 2,500,000</b>	<b>Total Units</b>	<b>136</b>	<b>52</b>			

**CHDO (HOME funds only)**

Total Set Aside Funding Level: **\$4,723,589**

TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
17505	Merritt Monument	Midland	Midland	12	NC	\$ 1,000,000	General	104	34	9%	3/30/2017	Previously awarded 9% HTC and \$2,000,000 in HOME under app. 16210
17504	Merritt Heritage	Georgetown	Williamson	7	NC	\$ -	Elderly Limitation	244	34	9%	3/30/2017	Not recommended for award at 5/25/17 Board meeting
17509	Poesta Creek Apartments	Beeville	Bee	10	R	\$ 2,000,000	General	50	50		3/31/2017	
17738	Las Casitas De Azucar	Santa Rosa	Cameron	11	NC	\$ -	General	50	27	9%	4/3/2017	Withdrawn
17165	Merritt Headwaters	Dripping Springs	Hays	7	NC	\$ -	General	80	20	9%	4/3/2017	Terminated
17508	Casitas San Miguel	San Elizario	El Paso	13	NC	\$ 1,686,330	General	24	24		4/12/2017	
<b>Total Amount Requested Under CHDO Set Aside</b>						<b>\$ 4,686,330</b>	<b>Total Units</b>	<b>552</b>	<b>189</b>			

HOME \$15,326,316  
 NSP1 PI \$7,000,000  
 TCAP RF \$10,799,235  
**Total General Set Aside Funding Level: \$33,125,551**

**General**

TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
17503	The Reserve at Dry Creek	Hewitt	McLennan	8	NC	\$ 1,450,000	Elderly Limitation	113	12	9%	1/9/2017	Recommended for award at 5/25/17 Board meeting
17402	Harris Ridge Apartments	Austin	Travis	7	NC	\$ 3,000,000	General	324	50	4%	1/9/2017	Recommended for award at 5/25/17 Board meeting
17403	Lord Road Apartments	San Antonio	Bexar	9	NC	\$ -	General	324	50	4%	1/9/2017	Terminated
17404	Commons at Goodnight	Austin	Travis	7	NC	\$ 3,000,000	General	304	23	4%	2/3/2017	
17405	Bridge at Cameron	Austin	Travis	7	NC	\$ 2,590,000	General	263	22	4%	2/3/2017	Previously submitted application for 4% HTC/Bonds under app. 16446
17409	Bridge at Canyon View	Austin	Travis	7	NC	\$ 2,900,000	General	264	21	4%	3/7/2017	Previously submitted application for 4% HTC/Bonds under app. 16449
17401	Primrose Village	Weslaco	Hidalgo	11	NC	\$ 2,691,558	General	242	21	4%	3/10/2017	Previously submitted application for 4% HTC/Bonds under app. 16441
17507	Easterling Culeba Apartments	San Antonio	Bexar	9	NC	\$ -	General	90	50	9%	3/23/2017	Withdrawn
17506	Tuscany Park at Arcola	Arcola	Fort Bend	6	NC	\$ 3,000,000	General	96	50	9%	3/24/2017	Previously awarded 9% HTC under app. 16105
17107	The Residence at Wolfforth	Wolfforth	Lubbock	1	NC	\$ 500,000	Elderly Limitation	49	6	9%	4/3/2017	
17273	The Residence at Lamar	Wichita Falls	Wichita	2	ADR	\$ 950,000	Elderly Limitation	30	9	9%	4/3/2017	
17281	The Residence at Arbor Grove	Arlington	Tarrant	3	NC	\$ 1,250,000	Elderly Limitation	126	11	9%	4/3/2017	
17012	Secretariat Apartments	Arlington	Tarrant	3	NC	\$ 3,000,000	Elderly Limitation	74	50	9%	4/3/2017	
17076	Sphinx at Throckmorton Villas	McKinney	Collin	3	NC	\$ -	General	124	21	9%	4/3/2017	Terminated
17372	Sunset Trails	Bullard	Cherokee	4	NC	\$ 740,000	Elderly Limitation	48	7	9%	4/3/2017	
17208	Waverly Village	New Waverly	Walker	6	R	\$ 300,000	General	50	5	9%	4/3/2017	
17007	Magnolia Station	Winnie	Chambers	6	NC	\$ 1,220,000	General	44	11	9%	4/3/2017	
17204	Vista Bella	Lago Vista	Travis	7	NC	\$ 2,285,000	General	72	40	9%	4/3/2017	
17179	The Nightingale at Goodnight Ranch	Austin	Travis	7	NC	\$ 3,000,000	Elderly Limitation	174	54	9%	4/3/2017	
17205	Travis Flats	Austin	Travis	7	NC	\$ 3,000,000	General	146	53	9%	4/3/2017	
17290	Golden Trails	West	McLennan	8	NC	\$ 2,200,000	Elderly Limitation	45	17	9%	4/3/2017	
17013	Rio Lofts	San Antonio	Bexar	9	NC	\$ 3,000,000	General	81	50	9%	4/3/2017	
17026	10715 Bandera Apartments	San Antonio	Bexar	9	NC	\$ 3,000,000	General	84	50	9%	4/3/2017	
17042	Huntington at Paseo de la Resaca	Brownsville	Cameron	11	NC	\$ 2,500,000	Elderly Limitation	132	42	9%	4/3/2017	
17094	Catalan at Paseo de la Resaca	Brownsville	Cameron	11	NC	\$ 2,500,000	General	128	42	9%	4/3/2017	

