

**HOUSE COMMITTEE ON URBAN AFFAIRS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2006**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
80TH TEXAS LEGISLATURE**

**ROBERT TALTON
CHAIRMAN**

**COMMITTEE CLERK
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Committee On
Urban Affairs

December 6, 2006

Robert Talton
Chairman

P.O. Box 2910
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The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:


The Committee on Urban Affairs of the Seventy-Ninth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eightieth Legislature.

Respectfully submitted,

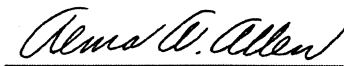

Robert Talton, Chairman

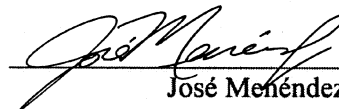

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INTRODUCTION

At the beginning of the 79th Texas Legislative Session, the Honorable Speaker Tom Craddick, Speaker of the House of Representatives, appointed seven members to the Committee on Urban Affairs. The Committee membership included: Representative Robert Talton, Chairman; Representative Martha Wong, Vice-Chairman; and Representatives Kevin Bailey, Eddie Rodriguez, Roy Blake, Jr., José Menéndez and Dr. Alma Allen.

The Committee requested and was charged with studying and reporting on eight matters to the 80th Legislature by Speaker Craddick. These charges were: (1) Evaluate the alternative approaches and implications of short-term restrictions on new construction in Houston, Dallas-Fort Worth and Austin for the Texas Department of Housing and Community Affairs 4 percent tax credit-private activity bond program as well as its 9 percent tax credit program; (2) Consider the implications of eliminating the lottery system for allocating 4 percent housing tax credit awards through the state's Private Activity Bond Program and replacing it with an alternative allocation system; (3) Examine home ownership rate for low-income Texans, and recommend suggestions on how home ownership rates can be improved for underserved populations; (4) Compare and contrast Texas Department of Housing and Community Affairs administration of the Housing Tax Credit Program with best practices around the country; (5) Review the manner and procedures for the determination by the Texas Department of Housing and Community Affairs of the annual Low Income Housing Tax Credits statewide including the 4 percent and 9 percent housing tax credit programs; (6) Evaluate the effectiveness of current underwriting methods of Texas Department of Housing and Community Affairs for its programs; (7) Examine municipal regulation of mobile food vending vehicles; and (8) Monitor the agencies and programs under the committee's jurisdiction.

The Committee held three public hearings on May 11, May 24 and June 15, 2006.

The Committee wishes to express its appreciation to the citizens, organizations and agencies that testified before the Committee. The Committee wishes to express sincere gratitude to the Texas Department of Housing and Community Affairs Policy and Public Affairs staff for their continual assistance.

HOUSE COMMITTEE ON URBAN AFFAIRS

INTERIM STUDY CHARGES

- CHARGE Evaluate the alternative approaches and implications of short-term restrictions on new construction in Houston, Dallas-Fort Worth and Austin for the Texas Department of Housing and Community Affairs 4 percent tax credit-private activity bond program as well as its 9 percent tax credit program.
- CHARGE Consider the implications of eliminating the lottery system for allocating 4 percent housing tax credit awards through the state's Private Activity Bond Program and replacing it with an alternative allocation system.
- CHARGE Examine home ownership rate for low-income Texans, and recommend suggestions on how home ownership rates can be improved for underserved populations.
- CHARGE Compare and contrast Texas Department of Housing and Community Affairs administration of the Housing Tax Credit Program with best practices around the country.
- CHARGE Review the manner and procedures for the determination by the Texas Department of Housing and Community Affairs of the annual Low Income Housing Tax Credits statewide including the 4 percent and 9 percent housing tax credit programs.
- CHARGE Evaluate the effectiveness of current underwriting methods of Texas Department of Housing and Community Affairs for its programs.
- CHARGE Examine municipal regulation of mobile food vending vehicles.
- CHARGE Monitor the agencies and programs under the committee's jurisdiction.

CHARGE ONE

Evaluate the alternative approaches and implications of short-term restrictions on new construction in Houston, Dallas-Fort Worth and Austin for the Texas Department of Housing and Community Affairs 4 percent tax credit - private activity bond program as well as its 9 percent tax credit program.

BACKGROUND AND OVERVIEW

The Texas Department of Housing and Community Affairs' (TDHCA) 2006 Qualified Allocation Plan and Rules (QAP) identifies the primary restrictions on new construction. The One Mile/One Year Test and the Two Times Per Capita Test applies to new construction and rehabilitation, yet they also hold short-term restriction implications for new construction. Citations from Chapter 2306, Texas Government Code and 2006 QAP Sections are noted.

- **One Mile / Three Year Test** (§2306.6703(a)(3)); (§50.5, 2006 QAP): An application for new construction is ineligible for tax credits if it is located one linear mile or less from any other new construction development that has received housing tax credits in the past three years if it serves the same type of household (family/elderly).
Ineligibility does not apply if:
 - The proposed application involves federal HOPE VI funds from HUD;
 - has locally approved funds from a public improvement district or a tax increment financing district;
 - has HOME funds from the state;
 - has CDBG funds from the state or their participating jurisdiction; or
 - is located in a county with a population of less than one million; or
 - that is located outside of a metropolitan statistical area; or
 - a local government where the project is to be located has by vote specifically allowed the construction of the new proposed development located within one linear mile or less from the other developments.

- **One Mile / One Year Test** (§2306.6711); (§50.5, 2006 QAP): An application (either new construction or rehabilitation) is ineligible if it is located within one linear mile of any other tax credit development awarded in the same calendar year. Ineligibility only applies to:
 - Communities contained within counties with populations exceeding one million;
 - applications for competitive housing tax credits (applications for four percent tax credits associated with bonds do not fall under this restriction pursuant to Chapter 2306.67021).

- **Two Times the State Average of Credits per Capita Test** (§2306.6703(a)(4)); (§50.5, 2006 QAP): An application is ineligible if it is located in a municipality or county (if located outside a municipality) that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds.
Ineligibility does not apply if:
 - The applicant has obtained prior approval of the development from the governing body of the appropriate municipality or county containing the development; and the application includes a written statement of support from the governing body referencing this requirement and authorizing an allocation of housing tax credits for the development.

Several major metropolitan areas in the state of Texas have operational policies on short-term restrictions on new construction of multifamily developments. For purposes of this report, the cities of Dallas and Houston's multifamily housing concentration policies were studied. The limitation set forth by the 2006 QAP relates to those municipalities and counties that exceed one million habitants, therefore, because they do not meet this threshold to date, Fort Worth and Austin do not have housing concentration policies in place.

FINDINGS

City of Austin

The Austin City Council serves as the Board of Directors for the Austin Housing Finance Corporation (AHFC). The AHFC is the housing arm of the city and is administered through a contract that allows them to maximize the leveraging capacities as an entitlement city receiving federal funding from the Community Development Block Grant (CDBG) and the HOME partnership programs.

The city of Austin generally supports the underlying concentration policies of the 2006 QAP, specifically the dispersion and de-concentration effort of low income housing tax credit developments under TDHCA's four percent tax-credit private activity bond program as well as its 9 percent tax credit program. The city of Austin, however, is concerned about the implication of the limitations on local development contained in §50.6(f), 2006 QAP and correspondingly in §2306.67021, Texas Government Code.

"§50.6. Site and Development Restrictions: Floodplain; Ineligible Building Types; Scattered Site Limitations; Credit Amount; Limitations on the Size of Developments; Limitations on Rehabilitation Costs; Unacceptable Sites; Appeals and Administrative Deficiencies for Site and Development Restrictions.

(f) Limitations on the Location of Developments. Staff will only recommend, and the Board may only allocate, housing tax credits from the Credit Ceiling to more than one Development in the same calendar year if the Developments are, or will be, located more than one linear mile apart as determined by the Department. If the Board forward commits credits from the following year's allocation of credits, the Development is considered to be in the calendar year in which the Board votes, not in the year of the Credit Ceiling. This limitation applies only to communities contained within counties with populations exceeding one million (which for calendar year 2006 are Harris, Dallas, Tarrant and Bexar Counties). For purposes of this rule, any two sites not more than one linear mile apart are deemed to be "in a single community."
(2306.6711) This restriction does not apply to the allocation of housing tax credits to Developments financed through the Tax-Exempt Bond program, including the Tax-Exempt Bond Developments under review and existing Tax-Exempt Bond Developments in the Department's portfolio.
(2306.67021) "

This limitation on the location of developments may impact the ability for the city to promote affordable housing in conjunction with broader housing policy and planning principles. Specifically, city officials are concerned that this limitation would prohibit

two tax credit projects in any year from being located in the transitional zone of many transit-oriented developments that have been established for future commuter rail system development. Since development costs in the transit-oriented neighborhoods are escalating, tax credit housing may miss a window of opportunity to build if forced to wait a year to submit to the low income housing tax credit program. Furthermore, this limitation has potential negative effects on affordable higher-density developments situated around mixed-use retail strips, parks and recreation areas and other types of urban amenities.

For example, the proposed Saltillo District Redevelopment Mater Plan in East Austin will utilize 11-acres of an undeveloped former rail site and will call for:

- Over 600 housing units, 25 percent of which would be subject to affordability restrictions;
- up to 60,000 square feet of commercial space and open space amenities; and
- an 8,000 square foot community center.

Since the Saltillo site is less than a mile across on its longest side, the limitation set forth in the 2006 QAP and the corresponding statute could prohibit the development of affordable housing on the site by requiring the tax credit awards within the area to be staggered over the course of many years.

City of Austin Recommendations

The city of Austin recommends that the QAP allow for local determination concerning tax credit developments within special planning areas, such as transit-oriented developments or master planned redevelopments. Due to potential implications, city officials recommend that the QAP and §2306.67021, Texas Government Code be amended to include more flexibility for municipalities to influence development, in light of local planning initiatives and housing policies.

City of Dallas

The city of Dallas initiated its current housing policy because of a concern about the saturation of low income families in certain submarkets.

Submarket	Occupancy	# of units needed to meet City's 93%	# of units absorbed last year	# of units approved 2004 to date
Far East Dallas	88.5%	538	340	860
South Dallas	88.0%	612	1,250	1,760
Oak Cliff	91.3%	199	1,050	736
East Dallas	87.8%	415	70	310

Projects approved 2004 to date. The number of units brought into the submarket versus current occupancy / absorption for the last year.

During the 2004-2005 cycle, 21 developments representing 3,918 units were approved. Out of the 21, TDHCA approved 13, Dallas Housing Finance Corporation (DHFC) approved 5 and Dallas Housing Authority (DHA) approved three. Out of the 2004-2005

projects, 2,756 approved were new construction and 910 were rehabilitation residences in submarkets with occupancy rates less than the city average of 93 percent. Out of the 21 developments to date, 5 are completed and in lease-up, 10 are under construction with 8 already in lease-up and 6 did not close the construction loan.

The city of Dallas has concluded that there is a saturation of multifamily units being developed in the same areas which is adversely affecting lease-up of these properties and other already constructed tax credit properties in those submarkets that are still in lease-up. Therefore, city officials initiated the following policy (for the full text of the policy, see Appendix A):

- Demolition / reconstruction of substandard multifamily developments
- Rehabilitation housing for existing multifamily developments
- Special needs developments such as senior living, disability living (including housing for the homeless on an individual basis)
- Do not accept any applications for new construction for families until October 2006, after a review of the criteria has been conducted, unless special circumstances exist (i.e. part of master plan development, transit development, etc.)

No new tax credit transactions are approved unless a pre-application waiver is granted by the City Council. The process for applying for a waiver is as follows:

- Applicant submits a project package along with a waiver fee of \$500;
- if the application is for DHFC issued bonds, the DHFC Board recommends or denies approval of a waiver;
- if DHFC recommends the waiver, the development is sent to the city council for approval of the waiver along with staff recommendations; furthermore,
- if the application is for TDHCA issued bonds or 9 percent tax credits, the project will be sent to the City Council along with staff recommendations for the waiver.

The city of Dallas Housing Department will bring the policy back for review each fall to determine if the waiver period needs to be extended.

In conclusion, the city of Dallas will continue to support low income developments in conjunction with an annual local market analysis. The pre-application waiver process assists the city in determining which developments meet the priorities being initiated in the housing policy. The city of Dallas will focus its attention on the rehabilitation and redevelopment of deteriorating existing multifamily housing from the 1970s and mid-1980s. City officials will conduct annual reviews prior to October of each year and compare proposed housing locations to market demand shown for existing housing in the same submarket area.

City of Dallas Recommendations

The city of Dallas believes that determination of low income housing tax credit

developments within the city is best decided upon when there is local participation involved in the process.

City of Fort Worth

Any moratorium on new construction of affordable housing would be harmful to the citizens of Fort Worth, particularly on low income residents.

There are over 55,000 low income renter families in Fort Worth, at least 11,000 of those families are paying far in excess of a reasonable cost for housing (more than 50 percent of their income). Of these low income households, at least 11 percent are elderly, 17 percent are disabled and 53 percent are of a minority population (25 percent Hispanic and 28 percent African American). As Fort Worth continues to grow, so will the need for quality affordable housing. Data also shows that many of the housing units that might otherwise be affordable to families at lower income levels, is occupied by families at high income levels.

In 2000, there were approximately 12,000 rental housing units in Fort Worth actually affordable to working poor families at 30 percent of the area median income (AMI) or less, but 5,400 of these units were occupied by households at high income levels. This in effect displaces the lower income family and forces them to pay a higher rent.

The city of Fort Worth has 60 percent of the rental housing built prior to 1980 and 42 percent built prior to 1970. Older housing is more likely to be affordable and therefore occupied by low income families. New affordable housing constructed through the tax credit program ensures that there is some replenishment of the supply of quality housing stock for low income households.

As interest rates and mortgage rates continue to increase over time, it becomes more difficult for renters to move into homeownership. The affordability of homes in Fort Worth has also decreased significantly in the past 5 years. According to data compiled by the Texas A&M Real Estate Center, average home prices in Fort Worth have gone up 27 percent to \$133,600 since 2000. Therefore, more working families have to stay in rental units, which creates market pressure that reduces the affordability of rental housing overall. Higher vacancies result in more affordable rates for tenants. In a housing market with rising prices for rental and owner housing, any limitation on new construction of housing targeted toward working and low income families would be a mistake.

Fort Worth Recommendations

Fort Worth city officials oppose any restrictions on new construction through the tax credit program. The city needs this program and new construction to benefit those citizens who are most in need.

City of Houston

For a number of years, Houston's consolidated plan has detailed the strong demand for rental units priced at rates affordable for families at 0-30 percent of the area median income (AMI). Recently, the TDHCA-commissioned market study corroborated this ongoing demand. Furthermore, Houston's marketplace has changed drastically since Hurricanes Katrina and Rita in 2005, calling for more affordable housing, both new construction and the acquisition/rehabilitation of housing units.

In early 2006, Houston Mayor Bill White directed the leaders of the city's various housing agencies to develop a unified policy (see Appendix B) that will expeditiously increase the availability of affordable housing in Houston. This policy development has included outreach to affected communities, including developers, as well as a comprehensive review of all related programs such as the tax credit program. A core component has been an analysis of multifamily unit density throughout the city and an outline of principles to guide multifamily housing placement.

The city of Houston is pursuing a strategy to encourage developers to include set asides for very low income families within new tax credit developments. Currently, Houston's Housing Department has issued a Request for Proposal (RFP) relative to HOME funds to provide deeper subsidies to those tax credit projects that could provide such set asides. Financing developments that provide rental rates affordable for very low income families is a significant economic challenge. The debt level has to be very low and the rest of the housing costs have to be subsidized by grant. The equity generated in the tax credit program is a beneficial start. The rest of the financing will have to come in various forms from other sources.

The city of Houston is also re-tooling their approaches on a concentration policy. The focus is on relieving a balance between concentration and critical housing needs.

The city's efforts to provide affordable housing for its low and very low income families would suffer if restrictions are continually placed on new construction in the state's tax credit programs. New construction and rehabilitation projects with tax credits in geographic and economic areas need to be built where there is demand.

City of Houston Recommendations

Rather than restrict new construction of tax credit developments, the city of Houston would like to see a more focused use of tax credits in conjunction with set asides of units for very low income families. At the same time, the city would like to see modifications to QAP guidelines that yield better economic viability for acquisition/rehabilitation housing using tax credits.

Any concerns there may be regarding new construction should be re-directed toward concentration issues. The city of Houston has felt the impact of a number of over-

concentrated submarkets. The city believes that concentration should be looked at not just in the context of a new tax credit residence relative to other tax credit residences, but in the context of all multifamily developments that are in the immediate market. A new deal affects occupancy, rental rates, absorption rates and density for all the developments in the area. For example, the highest density and concentration in the city of Houston is in the Gulfton area. Ironically, no tax credit deal has ever been constructed there.

The city of Houston would like to restore meaningful local government control of its own destiny with respect to financing tax credit projects. Local jurisdictions are able to contribute additional resources to the primary tax credit facility to make developments successful. The city has HUD funds and other resources that the state lacks.

Harris County

Harris County officials desire affordable housing opportunities for all residents throughout the county. These opportunities should be viable and self-supporting developments that effectively supply the local communities demand for affordable multifamily units. To that end, Harris County Community and Economic Development Department (HCCEDD) shall utilize criteria designed to evaluate the dispersal of subsidized multifamily housing throughout the county's service area.

The primary objective of the county's concentration policy is to ensure the viability of proposed affordable housing developments and the sustainability of existing Federally Subsidized and Rent Regulated (FSRR) and Section 42 financed properties constructed or renovated within the past 10 years. A secondary objective is to encourage competition that will motivate older subsidized properties and existing non-subsidized properties to renovation and modernization.

The complete text of this comprehensive housing policy can be found in Appendix C.

Texas Department of Housing and Community Affairs

TDHCA believes that local communities know best what the needs are in their community and the best usage of their land, therefore, the QAP requires developers to submit evidence of consistency with a local consolidated plan, which is only as good as the local consolidated plan in a particular area. The Department is encouraged by the fact that some metropolitan areas are updating their consolidated plans to include a subcomponent on affordable housing. Furthermore, local jurisdictions are persuaded to play a role in the approval or non-approval process through the Two Times the State Average of Credits per Capita Test to deal with concentration issues.

There is a concentration of affordable units in Qualified Census Tracts (QCT), which tend to be lower income, higher minority regions. When developers decide to build affordable units in a QCT, they get an increase in credit from the federal level and there is not anything that the state can do to discourage this advance to level the playing field.

However, the Department has responded effectively to this issue by drafting language for the 2007 QAP that addresses this problem and attempts to level the playing field at the state level.

TDHCA does give points to those affordable units being built in higher income areas, though it does have a tendency to create more local opposition. The points given are under the 9 mandated points thus has limited effect on a development's completed score.

Unfortunately, developers can decline from doing mixed income units due to the weak financial feasibility of the developments. For example, in a 100-unit complex, a developer may build 15 market rate units. The developer does not receive tax credits for those market rate units, which causes the project to lack subsidy during the construction phase. Even if the market rate units are completed, it is unlikely that the complex would be able to receive full market rates on those units, plus the developer will likely fill the market rate units with someone who is using a Section 8 voucher. Again, there is nothing the state can do to discourage this practice because it cannot discriminate against Section 8 voucher holders due to the Fair Housing Act.

In the end, developments work best when local communities, developers, investors and the Department are at a consensus that housing is needed, wanted and financially feasible. Any unbalance causes concern within the Department that a deal may not be feasible in a particular community, which leads to the Governing Board exercising its discretion and not approving a property.

In 2005, TDHCA included language in their draft QAP restricting new construction. Due to overwhelming opposition from stakeholders, the language was never adopted in the final version of the QAP.

TDHCA tries to deal with concentration issues by creating incentives for reconstruction and rehabilitation of deteriorating units. The QAP does give points for reconstruction or rehabilitation developments under the four percent and 9 percent housing tax credit programs. However, rehabilitation is not included in the 9 mandated scoring items, as a result some deals fall through because they cannot compete with the scores generated by new construction deals. The Department does score rehabilitation projects under the four percent program, but in recent years the program has not been over-subscribed at the outset in October when the cycle begins and the lack of competition for the bonds causes the scoring to be insignificant.

This year, TDHCA changed their tie-breaking criteria under the 9 percent program. When two proposed deals in the same region are tied, the credits go to the rehabilitation development over the new construction development.

COMMITTEE RECOMMENDATIONS

The Committee recommends that local participation be encouraged on all rulemaking

authority by TDHCA and the Department should continue their proactive partnership with local officials by notifying them of prospective developments in their area.

The Committee also recommends that local jurisdictions be given more flexibility when deciding on tax credit developments in special planning districts.

Furthermore, TDHCA needs to focus efforts on de-concentration policies in the QAP. Mixed-income units should be encouraged by receiving more points in the scoring criteria.

CHARGE TWO

Consider the implications of eliminating the lottery system for allocating 4 percent housing tax credit awards through the state's Private Activity Bond Program and replacing it with an alternative allocation system.

BACKGROUND AND OVERVIEW

The Private Activity Bond (PAB) Program and the four percent housing tax credit program persuade the private industry to build safe, quality housing that is affordable to individuals and families with lower than average income. Funds for these programs originate from §§42 and 142, Internal Revenue Code and the Tax Reform Act of 1986. Governing statutes include: §1372, Texas Government Code; Chapter 34, §§181 and 190, Texas Administrative Code; §§1371 and 2306, Texas Government Code; Chapter 10, §33 (2006), Texas Administrative Code; Chapter 10, §50 (2006), Texas Administrative Code.

The Private Activity Bond Program issues the tax exemption to the purchaser of the bonds while the federal government allows an exemption from income tax to the bond purchaser for income earned in the investment of housing bonds.

According to The Texas Department of Housing and Community Affairs (TDHCA) Multifamily Finance Production Division, the PAB Program includes six sub-ceilings for 2006:

- Single family housing: 28 percent - \$503,775,493
- State voted issues: 8 percent - \$143,936,141
- Qualified small issues: 2 percent - \$35,984,035
- Multifamily housing: 22 percent - \$395,824,387
- Student loan bonds: 10.5 percent - \$188,916,185
- All other issues: 29.5 percent - \$530,764,519

Total - \$1,799,201,760

In the multifamily sub-ceiling, TDHCA issues 20 percent at \$79,164,877, The Texas State Affordable Housing Corporation (TSAHC) issues 10 percent of funds at \$39,582,439 and local issuers divide 70 percent at \$277,077,071 among the state's 13 service regions (see Figure 1).

According to TDHCA data, Region 3 (Dallas/ Ft. Worth Metroplex) is the highest served region receiving 26.32 percent or \$72,926,685, while Region 12 (West Texas) receives 2.52 percent or \$6,982,342 from the allocated funds.

Texas, however, is said to have an unusual housing situation. Recently, Dallas ceased using allocated funds from the bond program, therefore, excess allocation washed into other regions of the state. Regardless of priority, every multifamily project was offered allocated funds. This wash of volume cap not only spilled into all sub-ceilings, but also into future years in the form of carryforward.

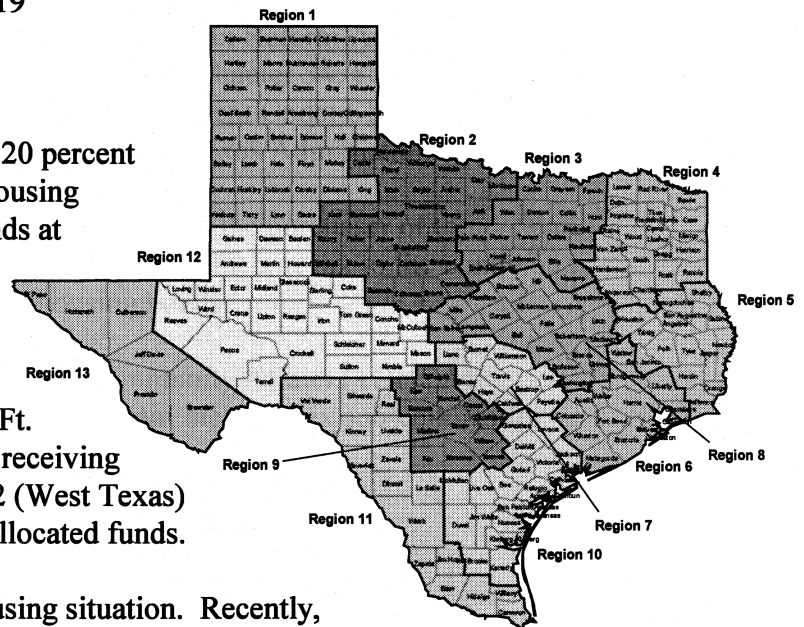


Figure 1. State Service Region.

In each of the past three years, record amounts of carryforward have been designated.

The PAB Program is administered by the Texas Bond Review Board (BRB). Developers submit applications to the issuers, i.e. TDHCA, TSAHC and local housing finance corporations. After reviewing applications, issuers then submit those applications to the BRB.

Historically, bonds are issued by the BRB primarily via a lottery each October. Participation in the lottery has decreased significantly over the past several years.