17258	Village at Henderson	Corpus Christi	Nueces	10	NC	\$ 1,000,000	General	88	8	9%	4/3/2017	CHDO Set Aside requested
17069	Arlinda Gardens Supportive Housing	Bryan	Brazos	8	NC	\$ -	Supportive Housing	100	30	9%	4/3/2017	Terminated
17416	Manchaca Commons	Austin	Travis	7	NC	\$ 3,000,000	General	240	20	4%	4/4/2017	
<b>Total Amount Requested Under General Set Aside: Development Sites in non-PJs</b>						\$ 8,695,000		545	119			
<b>Total Amount Requested Under General Set Aside: Development Sites in PJs</b>						\$ 43,381,558		3,310	706			
<b>Total Amount Requested Under General Set Aside: TOTAL</b>						\$ 52,076,558	<b>Total Units</b>	<b>3,855</b>	<b>825</b>			

1 = Housing Activity: New Construction=NC, Rehabilitation=R, ADR = Adaptive Reuse

2= Layering of Other Department Funds: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

3 = Date Received: The date that the application, all required 3rd Party Reports, Application Fees (if applicable), and Certificate of Reservation (if applicable) were received.

**BOARD ACTION ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**JULY 13, 2017**

Presentation, discussion, and possible action on an award of Direct Loan funds from the 2017-1 Multifamily Direct Loan Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Department has received a total of thirty-eight Applications for Multifamily Direct Loan funds under the 2017-1 Multifamily Direct Loan Notice of Funding Availability (“NOFA”);

**WHEREAS**, a previously awarded 9% Housing Tax Credit Application (Application 13167) for the refinancing of a 49 unit development called Freedom’s Path at Kerrville was submitted under the Supportive Housing/ Soft Repayment Set-Aside within the 2017-1 Multifamily Direct Loan Notice of Funding Availability (“2017-1 NOFA”) as Application 17502 to the Department on January 9, 2017;

**WHEREAS**, the Application has requested \$800,000 to fund cost overruns associated with redesigning the development, reduction in loan amount from the Federal Home Loan Bank (“FHLB”), increased financing costs, and increased hard costs and corresponding increase in developer fee that were incurred during the construction period;

**WHEREAS**, 10 TAC §13.5(d)(2) requires Applications for Developments previously awarded Department funds under any program to be found eligible by the Board;

**WHEREAS**, this Application has provided evidence of circumstances beyond the Applicant’s control that could not have been prevented by timely start of construction as a criteria for the Board to consider for being found eligible; and

**WHEREAS**, a recommendation of any amount of Direct Loan funds from \$0 to \$300,000 can be supported and staff has outlined several possibilities in the Underwriting Report;

**NOW, therefore, it is hereby**

**RESOLVED**, an award of \$300,000 in Direct Loan funds from the NOFA, or an alternative amount as recommended by the Board, for Freedom’s Path at Kerrville is hereby approved to help fill a reduction in sources on the FHLB loan; and

**FURTHER RESOLVED**, that the Board’s approval is conditioned upon satisfaction of all conditions of underwriting and completion of any other reviews required to assure compliance with the applicable rules and requirements.