Year	Total Lottery Applications	Housing Lottery Applications
2003	302	237
2004	263	193
2005	194	145
2006	61	27

Reasons for the decline include an abundance of volume cap available, stronger applications and reduced expenses. The result is that applicants submit an application for inducement to their issuer throughout the year whenever they are ready to proceed with their development.

PAB reservations of allocation begin issuance in January for the program year. The reservation timeline is 150 days, meaning that the developer/issuer must close the bonds within 150 days.

There are three priority election categories in which applicants must fall into. They include:

Priority I

- A – 50 percent at 50 percent of the AMFI and 50 percent at 60 percent AMFI
- B – 15 percent at 30 percent AMFI and 85 percent at 60 percent AMFI
- C – 100 percent at 60 percent in census tracts with higher than average AMFI

Priority II

- 100 percent at 60 percent AMFI (any location)

Priority III

- Any qualified rental development
- 75 percent at 80 percent AMFI, remaining at market
- Within the 75 percent above 20 percent at 50 percent AMFI or 40 percent at 60 percent AMFI

When the August 15 collapse occurs, regional and sub-ceilings collect into one pool and

priorities are released; the lowest lot takes the next reservation and the issuer files for carryforward.

The average collapse from the previous years to 2003 was \$150 million. Following the terrorist attacks on September 11, 2001, the economy fell, interest rates dropped and stocks/bonds took a plunge. Due to these events, bonds were not used as much by the other subcategories in the bond program and therefore at the August 15th collapse in 2003, 2004 and 2005, there was more allocation available. In 2003 there was a collapse of \$350 million, 2004 showed a collapse of \$575 million and most recently in 2005 there was a collapse of \$1.143 billion.

TDHCA's multifamily and single family secured as much as possible. Multifamily performance numbers nearly doubled due to the increase in bond allocation and the four percent tax credits associated with them. Now that the economy is beginning to correct itself, the allocation available at collapse is coming back into line. The Department's multifamily bond is still closing an over-average amount of allocation; however, the local housing finance agencies are not closing as much. This is one of the reasons why the cities of Dallas, Fort Worth and Houston are trying to restrict development.

For the 2006 application cycle for the TDHCA Private Activity Bond Program, the process is as follows:

- Applications are received on a on-going basis
- Evaluate applications relative to date received
- Pre-qualify the applications for feasibility
- Score the applications using pre-determined criteria (not all are listed):
 - Encourage rehabilitation projects
 - State Senator and state Representative approval or non-approval
 - Local elected officials approval of the proposed development
 - Approval from the local school district superintendent and presiding officer of the board of trustees for the school district containing the development

Following the scoring, TDHCA then ranks the applications from the highest to lowest score out of those received for the same Governing Board meeting. TDHCA Governing Board authorizes the inducement resolution and submits a ranked list to the BRB.

Four Percent Housing Tax Credits - Tax Exempt Bond Issuance

Housing tax credits provide the development with an IRS tax credit that provides equity that allows the developer to charge lower than market rate rents to individuals and families below the area median family income (AMFI). These credits are available on a non-competitive, year round basis to all issuers (TDHCA, TSAHC and local housing finance corporations). At least three days before a bond reservation is issued the

applicant must submit Volumes I and II (uniform application and site information) to TDHCA. At least 60 days before the TDHCA Governing Board will vote on the issuance of four percent credits, all remaining application materials must be submitted. The Department reviews the application for threshold, eligibility and then the development is underwritten. Additionally, developers have a 35 day filing period with the BRB.

When reservation of allocation is received and a schedule is sent to appropriate parties, the developers are notified of a public hearing. Developers are to remit letters of notification and request support from local and state public officials (including the state Senator and state Representative who represent the district where the proposed development will be located), city council members and mayor, and all other neighborhood stakeholders. Only the input from the state Senator and state Representative qualify for points.

TDHCA conducts a public hearing in the local area for each application where TDHCA is the issuer, while local issuers will conduct public hearings in conjunction with their board meetings.

A presentation to the Executive Awards Review Advisory Committee takes place. Once information is prepared, public comment is compiled and presented to the TDHCA Governing Board for decision. If the Board approves the bonds, the deal heads to the BRB for the final say.

Developers must comply with the state for the greater of 30 years or as long as the bonds are outstanding. Developments must have income restrictions, supportive services and tenant occupancy. They must also be physically safe, unassailable and financial reviews must be conducted.

FINDINGS

Texas Bond Review Board

The Texas Bond Review Board provided testimony on June 15, 2006. The representative from that agency was asked by Committee members to provide solutions to the problems that the Governing Board faces on a routine basis when allocating tax credits. The BRB recommendations are found below. Citations from §1372, Texas Government Code are noted.

Over the past couple years; Texas like other states has designated record amounts of volume cap as carryforward. Reservations received as late as December may be designated as carryforward and require *no* additional payment and may be withdrawn after the beginning of the new year. Moving the last date to issue reservations will end this ability. Charging an additional fee would dissuade issuers whose borrowers are not likely to close on their deals.

Solution 2.1 Move the last day to issue a reservation from December 1st to November

15th (§1372.028(b)) and charge a fee for non-traditional carryforward (§1372.061(b)). Many issuers are deadline driven and when volume cap is available they wait until just prior to the 15th to submit applications. With more than 150 days to close, many of these deals may be eligible for carryforward. Moving the collapse to an earlier date will decrease the number of developments eligible for non-traditional carryforward.

Solution 2.2 Move the August 15th collapse to earlier in the year (§1372.022).

Most project limits are removed on September 1st. Over the past two years, individual issuers have requested an amount in excess of \$140 million after September 1st for single projects.

Solution 2.3 Review the post September 1st project limits (§1372.037).

Sub-Ceiling 3: Qualified Small Issue

The Texas Agricultural Finance Authority (TAFA) has never applied for a private activity bond. TAFA may still submit an application as any other issuer, but abolishing the set-aside frees up cap for all issuers.

Solution 2.4 Abolish the exclusive set-aside for TAFA (§1372.0235).

Sub-Ceiling 4: Multifamily

No issuer of a rural multifamily deal has closed on an amount greater than \$9 million. Historically, the Austin region has approximately \$22 million available prior to any collapse, the \$15 million set-aside, and stalls activity in the region until May. Since the set-aside was added to state statute, only one developer has utilized it for an approximated amount of \$8 million.

On May 15th, \$15 million in rural set-asides collapse into their respective regions. Consolidating important dates earlier would keep the regions active and simplify one piece of tax exempt bond financing for issuers, developers and counsel.

Solution 2.5 Lower the rural set-aside from \$15 million to \$8 million (§1372.0231(e)) and move the collapse date for the rural set-aside collapse to March 1st to coincide with the collapse of regions lacking housing.

Sub-Ceiling 5: Student Loan Bonds

The limitations for qualified student loan bonds for non-profit corporations evaporate on September 1st. By practice, following that date, staff has limited these issuers to the amount of “annual need” as calculated by §1372.033.

Solution 2.6 Determine if amounts calculated for student loan bond issuers follow

legislative intent.

Texas Department of Housing and Community Affairs

Texas is the only state in the Union, where the distribution of bonds comes from more than one entity. Distribution can come from as many as 30 entities from across the state, which has, in some instances, caused confusion especially in the local communities. The Department has seen episodes where a developer received a less-than-favorable result at the local level and then came to TDHCA to seek bond issuance and tax credits for a proposed development. Consequently, some neighborhood groups have complained to the Department that they feel a developer is trying to circumvent their concerns by going to the state. This raises challenging issues for the Department's Governing Board which is trying to maintain its mission of providing affordable housing while respecting the rights of local governments and citizens.

While some entities believe that it is better to have local issuers do most of the bond transactions, the Department believes that these groups sometimes lack appropriate underwriting and market analysis abilities due to staff constraints that the Department does not have.

The current lottery system and subsequent allocation of four percent housing tax credits make it more difficult for the state to effectively manage concentration issues or even the greatest housing need as is done with the 9 percent housing tax credits. One possible scenario to alleviate the concerns of over-concentration of affordable housing developments in places like Dallas and Houston would be to empower one agency to issue bonds as well as tax credits in these areas.

There is a current compressed time frame with the lottery system has a 150-day period from the beginning to the close of a project. The Department has heard concerns expressed by neighborhood groups that this schedule does not allow them enough time to properly explore the potential benefits of a proposed development or voice their concerns. This time frame does not exist with the 9 percent program and, consequently, the Department sees generally less opposition with 9 percent transactions as compared to four percent transactions in certain areas.

While many states use a first come, first serve approach when allocating four percent tax credits, the approach is combined with an understanding of where credits have gone before and where credits are being allocated from the 9 percent program in a particular local community for that year. It is possible that a regional allocation formula be put into place so that there is a more accurate response to housing needs with a shared source of four and 9 percent credits. Local housing finance agencies would still be able to issue bonds, but only with prior approval from TDHCA.

Any removal of the lottery system must also take advantage of the collapse of state bond authority that occurs every August. Any unused bonding capacity around the state can

also be used for workforce housing purposes, such as the four percent multifamily bond program. The Department has benefited many communities around the state from the collapse and the use of those funds for affordable and workforce housing. It is critical that the collapse is still used despite the possible loss of the lottery system.

COMMITTEE RECOMMENDATIONS

The Committee recommends that current statute that enables final bond issuance decisions at the Texas Bond Review Board level remain. However, the Committee will closely examine findings from the Bond Task Force that has been created as it believes the current lottery system does require change. It is apparent that the ineffectiveness of the current system will not serve Texans in years to come.

The Committee recommends that a regional allocation formula be developed for allocating four percent housing tax credit bonds. The proposed allocation formula needs be developed under the input of developers, industry leaders, local housing finance agencies and state agencies (TDHCA, TSAHC and the BRB) to ensure that an intellectual system is created.

CHARGE THREE

Examine the home ownership rate of low-income Texans, and recommend suggestions on how home ownership rates can be improved for underserved populations.

BACKGROUND AND OVERVIEW

Most Americans strive for the opportunity to own their own home, as it has always been an integral part of the American dream. Throughout the years, homeownership has been shown to have a positive impact on families, communities and the state as a whole.

Fannie Mae studies have shown the positive results of affordable homeownership for the children of low income families:

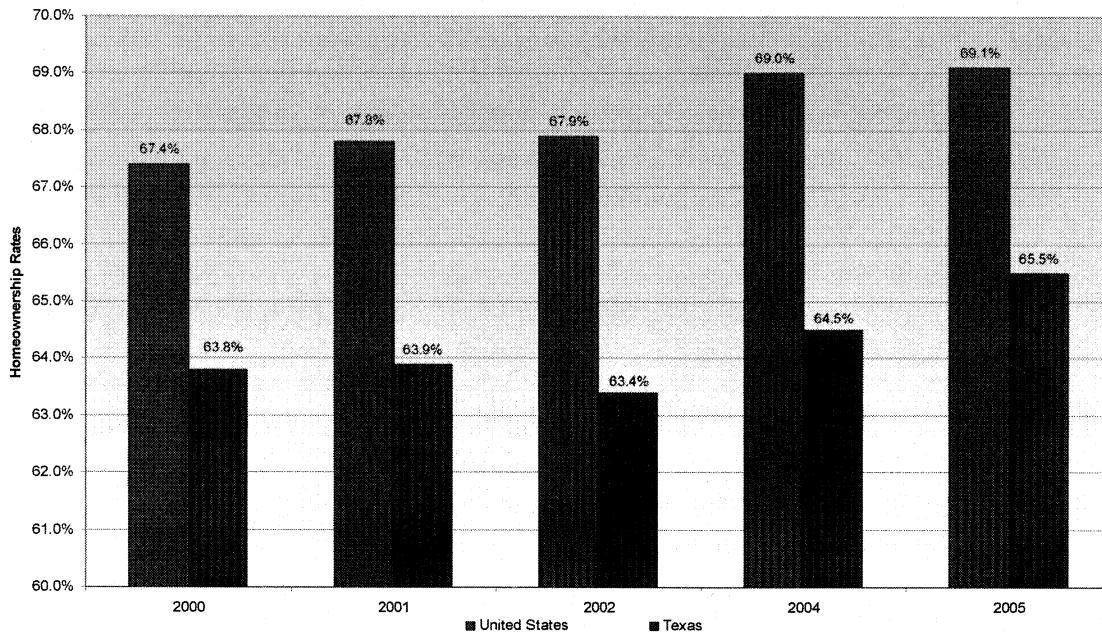
- 33 percent less likely to give birth as unmarried teenagers
- 40 percent less likely to be idle at age 20
- 35 percent less likely to receive welfare
- 20 percent more likely to graduate from high school
- 62 percent more likely to acquire post-secondary education
- Early adult earnings are 24 percent higher

Furthermore, Nicolas P. Retisnas of Harvard University's Joint Center for Housing Studies states that for low to moderate income families, owning a home is the principle form of wealth. The nation's bottom fifth has a median income wealth of \$68,000 when owning their own home, while the median family wealth for renters is only \$500.

In 2004, President Bush made creating an ownership society a major component of his administration's domestic policy. His goal was to give all Americans the ability to build assets so they can leverage those assets to build wealth.

The Assets and Opportunity Scorecard of the United States¹ that compares states performance in setting policies that encourage individuals and families to build assets reports that when compared to other states, Texas receives a poor grade in overall asset outcomes, but Texas receives a favorable grade for homeownership policy. It is apparent that there is a disconnect between policy and outcomes in the state. For example, on the policy side of the study, Texas gets credit for having a state housing trust fund. Unfortunately, Texas only funds this trust with approximately \$3 million annually, compared to the smaller state of Florida which provides approximately \$350 million annually to its trust fund. So, while Texas may have some of the right policies in place to help families build asset wealth through homeownership, the state's commitment of resources to implement these policies is very modest.

In 2005, the state of Texas reported homeownership at 65.5 percent, an increase from the 2004 figure of 64.5 percent. In 2005, the national average rate of homeownership was 69.1 percent, a 0.1 percent increase from the 2004 rate of 69.0 percent.



Source: U.S. Census Bureau and Housing Vacancy Survey, Freddie Mac

As shown in the graph, Texas' homeownership rate is on a steady incline. Though, the state still ranks 45th in the nation in homeownership rate.

The Texas Department of Housing and Community Affairs (TDHCA) Single Family Mortgage Revenue Bond Program finances below-market interest mortgage loans to benefit extremely low to moderate income households, primarily through the Texas First-Time Homebuyer Program and the Mortgage Credit Certificate Program. For 2006, TDHCA's single family private activity bond authority equals roughly \$170.7 million.

The First Time Homebuyer Program receives funding from tax-exempt and taxable mortgage revenue bonds. The program offers 30-year fixed-rate mortgage financing at below-market rates for very low, low, and moderate income residents purchasing their first home or residents who have not owned a home within the preceding three years. Qualified applicants access First Time Homebuyer Program funds by contacting any participating lender, which is then responsible for the loan application process and subsequent loan approval. After closing, the lender transfers the mortgage loan to a master servicer designated by TDHCA.

The First Time Homebuyer Program provides homeownership opportunities for qualified individuals and families whose gross annual household income does not exceed 115 percent of area median family income (AMFI) limitations, based on IRS adjusted income limits, and the purchase price of the home must not exceed stipulated maximum purchase price limits. Program funds may be allocated on a regional basis based on population percentage per uniform state service region. A minimum of 30 percent of program funds will be set aside to assist Texans earning 60 percent or less of program income limits.

TDHCA currently offers assisted mortgage loans and non-assisted mortgage loans. The assisted mortgage loans have a slightly higher interest rate than the non-assisted loans and may include down payment and closing cost assistance in the form of a grant or second lien loan. The type of assistance and amount varies by bond issuance. Assisted mortgage loans are available exclusively to low income homebuyers earning 60 percent or less or 115 percent or less of program income limits, depending on the program. Non-assisted mortgage loans have a slightly lower interest rate than the assisted loans and do not offer down payment or closing cost assistance.

The mortgage revenue bond loans are pooled into mortgage backed securities that are issued by Ginnie Mae, Fannie Mae and Freddie Mac. All borrowers and loans must conform to these financial entities mortgage loan underwriting criteria in order to receive payment of principle and interest of mortgage loans. TDHCA does originate whole loans, (i.e. unpooled and unguaranteed loans) on a very limited basis and primarily as special loans through the Texas Loan Bootstrap Program, Contract for Deed Conversion and Second Lien Down Payment Assistance Program.

According to the Texas Mortgage Bankers Association, TDHCA's average delinquency rate as of March 2006 on the first time homebuyer securitized mortgage portfolio is 5.8 percent, which is higher than the national average delinquency rate of 4.7 percent, but lower than the state's average rate of 6.9 percent. In the same time frame, according to the Texas Mortgage Bankers Association and Foreclosure.com, average foreclosure rates for TDHCA ranked at 1.9 percent, well below the national average of 4.2 percent and the state's average of 5.2 percent.

Habitat for Humanity in Texas

As of 2006, Texas has 83 Habitat for Humanity affiliates, who built over 400 homes in 2004. Over the last 30 years more than 3,500 Habitat homes have been built in Texas. Nationwide, Habitat has built more than 56,000 homes for families that the conventional lender would not consider, yet the foreclosure rate is only around one percent. Habitat for Humanity partners with TDHCA and supports efforts to fund single family homeownership programs such as the Texas Bootstrap Loan Program.

The Texas Bootstrap Loan Program is designed to promote and enhance homeownership for very low income Texans through a \$30,000 no-interest loan per house. Since 2005, the Bootstrap program has awarded Habitat affiliates with more than \$6 million to build 218 homes for low income families earning less than 60 percent of the area medium income (AMI).

FINDINGS

For the overwhelming majority of Americans, the mortgage payment is usually the first debt that is paid each month and as a result, home foreclosures are generally very low unless there are outside factors. The industry often refers to the common factors as "death, disease and divorce" but there have been other developments in recent years. The

issues of declining job stability and increasing loan abuse have emerged as significant factors. Testimony to the committee focused on the emerging factors, such as subprime lending and mortgage foreclosures that impact homeownership among underserved Texans. The committee also heard testimony in regards to the growing homeownership problem in rural Texas.

Subprime Lending

Subprime loans can be an appropriate and necessary response to the needs of borrowers who cannot qualify for prime loans from traditional lenders. Originators of subprime loans most often are mortgage and consumer finance companies, but can also include banks, thrifts and other institutions. According to the Texas Office of Consumer Credit Commissioner, the broad subprime industry in Texas, which includes a manufactured home lender segment, is dominated by larger firms such as Ameriquest, Conseco and Household.

Lenders offer credit to A- and below borrowers. Criteria to rank borrowers may vary by lender or investor. One set of criteria distributes loan rankings.²

Grade	Payments Late 30 Days	Bankruptcy Filing
Prime (A)	None	None
A-	Less than 2	None in 5 years
B	Less than 4	None in 3 years
C	Less than 6	None in 2 years
D	Constantly late	None in 1 year

Traditionally, the subprime borrower is usually lower-income with FICO scores below 620-660 and has high loan-to-value ratios. These borrowers also typically have collateral property that fails to meet one or more critical appraisal standards and has incomplete or unverifiable documentation of income, savings, down payment sources and/or employment housing and other debt that exceeds 45 percent of their monthly gross income.³ Research on subprime lending and the characteristics of borrowers show a larger market share of subprime lending occurring in low income and higher minority neighborhoods.

A study dated for 2000 shows that subprime loans are three times more frequent in low income neighborhoods than in higher income neighborhoods. In another study of that same year, it shows that such lending serves more to higher risk borrowers rather than low-income borrowers. According to a 2005 study of seven U.S. cities at a time, one of which was Dallas, it shows that low income is less related to subprime dominance in 2002 than in 1997, illustrating a decline in the trend.

An unintended consequence to extend homeownership opportunities to less credit worthy consumers is a corresponding increase in serious delinquency in foreclosure rates. In a February 2006 United States Housing and Urban Development (HUD) report, researchers at Freddie Mac estimated that in mid-2002, delinquency rates for conventional prime

loans was 0.55 percent where as delinquency rates for subprime loans was nearly 20 times that at 10.44 percent. Subprime loans carry with it much more serious delinquency and foreclosure problems. The following table indicates the risk of serious delinquency related to a borrower's credit segment. As the borrower ratings decrease, the likelihood of serious delinquency increases.⁴

Borrower Credit Segment	Share of Subprime Lending	Serious Delinquency Rate
A	6%	8%
Alt A	41%	17%
A-	24%	23%
B	11%	33%
C	8%	40%
CC	11%	44%

Source: Amy Crews Cutts, Robert Van Order, Peter M. Zorn, (2002), "On the Economics of Subprime Lending" Freddie Mac work paper.

At least three-quarters of subprime loans are used to refinance an existing loan, as opposed to for home purchase. Increased subprime lending equals an increase in defaulted loans.⁵

According to a report from RealtyTrac.com, in the first quarter of 2006, Texas led the nation in foreclosed homes with 40,236 homes. Texas placed sixth among the highest foreclosure rates, while the nation's quarterly foreclosure rate was higher than any other quarter.

State	1 / Every # Household	Total Foreclosures
Georgia	127	24,419
Colorado	138	13,267
Indiana	165	15,261
Nevada	172	5,037
Michigan	186	22,742
Texas	200	40,236
National Rating	358	323,102

First Quarter of 2006

Compared to states with similar size and demographic groups, such as California and Florida, Texas still ranks high in foreclosures, but tends to shift with Florida. In 2005, Texas reported having approximately 115,000 foreclosed homes, trailing Florida who reported approximately 122,000 foreclosed homes.

When all other variables are constant, a lack of financial education is a consistent significant factor in explaining the market share of subprime lending. It is important to note, that many Texas based organizations and associations are proactively assisting consumers with financial literacy programs throughout the state.

For example, the Texas Association of Mortgage Brokers in partnership with Freddie Mac is providing, free of charge, the CreditSmart program and the Spanish version CreditSmart Español. This program explains to future homeowners the importance of credit, timely payments, bank relationships, communicating with the lender, etc. The

CreditSmart initiative focuses on distinct underserved demographic groups such as, Hispanics, African Americans, Asian Americans, single heads of household and the elderly.

The Texas Association of Mortgage Attorneys has initiated plans for a community outreach program which will assist the underserved population in Texas to better understand the process of acquiring residential properties and, in general, the mortgage process.

Habitat for Humanity also provides financial education to their customers through financial instruction workshops and budget and debt management programs.

With education initiatives in place, other measures need to be examined to assist low income borrowers:

- Low income borrowers need to have the ability to get the lowest cost credit that they qualify for;
- coaching needs to be available to lower cost borrowers in order for them to qualify for a higher cost category;
- an increased number of borrowers who have emergency funds to fall back on will decrease the amount of foreclosure actions and delinquencies; and
- low income borrowers need counseling available to them when there is a beneficial opportunity to re-finance their mortgages.

According to a University of North Carolina study,⁶ subprime lending and predatory practices, especially prepayment penalties and balloon payments, increase the rate of foreclosure for homebuyers. Other financing options, such as adjustable rate mortgages, when combined with subprime loans, also increase the rate of foreclosure. According to the study, at least 20 percent of subprime loans will result in foreclosure. Subprime lending now accounts for 10-12 percent of all mortgages and refinances, up from two percent just a decade ago. Obviously, one of the most important components of reducing mortgage foreclosure is to provide alternatives to subprime lending in the state.

Mortgage Foreclosure in Texas

In July 2005, the head of the federal Office of the Comptroller of the Currency declared the problem of mortgage foreclosure, especially among low income households, as the "most immediate challenge facing community development today."⁷ In early 2005, the San Antonio Express News reported that Bexar County had a higher foreclosure rate for the month of December than the states of California, Montana, Wyoming and Hawaii combined.

Without a doubt, Texas leads the nation in foreclosures that result in the property being sold at auction. However, Texas does not lead the nation in pre-foreclosures, or properties that are delinquent or enter the foreclosure process, but are not yet sold at

auction. The discrepancy is the result of a number of factors, which include the Texas foreclosure process itself, as compared to that of other states.

While there may or may not be benefits in altering the foreclosure process in Texas, part of the reason that other states have a markedly lower percentage of homes that are sold through foreclosure is that there are longer time lines and greater opportunities for owner redemption in many other states. Another factor is regional economics.

The relatively slow growth in the value of housing in most Texas markets as compared to other high-growth states means that owners usually do not have enough equity in their homes and do not have enough time to sell their properties to pay off the owed amounts. Other states such as California and Florida with faster housing appreciation have far more properties that move into foreclosure, but the owners are able to either refinance or sell the properties on the real estate market and avoid selling the property at auction. When examining pre-foreclosure rates by population or per 10,000 housing units, Texas is closer to the national average.

While increasing resources for affordable housing can go a long way toward increasing homeownership, there are other policies that the Texas Legislature can implement to increase homeownership and decrease mortgage foreclosures.

Solution 3.1 Changing the Foreclosure Process

If simply reducing foreclosures is the primary goal, then making the Texas foreclosure process more like other states would be one way to accomplish it. One of the reasons Texas leads the nation in number of foreclosed properties sold at auction is the streamlined process by which the state can dispose of foreclosed properties. Without going through the judicial system, families do not have as much time to bring their accounts current.