## BACKGROUND

This development – in connection with Application #13167 – was awarded 9% Housing Tax Credits in July 2013 for new construction of 49 units serving a Supportive Housing population in Kerrville. In late October 2014, approximately 14 months prior to the placed in service deadline and just a few weeks prior to closing on the financing, the Applicant contacted the Department to discuss applying for HOME funds. Construction began on this project in December 2014. The Applicant ultimately submitted an Application under the 2015-1 Multifamily Development Program Notice of Funding Availability, despite Section 2f of the NOFA stating “Any Applications for funds on developments that received an award of Department assistance in the past five years or are still within its federal affordability period will not be eligible.” Therefore, staff terminated the Application. The Applicant subsequently appealed staff’s termination to the Executive Director and the Board; both appeals were denied.

The Applicant submitted an Application requesting \$980,000 from the Deferred Forgivable Loan Set-Aside under the 2016-1 Multifamily Direct Loan NOFA on January 4, 2016. However, since the Application requested more funds than were available for rural sub-region 9 during the Regional Allocation Formula Period, other Applications that had requested less than the RAF amounts for their respective sub-regions were prioritized ahead of Freedom’s Path. The Applicant asked that the Application be reconsidered under the General Set-Aside while requesting some repayable loan provisions outside of the provisions of the 2016-1 NOFA, such as interest-only payments from surplus cash flow. Staff ultimately issued a “Do Not Recommend” Underwriting Report and did not recommend reallocating unawarded funds under the General Set-Aside to the Deferred Forgivable Loan Set-Aside in order to potentially fund the Freedom’s Path Application. The Executive Director and the Board upheld staff’s recommendation.

The Applicant submitted an Application requesting \$800,000 from the Supportive Housing/ Soft Repayment Set-Aside under the 2017-1 Multifamily Direct Loan NOFA on January 9, 2017. Sufficient funds are available within the set-aside to award this Application. However, through staff’s analysis of the numbers and information provided in the Application and cost certification package provided around the same time, the need for these funds appears to be questionable. The Applicant indicated that the development experienced total cost increases of approximately \$2.1 million since July 2013. Architectural and engineering (“A&E”) expenses, as well as related party costs that could be considered Developer Services as defined in 10 TAC §10.3(37), raise significant concern. Staff has come to the conclusion that \$225,148 in Developer Services should be reallocated to developer fee and that A&E should be held at the amount of \$612,410 (approximately \$12,500 per unit) previously underwritten. Furthermore, consistent with previous similar matters, staff recommends maintaining the developer fee that was previously underwritten and not allowing for any increase despite increased hard costs. Staying within these parameters allows for three options: 1) a recommendation of \$592,024 in order to balance sources and uses, which would result in \$0 deferred developer fee; 2) a recommendation of \$300,000 based on a reduction in funds from FHLB, which would result in \$292,024 in deferred developer fee; or 3) no funds recommended, which would result in \$592,024 in deferred developer fee. In all three options, deferred developer fee should be repaid within 15 years. Additionally, the unsecured promissory notes totaling \$461,229 from the contractor, architect, and sponsor can be repaid.

If staff were to use the Applicant’s costs included in the current Application submission without making any adjustments, \$531,185 in TCAP RF in the form of a deferred forgivable loan would be

needed in order to limit the deferred developer fee to an amount that could be repaid within 15 years. If staff were to use the Applicant's cost included in the current Application submission while reducing developer fee to the amount that was included in the original Application submission, \$137,121 in TCAP RF in the form of a deferred forgivable loan would be needed in order to limit the deferred developer fee to an amount that could be repaid within 15 years.

The only analogous Application to Freedom's Path that has received an award was Bluebonnet Studios, a 2014 9% HTC award that applied for Direct Loan funds in 2016 as the property was nearing completion. With Bluebonnet Studios, the Applicant received a \$590,000 award as a result of a significant increase in building costs (313%) due mainly to circumstances beyond their control. In order to finance these increased costs, the Applicant closed with a sponsor loan which was eventually paid off with a combination of grants (including the \$590,000 Direct Loan award) and fundraising. As a condition of the award, staff did not allow any increase in developer fee from the time of original Application. This resulted in the Applicant deferring 100% of developer fee, which was anticipated to be repaid by year 12 of operations.

It is worth noting that TCAP Repayment Funds – and more specifically, the interest earned on TCAP loans originated several years ago that now compose the Supportive Housing/ Soft Repayment Set-Aside within the Multifamily Direct Loan program – is a limited resource that few other state housing agencies have the fortune of being able to use. Moreover, TCAP Repayment Funds are typically used in urban areas of the state where the Department is limited by statute from using HOME funds. However, because this development is so far along in terms of being constructed and leased up, this development is not eligible for HOME funds and therefore can only use TCAP Repayment Funds, should it be recommended for an award.

Staff and the Board have been consistent over the past several years that, while the Applicant may apply for Direct Loan funds, there is no guarantee of funding. Furthermore, only after a thorough review of the Application could staff make a recommendation to the Board. Having performed several thorough reviews of this Application, staff believes the most prudent course of action is to replace the lost FHLB funding.

This Application has been underwritten and determined to meet the Real Estate Analysis rules and requirements and has received a previous participation review.

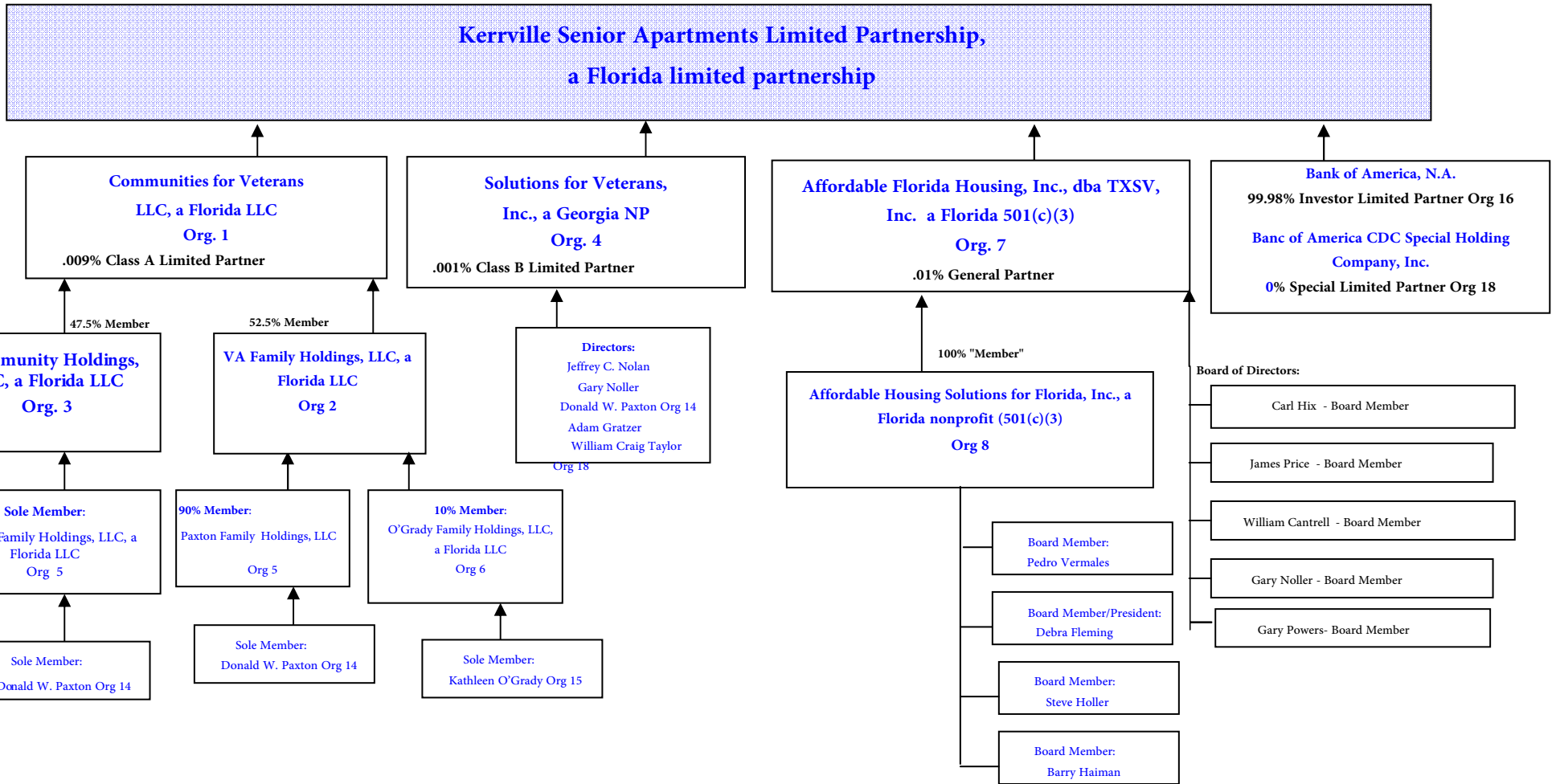
Should the recommended award be approved, \$40,809,669 will remain available under the NOFA with \$7,410,529 total and \$3,100,000 in TCAP RF under the Supportive Housing/ Soft Repayment Set-Aside, of which, two Applications requesting \$800,000 each are still under review. Subsequent award recommendations for Applications undergoing staff reviews may appear on future Board agendas.