In addition to requiring a judicial review of the foreclosure, Texas could expand the redemption period for homeowners. In Texas, homeowners have as little as 20 days to remedy their financial situation. Due to both a non-judicial process and a short redemption period, the sale of a foreclosed property at auction can take place in as little as 90 days. If Texas should move in the direction of other states that have increased the redemption period for delinquent homeowners and require the lender go through the court system in order to foreclose on the property, then the foreclosure rate would surely decline. Whether this “treatment” of the “symptom” is appropriate policy would certainly be debated by some.

Solution 3.2 Predatory Lending Reform

The second major policy change Texas could use to reduce the foreclosure rate and to protect borrowers is predatory lending reform. Predatory lending is the practice of steering borrowers into taking on fee heavy loans with subprime interest rates and other

complicated financing schemes that often result in the predictable delinquency of the borrower.

Predatory lending is also the practice of lending without regard to the borrowers ability to repay and lending more to the borrower than the actual value of the property. The goal of predatory lenders is to make a profit from up-front fees, then profit again from the resale of the property through a new, typically borrower-disadvantageous loan.

For instance, in one South Texas County, research shows that the majority of home foreclosures are the result of two builder/lenders who build and sell to low-income families without regard for their ability to repay. Of the loans they make, the high performing loans are sold on the secondary market and the rest are pooled and serviced locally. When a family gets behind on payments, the lender forecloses on the property and sells the property again to the next family. Each step in the process, closing, foreclosure, reselling is accompanied by high fees paid by the homeowner. In 2003, these two builder/lenders combined for a total of 634 foreclosed properties, 797 in 2004, and 590 in 2005. Texas needs to prohibit these types of businesses from operating in the state.

Tightening up lending guidelines and discouraging predatory lending practices will save Texans' assets and help build wealth. At least 10 states have comprehensive anti-predatory lending laws that protect borrowers from lenders who are willing to lend without regard for the ability of the borrower to repay and for the purpose of stripping the assets of the borrower. Texas passed the high mortgage interest rate notification act in 2001, but the law was only enacted for two years and was not renewed.

Predatory lending costs Americans \$9.1 billion every year. In 1999, North Carolina became the first state to enact comprehensive legislation prohibiting predatory lending. In the first year of its inception, the law saved consumers \$100 million. On top of these remarkable savings, no evidence exists that the laws have prohibited access to capital for homeownership.

Homeownership in Rural Texas

According to *Rural Texas in Transition*, a 2001 United States Department of Agriculture (USDA) report to the Texas Legislature, the Texas rural (non-metro) population makes up 15.4 percent of Texas' population. The following charts represent Texas rural population by city and county size.

<i>Texas Rural Cities</i>		
Population less than...	No. of Cities in Texas	Average
5,000	623	1,611
10,000	708	2,140
50,000	797	4,026

Source: Texas State Comptroller

<i>Texas Rural Counties</i>		
Population less than...	No. of Cities in Texas	Average
10,000	85	3,596
50,000	197	13,629
200,000	229	23,895

Source: Texas State Comptroller

On average, rural Texas counties have a larger share of older citizens than their urban counterparts. The Association of Rural Communities in Texas (ARCIT) reports that in 1999, non-metro Texas accounted for a sixth of the population, but was home to nearly one-quarter of Texans over the age of 65. In that same year, only 9 percent of the state's urban population was over 65 years old. The USDA claims that the concentration of elderly Texans is 22 percent in the most rural communities as defined by that Department. Generally, elderly Texans do not have a steady income into the home; therefore, they directly contribute to the high number of poverty stricken individuals in rural Texas.

In 1999, the state's average per capita income was \$26,834; rural Texans accumulated an average income of only \$20,103 per individual, versus the \$28,057 for urban residents. On average, metro inhabitants earn 40 percent more than rural dwellers. In 1998, only 15 of Texas' 196 rural counties had average per capita incomes above the state average.

The USDA classifies 72 Texas rural counties as "persistent-poverty" counties, in which persons with poverty-level incomes accounted for 20 percent or more of the total population. In the early 1990s, the United States accounted for 535 "persistent-poverty" counties, with poverty rates ranging from 20 to 63 percent. Texas still has one of the nation's highest concentrations of such counties.

Families living in poverty are often forced to live in substandard conditions. This holds true in urban and rural communities alike. However, rural families have fewer affordable housing alternatives from which to choose. According to the National Rural Housing Coalition, 2001 Rural Homeownership Symposium, rural areas account for 42 percent of all substandard housing, yet only 20 percent of the national population.

Rural construction is frequently the most costly due to a certain number of elements that drive up the cost of construction:

- There are fewer rural builders and developers which leads to less competition;
- rural builders tend to produce at a lower volume and are unable to get volume discounts from their suppliers;
- material costs are equal between rural and urban areas; and
- the longer distances between development project sites add to the builder's fuel, delivery and labor costs.⁸

Coupled with the affordable housing stock challenge, a vast number of elderly Texans live in rural Texas in their own home. Impoverished by a limited income, these elderly residents need their homes rehabbed. Elderly houses are in such poor, unsanitary and

dilapidating conditions, that it is sometimes more cost-effective to tear down the existing house to build a new home on the same lot.

Developers would like to see an initial minimum of 30 percent of the credits in each region be allocated towards rural communities. In order to ensure that regions do not suffer, the unused rural credits in a particular region are suggested to be first reassigned to the urban/exurban areas of that region. If credits are left over, they would be reassigned by TDHCA under the present rules. This idea mirrors Georgia's policy, which sets aside 30 percent of its total credits for rural projects. In conjunction with this revision, developers agree that the maximum size of rural developments should increase from 76 to 96 units. Larger developments tend to be more efficient in terms of cost per unit and operating expenses per unit.

COMMITTEE RECOMMENDATIONS

A major obstacle to homeownership for many hardworking Texas families is the down payment and closing costs. The TDHCA First Time Homebuyer Program contains a grant initiative that helps to minimize that obstacle but the amount is calculated on factors that are often not reflective of the economic circumstances in underserved areas of the state.

Currently, TDHCA is required by statute to set aside 30 percent each year of first time home buyer bond allocations for use in the grant, or assisted borrower initiative. The program allows for a grant of 5 percent of the purchase cost for down payment and closing cost assistance for a borrower making not more than 60 percent of the average median family income (AMFI).

In areas of the state such as Austin, Dallas and Houston, where the median income is relatively high, a much larger number of borrowers are eligible to apply for the grant. In other areas of the state, such as San Antonio, El Paso and the border regions, the average income is considerably less and with a 60 percent cap, many buyers who would otherwise qualify for a mortgage, are ineligible for the grant. It is crucial when reviewing such data to take into account that home prices are also higher in areas such as Austin, Dallas and Houston.

As a result of the income disparity, there is a significant difference in the numbers of families taking advantage of the otherwise very attractive first time homebuyer program in some parts of the state. A general consensus is that if the statutory cap was raised to 80 percent, far more families would be able to take advantage of the down payment assistance in currently underserved areas.

By minimizing the down payment and closing cost obstacle these families who are lender qualified would, with only a marginal increase in fixed mortgage rates, which is another highly attractive feature of the TDHCA program, be able to take advantage of the grant initiative. Additionally, the use of the down payment assistance would reduce the amount

of out-of-pocket costs normally associated with a home purchase and minimize the impact on already stretched budgets and discretionary savings for these families.

Legislation is required to increase the current 60 percent AMFI cap for the grant eligibility. There is precedence for such an amendment in the Texas State Affordable Housing Corporation statutes (§2306.562(b), Texas Government Code) which sets the cap for down payment assistance at 115 percent of median income.

In order to further enhance TDHCA's first time home buyer program in currently underserved areas, it is recommended that strong consideration be given during the 80th Legislative Session to raise the statutory median income cap. This would better serve those citizens where average income is less than other regions and would offer additional opportunities for those in areas already well served by the program.

The Committee will also be awaiting the results of H.B. 1582, from the 79th Legislative Session, which authorizes a study to examine mortgage foreclosure rates in Bexar, Cameron, Dallas, El Paso, Harris, and Travis Counties. The study is being conducted by the Texas Department of Housing and Community Affairs and the Texas Savings and Mortgage Lending Commissioner. The charge on that study is to address the following issues:

- To the extent to which the terms of mortgages are related to the foreclosure rate and whether the terms could be offered in a manner to reduce the likelihood of foreclosures.
- The socioeconomic and geographic elements characterizing foreclosures.
- The securitization of mortgages in the secondary market and its effect on foreclosures.
- Consumer education efforts to prevent foreclosure.
- Recommendations to reduce foreclosures and the foreclosure rate across the state.

Results of that study will be available prior to the beginning of the 80th Legislative Session.

It should be noted that the Committee will continue to encourage single family housing throughout Texas, especially in the rural communities and will not support ideas or programs that curtail such housing.

CHARGE 4

Compare and contrast the Texas Department of Housing and Community Affairs administration of the Housing Tax Credit Program with best practices around the country.

BACKGROUND AND OVERVIEW

Since the first housing tax credits were allocated in 1987, the housing industry has changed dramatically. Housing credit allocation and monitoring are affected by current realities, among them include:

- Debt is less expensive. Debt costs have decreased to near historically low levels, with the 30-year bond down to around 5 percent today.
- Credit equity pricing has increased. Tax credit prices have jumped dramatically, from 42 cents on the credit dollar in 1987 to 96 cents on the dollar today.
- Construction costs have increased significantly. In 2005, Hurricanes Katrina and Rita caused massive destruction across the Gulf Coast; this tragedy combined with the resulting shortages in both materials and labor has resulted in construction costs increasing by 14 percent in just the past nine months.
- Building one low income unit requires more credit equity. In an effort to spread the limited number of tax credit dollars across the state to the largest number of developments, the average dollar per unit allocated to a typical 9 percent tax credit deal in Texas was only \$6000 per low income unit, far below the actual construction cost of that unit.
- Demand well surpasses credit availability. In 2006, TDHCA received applications for 9 percent tax credits totaling \$101,651,348 yet only had available and allocated \$43,722,311. A ratio of over \$2.32 dollars of housing credits was sought for every dollar of credits awarded in the 2006 housing tax credit round in Texas.
- According to TDHCA's 2006 housing tax credit figures, non-profit organizations' involvement is well ahead of the 10 percent minimum federal mandate. Roughly 20 percent of tax credit properties were allocated to applicants that had limited non-profit organization participation in the deal, based on their competitiveness.

FINDINGS

Against this background, the Committee focused on a few state-level improvements that can be made to allocation and underwriting practices. The Committee examined QAPs from other states with similar size, geographic and demographic trends. The Committee also examined and carefully studied the National Council of State Housing Agency's "Best Practices." With this research completed, the Committee recommends that the best practices are as follows:

Regional Allocation Formula

Section 2306.111 of the Texas Government Code requires TDHCA to allocate housing

funds under the tax credit program to each uniform state service region based on the “need for housing and the availability of housing resources...” Under this statutory authority, TDHCA has developed a Regional Allocation Formula (RAF) that has resulted in certain areas of the state becoming over-saturated with housing while, conversely, rural and some urban areas are underserved.

Presently, the RAF has served the state in moving housing to the largest populated areas over the past seven years; however, to continue this strategy will only over-concentrate poverty in these areas. The RAF is a statistical and mathematical tool and as such, periodic modification of the formula needs to occur in order to meet the needs of a changing distribution of housing in a diverse state, such as Texas, with large multi-demographic areas.

Statutory revisions are required so the basis for the regional allocation is to ensure that tax credits are being directed to those areas of the state where the housing is needed and desired, while considering the current market conditions and availability of housing resources.

Best Practice: More equal regions, whose populations are all within 10 percent after periodically redistricting, should improve basic fairness among and within regions.

The RAF formula currently used by TDHCA should be improved and simplified. The law requires using need and availability of housing resources in the formula. Currently, TDHCA uses four factors of different weights in the RAF: poverty, rental cost burden, overcrowding and substandard housing. Of these, only poverty and rental cost burden bear a direct relation to need. Overcrowding and substandard housing are duplications of the “availability of housing resources” criteria and give disproportional weight to already over-concentrated regions in Texas.

Quantifiable Community Participation (QCP)

The law currently mandates that support by neighborhood organizations be the second highest scoring component among applicant selection criteria. However, if there are no neighborhood organizations that include an applicant’s site, an applicant is penalized twelve points by the Department, even though no opposition to the development exists.

Best Practice: Amend the process (§2306.6710, Texas Government Code) to avoid penalizing proposed developments located in rural or other areas with no neighborhood associations. If support by neighborhood associations was eliminated as a scoring component, then neighborhood approval or opposition could be heard at the local level and considered during the zoning and site plan approval process.

Georgia, Michigan and Florida neither require an applicant to notify the local neighborhood of a proposed development nor do they award points for local neighborhood support.