The Application and Award Recommendations Log is attached.

*Organizational Structure and Previous Participation:* The borrower is Kerrville Senior Apartments Limited Partnership and includes entities and principals as indicated in the organization chart below. At the time of the Previous Participation Review, the Applicant was a Small Category 3 portfolio.

*Public Comment:* There have been no letters of support or opposition received by the Department.

# KERRVILLE SENIOR APARTMENTS LIMITED PARTNERSHIP OWNERSHIP STRUCTURE CHART







January 6, 2017

Tim Irvine  
Executive Director  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: Experience Determination for Direct Loan Consideration for a Project already constructed with previous TDHCA funding

Dear Mr. Irvine,

In accordance with 10 TAC Chapter 13.5(c)(2), we are requesting Board approval to apply for funds under the Direct Loan Program for the Freedom's Path at Kerrville project (Kerrville Senior Apartments Limited Partnership--#13167).

As has been discussed at several Board meetings and with staff, the project has been completed for approximately one year, but due to circumstances beyond our control the costs to complete exceeded the available funding for the project. We were able to close by agreeing to defer 100% of our Developer Fee and with the cooperation of several professionals and vendors who agreed to defer final payment for services until such time as the project could access additional funds.

With that help, the development was completed and there are no additional costs to be incurred. The final cost certification has been prepared for the tax credit documentation so the final cost structure has been established.

The excess cost situation occurred during the construction contracting process, greatly attributed to the concomitant shale oil boom occurring at the time and the extreme pressure this put on the contractor, sub-contractor and labor markets at the time. Construction costs escalated significantly. However, having the time limit on placing the project in service, we had no choice but to agree to the lowest price we could find and proceed with construction under the conditions noted above.

This situation was further exacerbated by the decommissioning of the main water tower in Kerrville, a water main from which we planned to utilize for water service. After significant redesign, we had to install an off-site water line and create a "looped" water system for our development, both at significant additional expense.

We respectfully ask that you consider this request to participate in the program favorably. Should you need any additional information, please contact me at 678-232-0015 or at [ctaylor@cfveterans.com](mailto:ctaylor@cfveterans.com)

Thanks for your consideration.

Craig Taylor  
President, Communities for Veterans





**2017-1 Multifamily Direct Loan Program - Application Log - July 6, 2017**  
**Per 2017-1 Multifamily Direct Loan Notice of Funding Availability published in the Texas Register on 12/30/2016**

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §611.1(b) and 10.2(a) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications. This log will be updated periodically as staff completes application reviews and as more applications are received. The Multifamily Direct Loan Program - Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Sinnott at andrew.sinnott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

Applications sorted by date received within set-aside.

TCAP RF \$4,000,000  
 NHTF \$4,310,529  
**Total Set Aside Funding Level: \$8,310,529**

**Supportive Housing/ Soft Repayment**

TDHCA Application #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
17501	Live Oak Trails	Austin	Travis	7	NC	\$ 600,000	Supportive Housing	58	10	9%	1/9/2017	Recommended \$160,000 reduction from \$760,000 request
17502	Freedom's Path at Kerrville	Kerrville	Kerr	9	NC	\$ 300,000	Supportive Housing	49	13	9%	1/9/2017	Recommended \$500,000 reduction from \$800,000 request
17500	Works at Pleasant Valley Phase II	Austin	Travis	7	NC	\$ 800,000	Supportive Housing	29	29		3/31/2017	
17423	Palladium Glenn Heights	Glenn Heights	Ellis	3	NC	\$ 800,000	General	270	7	4%	4/20/2017	
<b>Total Amount Requested Under SH/SR Set Aside</b>						<b>\$ 2,500,000</b>	<b>Total Units</b>	<b>136</b>	<b>52</b>			

**CHDO (HOME funds only)**

Total Set Aside Funding Level: **\$4,723,589**

TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
17505	Merritt Monument	Midland	Midland	12	NC	\$ 1,000,000	General	104	34	9%	3/30/2017	Previously awarded 9% HTC and \$2,000,000 in HOME under app. 16210
17504	Merritt Heritage	Georgetown	Williamson	7	NC	\$ -	Elderly Limitation	244	34	9%	3/30/2017	Not recommended for award at 5/25/17 Board meeting
17509	Poesta Creek Apartments	Beeville	Bee	10	R	\$ 2,000,000	General	50	50		3/31/2017	
17738	Las Casitas De Azucar	Santa Rosa	Cameron	11	NC	\$ -	General	50	27	9%	4/3/2017	Withdrawn
17165	Merritt Headwaters	Dripping Springs	Hays	7	NC	\$ -	General	80	20	9%	4/3/2017	Terminated
17508	Casitas San Miguel	San Elizario	El Paso	13	NC	\$ 1,686,330	General	24	24		4/12/2017	
<b>Total Amount Requested Under CHDO Set Aside</b>						<b>\$ 4,686,330</b>	<b>Total Units</b>	<b>552</b>	<b>189</b>			

HOME \$15,326,316  
 NSP1 PI \$7,000,000  
 TCAP RF \$10,799,235  
**Total General Set Aside Funding Level: \$33,125,551**