If QCP is retained as a scoring component, then the law needs to be amended to provide maximum points for those developments where there are no neighborhood organizations.

Developer Fees

Underwriting for long-term viability is of utmost importance to all sectors of the affordable development industry. Inherent in that thinking is the need for quality construction that is derived from the ability to provide adequate financial motivations to attract and maintain qualified developers and managers.

In the past two years, the pressure of lowering developer's fees by scoring has risen. TDHCA's scoring policy rewards developers who defer the maximum amount of their developer fee. This policy inherently causes developments to be underwritten too thin, and leaves little to no ability for a developer to support cash flow of a marginal development before it is forced to appear on the foreclosure auction block. Developer fees are a crucial support against properties falling off the affordable housing block.

A number of developers have expressed concern about the allocating practices of awarding extra points for a sliding scale of successively lowering developer's fees in one round, or awarding points for a certain number of the lowest developer's fees. There are a number of concerns with the lowering of developer fees:

- Lowering developer fees provide fewer cushions against lease-up and construction risk, thereby increasing construction lenders' project risk and project financing costs;
- lower developer fees result in less money available for funded reserves; and
- many social and tenant services will suffer where these programs are initially funded from developer fees.

Best Practice: Scoring points should not be awarded for lowering of the developer fees.

Attracting Experienced Developers

Many states have implemented a number of reward and punishment systems in the allocation process that are based on the developer's prior experience in affordable development and in managing compliance.

Best Practice: It makes financial sense to commence programs that award additional points for a developer's prior construction experience, as these incentives may help reduce construction risk in approved developments. Experience requirements, however, should not serve as a substitute for actual competition. They should be drawn to permit a relatively large body of developers to compete for credits.

A number of agencies around the country award only negative points in the allocation process for a developer's prior compliance experience. Strong steps should be made in the allocation process against sponsors with serious histories of development non-

compliance. Any such process should also reward, not disadvantage, a sponsor with considerable prior experience and near-perfect record.

The housing tax credit program does not benefit from a zero-tolerance policy for prior minor Form 8823 events that have been resolved. Such a policy (e.g., one where minor negative prior compliance events are only deducted in the allocation process) tends to encourage less-experienced developers with perfect track records who may lack the knowledge that comes with managing a property through a rough economy. Any “prior compliance” standards should be flexible enough to permit seasoned sponsors with minor prior non-compliance events to compete and obtain credits.

For-Profit, Non-Profit Developers and Public Housing Agencies: Competing on Merit; Leveling the Playing Field

Though they pay a reduced federal tax burden compared to for-profit developers, non-profit developers enjoy many legislative and QAP preferences:

- Outside the housing credit program, for example, non-profits access HOME funds on a preferential basis and secure state and local tax relief that is unavailable for for-profit companies and partnerships;
- by virtue of their reduced federal tax burden, non-profits enjoy a reduced overhead cost structure that allows them to compete more effectively than for-profit developers; and
- in practice, non-profits enjoy set-asides far beyond the 10 percent federal minimum for credit allocation. As noted above, roughly 30 percent of federal credit authority in the last decade was allocated to non-profit sponsored deals;

A few states now provide another status-based preference to non-profits, specifying what portion of the deal is necessary in order to qualify for the state’s non-profit set-aside.

Best Practice: Allocation procedures should follow IRS regulations, which already require a non-profit’s material participation in a housing credit joint venture.

The development of the highest quality affordable multifamily housing is the central objective of the housing credit program. The 10 percent non-profit set-aside is designed to ensure the development of affordable housing in lower income neighborhoods. Where points are awarded solely for the tax status of the applicant, neither of these goals is met.

Awarding points for tax status creates the possibility that applications that are less beneficial to the community will be funded, while a more complete application that better serves the needs of the community is deprived of funding. Public housing agencies (PHA) receive a boost in credits due to their government housing status. PHAs are vital in providing housing to residents earning 50 to 80 percent of the local area median income, therefore the Committee believes that the best way to level the playing field between for-profit and PHA properties while ensuring that an unsurpassed development

is selected to serve a community is to encourage public-private partnerships.

Appeals Process

Currently TDHCA has an Alternative Dispute Resolution policy, but it is infrequently used, and the results are not binding on the Department. This has resulted in costly litigation against the Department, which could be avoided if an effective appeals process involving a third-party mediator was in place.

Best Practice: Allow appeals of Department decisions to the State Office of Administrative Hearings (SOAH). The rulings from SOAH would be binding on the Department. This policy change would require a statutory modification within §2001, Texas Government Code.

This mirrors Florida, which allows applicants to appeal findings to the Florida Department of Administrative Hearings. While the Florida Board must accept or reject the findings of the hearing officer, the current practice is to accept in all cases the findings of the hearing officer (currently, in Texas there is an exception to the PFD and thus the state is not required to accept in whole or reject in whole). This would not disrupt the award of tax credits by July 31st as currently dictated by statute. Instead, if an applicant wins on appeal, they could be given a binding forward commitment of tax credits from the next year's allocation.

Note: TDHCA has expressed that their preference would be under the new rule where the Executive Director accepts the findings of the hearing officer if it is done prior to a Governing Board meeting.

Targeting in Lower Income Areas

Targeting income levels far below the 50 percent and 60 percent area median income (AMI) threshold requirements has been one of the successes of the housing tax credit program. Additional subsidies are needed to make properties economically feasible as average development incomes approach 30 percent AMI, particularly in counties and other areas where AMI is already relatively low.

The state frequently lacks adequate subsidies to support deep targeting at a significant number of properties. In other cases, state and local subsidies are not awarded in concert with housing tax credit awards.

Best Practice: The Department already aligns housing tax allocation schedules to permit a consolidated round with other forms of state subsidies such as HOME, CDBG, et al. The Department, however, needs to be sensitive to the fact that the cycle creates unique problems with four percent and private activity bond developments.

Unit Mix in Family Developments

TDHCA currently restricts the quantity of each type of unit (one, two, three and four bedrooms) that may be constructed in a family development without consideration of local market conditions.

Best Practice: Allow local market conditions to determine the types of units to be constructed based on the needs of the locale. The development's unit mix should be determined by the developer performing due diligence and supported by a market study prepared by an independent market analyst.

Other states, such as Michigan, Georgia and Florida, place no limits on unit mix in a family development except that it must be confirmed by an independent market analyst. Canterbury Pointe in Lubbock, North Grand Villas in Amarillo and Logan's Pointe in Mt. Vernon are all examples of successful unit mixes developed outside of the subjective standards set by TDHCA in its 2006 QAP.

Debt Service Coverage Ratio

The Committee's view is that debt service coverage is just one of many loan terms that are re-negotiated with each loan. The appropriate coverage for a particular loan made by a certain lender may be lower where the developer is an experienced developer, has a strong net worth, or has an additional business relationship with the lender. Otherwise, additional subsidies from state, local and private sources may make a deeply targeted housing credit deal feasible at lower debt levels.

Best Practice: Rather than choosing one loan term and limiting it by regulatory fiat, a lender should choose not to make a loan with debt service coverage that is insufficient in that lender's view. TDHCA should provide flexibility to approve deals at varying coverage levels.

Note: TDHCA has expressed major concerns with this best practice, as they are apprehensive that this will not create a level playing field among developers.

Rent and Median Income Skewing

There is a primary concern shared by tax credit developers, syndicators and lenders with the Department allotting a competitive advantage to those properties which substantially reduce rent and income levels. Combined with current market conditions, this policy often results in a deal that may not be economically feasible with greater risk over the operating life of the development.

A number of sponsors with experience in multiple states report that lower income targeting increases property costs for qualifying new tenants and tenant turnover. Risk of slow lease-up due to insufficient creditworthiness is also increased.

In the lowest income properties, increases in operating expenses can quickly outstrip the owner's flexibility to increase rents, affecting the development's long-term economic feasibility. Where market rents are at Section 42 limits, the local AMI must increase considerably every year in order to keep up with increases in operating expenses. Where market rents lag permissible rent maximums, raising rents is an even more unlikely proposition.

In their quest to meet Section 42(m)(1)(B)(ii)(I) obligation to serve the lowest income tenants, allocating agencies are increasingly setting rent maximums that make them ineligible for new Section 42 deals. Those low income households earning 50 to 60 percent of the AMI, who cannot qualify for Section 8 assistance, can no longer receive Section 42 aid.

Best Practice: A mix of income levels should be utilized within the same development. A feasible deal could contain a range of households earning anywhere from 30 percent to 60 percent of the AMI and market rents.

Operating Expenses

The housing tax credit program is designed to restrict rent levels and thus the growth in rental income. As a result, one of the more acute risks of these properties is operating expenses growing to a level in which they outpace the growth of rental income. Therefore, it is crucial that underwriting place operating expense levels that are realistic and sustainable for the long-term economic viability of the property.

Furthermore, by industry practice, lenders size loans for housing credit properties at lower than typical debt service coverage as compared to conventional properties. As a result, little room is left for expense variances and fluctuations caused by poor pro-forma assumptions. Lenders, syndicators, investors and TDHCA should take great care in determining the appropriate level of operating expenses when sizing an investment or loan in order to minimize future difficulties in meeting debt service.

The primary and secondary factors that affect operating expense levels in any multifamily or senior apartment community are as follows:

- Unit design and unit type (garden versus town home – size of units);
- local market factors including wage levels for competent property managers and maintenance personnel, hazard and liability insurance cost, utility cost, and real estate tax expense levels;
- construction design and site characteristics, including new construction verses rehabilitation;
- family size and number of children in the community; and
- level of services offered, which may be driven by local market competitive factors, and, or, tenants that are being served.

Best Practice: Operating expense levels should be determined by those parties that have a direct and financially acute interest in the success of a particular development. These parties not only include the general partner and/or owner and lender, but also the property equity owner. The property owner, in conjunction with its management company, will create a pro-forma based on the attributes and staffing of the respective property and will review its own databases of actual past development expense levels. Investors, lenders and syndicators likewise will refer to their own databases or independent third party databases to substantiate their pro-forma operating expense levels.

If TDHCA sets artificially low operating expenses, it may assume an artificially high first mortgage amount based on those expenses. If the lender sets reasonable operating expenses and lower first mortgage amounts, the property will have a gap that it will be unable to fill because the tax credits are insufficient.

Underwriting and market analyses best practices have been examined. Those remarks are found under Charge 6, which deals directly with the effectiveness of the Department's underwriting guidelines.

CHARGE FIVE

Review the manner and procedures for the determination by the Texas Department of Housing and Community Affairs of the annual Low Income Housing Tax Credits statewide including the four percent and 9 percent housing tax credit program.

BACKGROUND AND OVERVIEW

The Texas Department of Housing and Community Affairs (TDHCA) issues two types of housing tax credits. The annual 9 percent housing tax credit cycle is a competitive allocation program that is issued to each state at \$1.90 per capita each year, though the IRS allows adjustments for inflation. In 2006, \$43 million was allocated to Texas for new and rehabilitated construction developments. Generally, this tax credit cycle is oversubscribed 2.5 to 1.

The four percent tax credit allocation process is a tax exempt bond award program that is usually non-competitive and serves Texans year round. This program is associated with local or state issuers. The four percent tax credit program was discussed in detail under Charge 2, therefore, in order to remain non-repetitive within this report the four percent program will not be discussed in great specification under this Charge.

For purposes of this study, the Committee deems it important to touch on TDHCA's process for delegating funds through the two categories of housing tax credits.

Eligibility Requirements

Both allocation programs must comply with an affordability requirement which states that the property must remain affordable for a minimum of 30 years. To be eligible to qualify, the developer agrees that 20 percent of the units will be at 50 percent of the area median gross income (AMGI) or 40 percent of the units will be at 60 percent of the AMGI. Credits are only issued for the low income units.

All applications, four percent and 9 percent are reviewed for initial eligibility. These are basic standards to ensure that applicants are not debarred from programs, have acceptable past performance and do not have excessive risks for the Department as defined in the Qualified Allocation Plan (QAP).

Selection Criteria

Applications for the 9 percent tax credits are the only applications that are reviewed for selection criteria. These are items in which almost all are required by state and federal statute, that through the awarding of points drive the features of successful applications. Examples include feasibility, low income targeting, neighborhood input and supportive services.

Real Estate Analysis

Section 42 of the Internal Revenue Code requires that the Department ensure that the housing credit dollar amount allocated to a development shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the property and its viability as a qualified low income housing deal throughout the credit period.

Based on that standard, the Department evaluates all applications and reconciles the amount to ensure the efficient allocation of the federal resource.

According to TDHCA, during the 2005 9 percent cycle, 60 transactions had credit amounts reconciled to a total savings in allocated credits of \$1.1 million. This represents an additional 160 units of housing potentially serving an additional 500 Texans.