**General**

TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments
17503	The Reserve at Dry Creek	Hewitt	McLennan	8	NC	\$ 1,450,000	Elderly Limitation	113	12	9%	1/9/2017	Recommended for award at 5/25/17 Board meeting
17402	Harris Ridge Apartments	Austin	Travis	7	NC	\$ 3,000,000	General	324	50	4%	1/9/2017	Recommended for award at 5/25/17 Board meeting
17403	Lord Road Apartments	San Antonio	Bexar	9	NC	\$ -	General	324	50	4%	1/9/2017	Terminated
17404	Commons at Goodnight	Austin	Travis	7	NC	\$ 3,000,000	General	304	23	4%	2/3/2017	
17405	Bridge at Cameron	Austin	Travis	7	NC	\$ 2,590,000	General	263	22	4%	2/3/2017	Previously submitted application for 4% HTC/Bonds under app. 16446
17409	Bridge at Canyon View	Austin	Travis	7	NC	\$ 2,900,000	General	264	21	4%	3/7/2017	Previously submitted application for 4% HTC/Bonds under app. 16449
17401	Primrose Village	Weslaco	Hidalgo	11	NC	\$ 2,691,558	General	242	21	4%	3/10/2017	Previously submitted application for 4% HTC/Bonds under app. 16441
17507	Easterling Culeba Apartments	San Antonio	Bexar	9	NC	\$ -	General	90	50	9%	3/23/2017	Withdrawn
17506	Tuscany Park at Arcola	Arcola	Fort Bend	6	NC	\$ 3,000,000	General	96	50	9%	3/24/2017	Previously awarded 9% HTC under app. 16105
17107	The Residence at Wolfforth	Wolfforth	Lubbock	1	NC	\$ 500,000	Elderly Limitation	49	6	9%	4/3/2017	
17273	The Residence at Lamar	Wichita Falls	Wichita	2	ADR	\$ 950,000	Elderly Limitation	30	9	9%	4/3/2017	
17281	The Residence at Arbor Grove	Arlington	Tarrant	3	NC	\$ 1,250,000	Elderly Limitation	126	11	9%	4/3/2017	
17012	Secretariat Apartments	Arlington	Tarrant	3	NC	\$ 3,000,000	Elderly Limitation	74	50	9%	4/3/2017	
17076	Sphinx at Throckmorton Villas	McKinney	Collin	3	NC	\$ -	General	124	21	9%	4/3/2017	Terminated
17372	Sunset Trails	Bullard	Cherokee	4	NC	\$ 740,000	Elderly Limitation	48	7	9%	4/3/2017	
17208	Waverly Village	New Waverly	Walker	6	R	\$ 300,000	General	50	5	9%	4/3/2017	
17007	Magnolia Station	Winnie	Chambers	6	NC	\$ 1,220,000	General	44	11	9%	4/3/2017	
17204	Vista Bella	Lago Vista	Travis	7	NC	\$ 2,285,000	General	72	40	9%	4/3/2017	
17179	The Nightingale at Goodnight Ranch	Austin	Travis	7	NC	\$ 3,000,000	Elderly Limitation	174	54	9%	4/3/2017	
17205	Travis Flats	Austin	Travis	7	NC	\$ 3,000,000	General	146	53	9%	4/3/2017	
17290	Golden Trails	West	McLennan	8	NC	\$ 2,200,000	Elderly Limitation	45	17	9%	4/3/2017	
17013	Rio Lofts	San Antonio	Bexar	9	NC	\$ 3,000,000	General	81	50	9%	4/3/2017	
17026	10715 Bandera Apartments	San Antonio	Bexar	9	NC	\$ 3,000,000	General	84	50	9%	4/3/2017	
17042	Huntington at Paseo de la Resaca	Brownsville	Cameron	11	NC	\$ 2,500,000	Elderly Limitation	132	42	9%	4/3/2017	
17094	Catalan at Paseo de la Resaca	Brownsville	Cameron	11	NC	\$ 2,500,000	General	128	42	9%	4/3/2017	

17258	Village at Henderson	Corpus Christi	Nueces	10	NC	\$ 1,000,000	General	88	8	9%	4/3/2017	CHDO Set Aside requested
17069	Arlinda Gardens Supportive Housing	Bryan	Brazos	8	NC	\$ -	Supportive Housing	100	30	9%	4/3/2017	Terminated
17416	Manchaca Commons	Austin	Travis	7	NC	\$ 3,000,000	General	240	20	4%	4/4/2017	
<b>Total Amount Requested Under General Set Aside: Development Sites in non-PJs</b>						\$ 8,695,000		545	119			
<b>Total Amount Requested Under General Set Aside: Development Sites in PJs</b>						\$ 43,381,558		3,310	706			
<b>Total Amount Requested Under General Set Aside: TOTAL</b>						\$ 52,076,558	<b>Total Units</b>	<b>3,855</b>	<b>825</b>			

1 = Housing Activity: New Construction=NC, Rehabilitation=R, ADR = Adaptive Reuse

2= Layering of Other Department Funds: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

3 = Date Received: The date that the application, all required 3rd Party Reports, Application Fees (if applicable), and Certificate of Reservation (if applicable) were received.



4c

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

4d