9 percent Tax Credit Housing Program

Pre-applications are due in January of each year, while applications are due in March of each year. Applications are reviewed by TDHCA staff for eligibility and selection criteria and are assigned a score. If the score is sufficient for region and set-aside competition, the application is evaluated against threshold, underwritten and evaluated for prior compliance. A presentation to the Executive Awards Review Advisory Committee takes place. Just as in the four percent tax credit round, developers are to notify and request support from local and state public officials (including the state Senator and state Representative who represent the district where the proposed development will be located), city council members and mayor, and all other neighborhood stakeholders. Only the state Senator and state Representative input qualify for points. Developers either place signage on the property or letters are sent to residents within local zoning guidelines, which varies from community to community.

The Department notifies stakeholders, such as local, state and United States public officials and known neighborhood organizations within 14 days of receiving an application. TDHCA conducts public hearings in each of the 13 state service regions (see Figure 1 on page 17).

The Executive Awards Review Advisory Committee meets prior to every TDHCA Governing Board meeting to discuss all award and allocation recommendations. The Committee follows all statutes and rules and is not authorized to utilize discretion. The Committee provides a recommendation to the Governing Board along with a report that includes a summary of all public input received and the underwriting analysis. The Governing Board acts to approve, deny or amend the Committee's recommendation and may utilize discretion in their deliberations.

Qualified Allocation Plan and Rules

The QAP governs the annual distribution of the tax credits. As a state rule, the draft QAP is published in the Texas Register and public hearings are held in various cities to gather comment on the proposed QAP. The annual QAP is modified based on any new legislative changes and on written and oral comment received during the hearings. The final QAP is approved by the Governing Board and the Governor.

The Committee took Charge 5 as an opportunity to explore the 2006 QAP and indicated where changes need to be made to increase the affordable housing spectrum across Texas.

FINDINGS

Concentrated Housing Issues

Some in the affordable housing industry and city officials are concerned that the 2006 QAP's funding allocations and point preferences and the bond rules perpetuate poverty concentrations in Texas' metropolitan areas. The Department's funding allocations, as well as the allocations under the Bond Review Board's (BRB) Bond Program should promote racial integration, however, the continued failure of these entities to evaluate the implications of prior and current funding decisions permits the Department and the BRB to disproportionately allocate federal low income housing tax credit funds and the tax-exempt bond funds to developments located in impacted areas (above average minority concentration and below average income levels).

Furthermore, QAP provisions requiring multiple notifications to state and local political officials and neighborhood organizations are feared to enable "Not-In-My-Backyard" (NIMBY) opposition to developments that are proposed in non-impacted areas (above average income levels and below average minority concentration).

The vast majority of low income housing tax credits and tax-exempt bonds that fund developments in the Dallas, Fort Worth, Austin and Houston metropolitan areas have been placed in impacted areas.

City	% of Units in Above Average Minority Areas	% of Units in Below Average Income Areas
Dallas	77%	88%
Fort Worth	56%	72%
Austin	86%	76%
Houston	72%	78%

The percentage of the tax credit units that have been placed in non-impacted areas:

City	% of Units in Above Average Minority Areas	% of Units in Below Average Income Areas
Dallas	12%	23%
Fort Worth	28%	44%
Austin	24%	14%
Houston	22%	28%

The Department's funding decisions arise directly out of the QAP. In recent years, the QAP has continued to place low income individuals in impacted areas, further adding to the concentration problems in most cities today. In fact, many local jurisdictions support mixed income developments over the 100 percent low income units as a way of de-concentrating many of their high poverty areas.

The Department's regional allocation formula (RAF) that weighs affordable housing need and available resources within the 13 state service regions based on poverty, cost burden,

overcrowding and substandard housing is a relevant tool for the statewide placement of affordable housing. The formula, however, excludes supporting mixed-income communities.

Solution 5.1 The Department's QAP provisions are dictated by state legislation; therefore TDHCA and the BRB have little authority to change statutory specifications. It is recommended by affordable housing stakeholders that these allotting bodies work with the legislature to establish and implement an institutionalized method for considering social and demographic data when making their funding decisions.

To begin the process, TDHCA, BRB and the legislature should consider adding provisions to the QAP and the bond rules that give significant point scoring and/or set-aside of credits for affirmatively furthering assimilation outside of impacted areas.

Solution 5.2 The notification, signage, political support scoring and neighborhood organization scoring provisions should be eliminated. These provisions facilitate NIMBY attitudes of suburban homeowners and officials and as such they have no place in funding decisions for affordable housing.

Quantifiable Community Participation (QCP)

Under the 2006 QAP, an applicant who gets a valid letter of support from a registered neighborhood organization whose boundaries encompass the site receives up to 24 points, a neutral letter is awarded 12 points and a letter of opposition receives 0 points. If there is no neighborhood organization with boundaries encompassing the applicant's site, the application receives the neutral score of 12 points. Thus, an application located in a community with no neighborhood organization begins the process with a 12 point deficit.

This is a deficit of great proportion that drives applicants into the bigger cities, such as Austin, Dallas, Houston and San Antonio that have neighborhood organizations and away from communities that may have significant need and desire for housing. Additionally, it has prompted rules from TDHCA disallowing the creation of a neighborhood association by a developer or related party for the explicit purpose of obtaining support for an application. This year, TDHCA went one step further and prohibited developers from any involvement with the neighborhood organizations, other than educational efforts.

The Texas Association of Affordable Housing Providers asked the Department for modifications to this constraint that would allow points to come from other civic groups such as the Chamber of Commerce, PTA and business clubs in instances where a neighborhood association does not exist. TDHCA suggested that such a policy was not permitted under current law.

Solution 5.3 The 2007 QAP addressed has addressed this issue. TDHCA has begun encouraging and rewarding community participation and community support in ways that allow developers and communities to be eligible for QCP points. The Committee

applauds this effort, though still feels the need for statutory revisions so that legislative intent does not continue to penalize developers for not having a neighborhood organization in their site plan.

Financial Participation by Local Political Jurisdictions

The 2006 QAP states that an applicant can receive up to 18 points for receiving funds as a grant or a loan from a local political subdivision, defined as cities and counties and their instrumentalities, such as a housing finance agency or a housing authority. Although it is appropriate to reward communities that support affordable housing through an investment of dollars, this has more than likely not had the impact that the Legislature had intended for the following reasons:

- Only the largest of Texas cities, such as Austin, Dallas, Houston and San Antonio, among others, have significant funding available to be able to contribute at the highest point level currently at \$3,501 per unit. These cities have allocations of HOME, Community Development Block Grant (CDBG) and local housing trust funds are available to support affordable housing endeavors. Applicants are seeking out these cities knowing that they can potentially get the full points in these locations.
- Small cities such as New Braunfels, Victoria and Texas City do not receive direct allocation of HOME funds and only small allocations of CDBG funds. Due to the regional allocation formula, these smaller communities must compete with larger cities and simply cannot overcome this wide point preference available to the larger cities. Therefore, developers are becoming increasingly reluctant to build in smaller communities.
- Since these points are needed to win an award, developers are asking for supplemental funding that they may not actually need or which they could find from another source that doesn't qualify for these points. Additionally, this policy puts pressure on local communities to make their resources available for apartments financed with the tax credit program and not for other worthy developments that could be built without tax credits.
- Under the current system, a short-term loan counts for the same amount of points as a grant or long-term forgivable loan. A short term loan, however, does not have near the economic benefit to the property as does a grant and should not be deserving of a significant number of points.

COMMITTEE RECOMMENDATIONS

The Committee recommends that local economic factors that determine whether a development is successful such as absorption ratios, projected cash flows, debt coverage ratios and other indicators of market feasibility need to be accounted for when determining where a proposed property should be located. The current TDHCA regional

allocation formula only accounts for these indirectly, insofar as the presence of poverty and the quality of housing impacts the local market.

The allocation formula should be expanded to better allocate available credits based on economic feasibility and local housing policy. The formula should be revised to include other factors such as:

- Population costs;
- population growth rates;
- rental rates;
- absorption rates; and
- mixed-income communities.

In October 2006, The Department informed the Committee that the 2007 QAP includes "bonus points" for tax credit developments located outside of low income areas. The 2007 QAP also contains more stringent rules on de-concentration that encourages developers to build affordable housing outside of impacted areas. The Committee looks forward to enacting these new rules and examining the impact they will have on the diversification of low income housing in Texas.

CHARGE 6

Evaluate the effectiveness of current underwriting methods of Texas Department of Housing and Community Affairs for its programs.

BACKGROUND AND OVERVIEW

The Texas Department of Housing and Community Affairs developed its underwriting rules under TITLE 10 §1.31-1.37, Texas Administrative Code. Language was formally introduced into rule through industry meetings during the spring and summer of 2002. TDHCA annually reviews and updates the underwriting guidelines through the public rulemaking process and keeps these guidelines consistent with the National Council of State Housing Agency's "Best Practices."

TDHCA defines its underwriting process as that of determining risk inherent in a particular loan, grant or financial award and establishing suitable mitigation or compensation for such risk through loan terms or conditions of financing. Underwriting of multifamily developments is required by state and federal law and maximizes the efficiency and effectiveness of limited state and federal resources. The Department underwrites multifamily developments to provide an independent evaluation that acquires the state's interest and perspective of the risks associated with the development plan and development team, the financial feasibility of the development and long-term affordability and viability of the property. When underwriting, TDHCA considers the demand of the existing housing market and recommends no more funds than are necessary to complete and operate safe, decent and modern housing.

TDHCA begins underwriting an application following the scoring and initial review for conformance with threshold requirements that is conducted by production staff. Underwriting staff handles their reviews completely independent of program staff work on the same application.

The following is a synopsis of TDHCA's underwriting process for a multifamily application:

- File review and follow-up for inconsistent, incomplete or unsupported details;
- evaluation of third party reports;
- analysis and reconciliation of all numbers with trusted comparables (TDHCA database of Texas centric-costs for more than 200,000 units of affordable housing):
 - Development income
 - Expense estimates
 - Debt coverage ratio
 - Construction costs; finally
- staff recommends approval, conditional approval or decline through careful evaluation of each application in the scope of three to 5 business days.

The Department ensures long-term viability through underwriting by providing a minimum of 30 years for an affordability period. In addition, the Department provides a long-term performa to determine if the development will remain viable, with the assumption that there will be a three percent increase in income per year and a four percent increase in expenses per year.

The Department uses market studies completed by TDHCA-approved market analysts to determine the need for multifamily units. These studies present the Department with an evaluation of comparable properties, evaluation of subject property and inclusive capture rate (all comparable unstabilized units and demand for proposed units). The life of these reports is one year, with updates required after 6 months.

TDHCA occasionally uses independent market studies in cases where presented facts cast doubt on submitted market studies. An independent study was recently used in the commissioned study of Houston MSA and further studies of MSA areas are planned for the future.

FINDINGS

Testimony to the Committee focused on current underwriting policy and market analysis abnormalities that have affected developers.

Developers recommend that lenders and agencies should retain flexibility to make market-driven loan underwriting decisions. Furthermore, mixing income levels in a development will allow the housing tax credit program to continue to serve individuals at 50 and 60 percent of AMI.

Industry input is needed in determining appropriate operating expense guidelines for TDHCA's underwriting of properties. As a whole, operating expense guidelines should be determined on the basis of the best data available.

The current underwriting rules allow TDHCA to subjectively assess the financial feasibility of each application and to revise the total development cost of an application at its discretion.

Best Practice: Adopt objective underwriting criteria prior to each application round and adopt a pass/fail system based upon those criteria.

Georgia, Illinois and Michigan all have multiple pages of objective underwriting criteria (maximum cost per unit, minimum operating expenses per unit, minimum replacement reserves, minimum debt service coverage ratio, etc.).

Both states employ a pass/fail underwriting system – if the applicant's numbers meet the criteria, the deal is financially feasible; if not, the deal is failed and is eliminated from further consideration. Furthermore, Georgia has a rule that it makes no adjustments (except error corrections) to total development cost.

TDHCA rules state that, "all applicants shall acknowledge, by virtue of filing an application, that the Department shall not be bound by any such opinion or market analysis, and may substitute its own analysis and underwriting conclusions for those submitted by the market analyst."

Best Practice: Enforce the current rules in place for market analyses and bar from TDHCA's approved list of market analysts anyone who materially violates the criteria and is not acting in a truly independent matter.

Barring deviations from the current rules, TDHCA should be required to accept the results of the independent market analyses. Michigan publishes a list of approved market analysts. Florida makes the developer choose from a list of approved analysts. In both of those states, using an approved analyst is the state's method of determining if the market analysis is acceptable.

Also, TDHCA has pages of rules that require the market analyst to prepare a thorough market analysis. To respond adequately to the rules promulgated by TDHCA, the average market analysis contains over 100 pages of data and costs \$6,500. In conclusion, either Department practice should be revised or legislation enacted stating that TDHCA, absent compelling evidence to the contrary, shall be bound by the opinion of the market analyst.

Texas Department of Housing and Community Affairs

In 2005, TDHCA increased their underwriting efficiency and effectiveness by approving overall communication with developers which has directly contributed to a significant decrease in complaints about the cost certification process. Communication improved by employing the following strategies:

- The process for handling deficiencies in market studies and environmental site assessments now allow time for developers to correct inconsistencies;
- market analysis requirements have been revised to make them clearer and to provide a defined consistent methodology for determining demand in an area;
- the Department is working to monitor identify-of-interest transactions to maximize usage of funds; and
- the Department also revised and simplified submission requirements and streamlined the evaluation process at the time of cost certification review.

COMMITTEE RECOMMENDATIONS

The Committee is optimistic by TDHCA's proactive efforts to communicate more effectively with developers, however recognizes that changes need to be made to the overall underwriting process. The Committee recommends following the best practices mentioned under this Charge.

CHARGE SEVEN

Examine municipal regulation of mobile food vending vehicle

BACKGROUND AND OVERVIEW

During the 79th Regular Legislative Session, Representative Dwayne Bohac authored H.B. 2507, which stated, " A municipality shall enforce state law and rules adopted under state law concerning mobile food units and roadside food vendors in the same manner that the county or municipality enforces other health and safety regulations relating to food service." The goal was to ensure that mobile food units adhered to current state law regulations and city ordinances and to stress that Houston municipal authorities have a duty to enforce food safety rules for mobile vendors. Despite this effort, the city of Houston has been reluctant in enforcing regulations, though §229.171(a)(1), Texas Administrative Code, imposes a mandatory obligation upon regulatory authorities, including local regulatory authorities, to enforce a set of laws to protect public health. In contrary, the city of Houston has exacerbated the mobile food unit problem and increased health and sanitary safety concerns through a lack of enforcement of current state law and city ordinances.

The city of Houston has approximately 1,200 mobile vans, trailers and carts serving various food items on streets and parking lots. Under §229.169, Texas Administrative Code, these mobile food vendors are required to follow basic food preparation and sanitary standards. The statute contains provisions regarding water systems, refrigeration and sewage.

In 2005, a sweep of mobile food units by Houston health inspectors and police officers revealed a range of health and safety violations against current statute including failures to make required trips to license commissaries every 24 hours of operation to remove waste water; to maintain refrigerated food at proper temperatures for health safety; to have hot water; and to adhere to basic sanitation requirements, such as extermination of rodents and insects of their units and prohibiting ill individuals from serving food.⁹

Testimony to the Committee indicated that mobile food vendors are consistently in violation of city and state regulations:

- The units are increasingly becoming immobile. They become permanent locations while providing customers with tables and chairs, yet they lack lavatories. Due to their inviting nature many customers visit mobile units late into the night when most establishments have closed, therefore causing noise, traffic and litter to funnel into surrounding neighborhoods.
- The illegal dumping of fats, oil and grease (FOG) into storm drains is a serious problem with the city's flooding concerns. Houston is constantly addressing the obstacles to drainage systems and cannot have FOG clogging storm water runoff. In fact, the Texas Commission on Environmental Quality (TCEQ) has fined Houston for high levels of FOG in the storm water system.
- Due to selective enforcement, propane tanks are not being inspected by the Houston

Fire Department as they are during the Houston Livestock Show and Rodeo and other events around Harris County.

FINDINGS

The Houston Department of Health and Human Services (HDHHS) has taken several steps to enhance enforcement of the current Houston food ordinance regarding mobile food units (MFU). In particular, the following became effective with the new fiscal year, July 1, 2006:

- MFU inspection frequency is now based on individual risk assessment rather than a single, annual inspection for each;
- regular updates of risk factors for each MFU;
- regular updates of MFU operating locations;
- increased inspections of suspected illegal operations and after-hours operations;
- revised permit approval process and documentation requirements;
- scan MFU standard operating procedures into MFU file for review during inspections; and
- interdepartmental coordination with Public Works and Engineering (PWE) to ensure that temporary utility pole licenses are issued only after MFU operating permit is verified with HDHHS.

In addition, HDHHS has developed specifications for the establishment of a bar code tracking system to monitor MFU commissary visits. As mentioned during the hearing, Houston ordinance requires daily visits to a commissary for service during operating hours. The issuance of tickets and/or receipts to document commissary visits is highly susceptible to fraud. Bar code scanning will enable more accurate and reliable record keeping and tracking.

Upon approval of the technical specifications, the new technology will be procured. Bar codes will then be assigned with new licenses and the enhanced tracking system will be fully operational one year after initiation. Bar code scans will clearly indicate each operator's level of compliance.

Moreover, in early August 2006, Houston's City Council approved Ordinance No. 2006-826, proposed by the Houston Fire Department (HFD) to regulate the use of propane in, on, or in conjunction with mobile food units. The ordinance requires a permit and HFD inspection to ensure compliance with safety requirements for the handling of propane tanks.

"§10. That § 20-22 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Subsection (m) to read as follows:

'(m) Special Requirements for use of LP-gas in mobile food units.

In addition to complying with the applicable requirements of this chapter, the operator of a mobile food unit in, or, in conjunction with which LP-gas is used to cook or otherwise prepare food shall obtain from the fire department a permit for use of LP-gas and LP-gas equipment for each mobile food unit and shall make the permit available for inspection

and/or copying upon the request of any peace officer, fire department employee, or health officer.'"

COMMITTEE RECOMMENDATIONS

The Committee puts faith in the city of Houston that they will, in fact, enforce the current ordinance set into law on July 1st. The Committee will continue to monitor the city's enforcement during the remaining months of the interim and will submit aggressive legislation to monitor the mobile food units for the 80th Legislative Session if the need presents itself.

APPENDIX A
City of Dallas
Housing Concentration Policy

**Tax-Exempt Mortgage Revenue Bond and
Low Income Housing Tax Credit Projects**

Multifamily Project Review Criteria

In determining whether to grant tax-exempt bond financing or approve an allocation of low income tax credits for any multifamily project, including senior, disabled or family projects, the City Council and, where appropriate, the Dallas Housing Finance Corporation, shall evaluate whether the proposed project is in the best interest of the City of Dallas. The decision will be evaluated based upon the following factors. No single factor is determinative or controlling.

1. Where the proposed project fits within the City's priorities which follow in order of priority:
 - a. Demolition and reconstruction of existing substandard multifamily development;
 - b. Rehabilitation of an existing multifamily development;
 - c. New construction of housing for special needs such as senior households, AIDS or other disabilities, including housing for the homeless on an individual basis; or
 - d. Not accept any applications for tax credit financed projects for new construction of housing for low and moderate income households until October, 2006, after an annual review of multifamily criteria has been conducted, unless special circumstances (i.e. part of a Master Plan Development, Transit Development, etc.)

The applicant submits a package along with an initial waiver fee of \$500 in addition to all other required fees for the approval process.

2. Whether the City has already provided, or committed to provide, direct financial assistance to the project.
3. Whether the project involves the elimination of slum or blight already existing on the subject property.
4. Whether the site has appropriate zoning for the project.
5. The proximity and capabilities of nearby schools, and comments of school district officials regarding the project.
6. The comments of owners and residents of properties located in the surrounding area at a public meeting held in the community in which the project will be located, attended by the City of Dallas or the Dallas Housing Finance Corporation representatives.

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7. Whether there is already an over-concentration of multifamily development in the surrounding area.
 8. Whether the applicant has agreed to incorporate appropriate safety and security features into the project.
 9. Whether the applicant has responded to and/or plans to address the lawful concerns, if any, raised by residents or owners of properties in the surrounding area.
 10. Whether the proposed project will be of high quality.
 11. Whether the applicant has taken into consideration, in the project design, the standard or specialized needs of expected tenants.
 12. Whether the proposed project will have an adverse effect on the surrounding area.
 13. Whether the project is compatible with existing or anticipated single-family developments in the surrounding area.
 14. Whether the project is compatible with existing or anticipated uses allowed under current or anticipated zoning in the surrounding area.
 15. Whether the estimated parking demand and trip generation for the project will impose an undue burden on public facilities.
 16. Whether the current and probable future capacities of adjacent and nearby streets on the City's thoroughfare plan are adequate to address any anticipated changes caused by the project.
 17. Whether there is existing or proposed adequate public transit available.
 18. Whether the location, density and height of the buildings, structures, and equipment will be detrimental or injurious to future development of the surrounding area or otherwise impose an undue burden on public facilities.
 19. Whether trees will be planted or protected and other landscaping provided to create, preserve and enhance the natural beauty and vegetative space in the vicinity of the project.
 20. Whether managers of the project will reside on site.
 21. Whether the Applicant has demonstrated the financial capacity to complete and operate the project.
 22. Whether the proposed project's rental market has the ability to absorb the

proposed additional rental units.

23. If two or more new projects are proposed within a mile of each other, whether either or any of the projects:
- a. Contributes to the rehabilitation or elimination of substandard housing;
 - b. Provides a significantly lower density of units per acre; or
 - c. Provides revenues for the creation or support of additional affordable housing.
24. Whether the Applicant has presented a suitable development plan for the entire development site, including property acquired by the Applicant in excess of that to be developed specifically for the project.
25. Whether there exists any other factor relevant to the issue of whether the project is in the best interest of the City of Dallas.

APPENDIX B
City of Houston
Concentration Policy for Affordable Multifamily Housing

**CITY OF HOUSTON
CONCENTRATION POLICY
FOR AFFORDABLE MULTIFAMILY HOUSING**

Background:

The City of Houston ("City") acknowledges the need to establish standards designed to limit or mitigate the concentration of new multi-family units it finances or sponsors within its borders. It is recognized that over concentration has a damaging and costly effect on neighborhoods and the City as a whole. At the same time the City recognizes the need for increasing the stock of affordable housing for its low to moderate income citizens.

Policy Objective:

The primary objectives of the City's Concentration Policy are to 1) encourage site selection of new or planned projects away from areas of existing concentration, 2) encourage renovation of older or substandard projects and the rebuilding and revitalizing of distressed neighborhoods and communities, 3) protect economic viability of all affordable multi-family housing in the City, and 4) incorporate the policy objectives in the City's Consolidated Plan.

Policy Provisions:

Applications for financing through a City or City related entity for proposed new developments are subject to review. Applications will be evaluated according to threshold criteria for concentration as listed below:

- 1) Compliance with applicable TDHCA concentration and site requirements (tax credit applications only).
- 2) The number of existing multi-family units (regardless of how financed) within a 1 mile radius of the proposed site shall not exceed 4,500 units.
- 3) The proximity to the closest, non-stabilized tax credit or Federally Subsidized Rent Regulated (FSRR) may not be less than 1,500 feet.
- 4) The average physical occupancy of the "B" product or better in the sub-market of the proposed project may not be less than 87%.
- 5) The density of the proposed project may not exceed 25 units per acre for garden style projects of 3 stories or less. Projects greater than 3 stories will be evaluated on a case by case basis.
- 6) Neighborhood input will be solicited.

Administration

The mayor of the City of Houston will designate a committee to be responsible for implementation and decisions for all matters relating to this policy. Approval of compliance with this policy shall be a pre-requisite of any of the following actions potentially considered by the City's Housing and Community Development Department, the Houston Housing Authority, Victory Street Public Facility Corporation, the Houston Housing Finance Corporation or any of the above entities' affiliates as they relate to multi-family applications.

- 1) Approval or issuance of letters of consistency with the City's Consolidated Plan;
- 2) Bond inducement resolutions;
- 3) Conditional commitment letters;
- 4) Loan or grant commitments;
- 5) Letters of project support or opposition.

The designated committee shall be authorized to consider waivers to this policy at its discretion based on mitigating conditions.

The designated committee shall be responsible for establishing its procedures and process, and for communicating the policy to the affordable housing industry, relevant community groups and all other interested parties.

APPENDIX C
Harris County
Affordable Multifamily Housing Concentration Policy

Affordable MultiFamily Housing Concentration Policy

Review Procedures

HCCEDD shall be responsible for the review of subsidized multi-family housing projects applying for Harris County U.S. Department of Housing & Urban Development Entitlement funds and for organizations requesting Letters of Consistency with the Consolidated Plan for projects that acquire or construct multi-family housing units. HCCEDD has established this threshold policy for the concentration of tax credit and HUD-funded multifamily for seniors and low-income rental units locating in the Harris County service area.

For organizations that are applying for multifamily acquisition and/or construction funding from Harris County CEDD must submit a request for consistency with this policy **PRIOR** to applying for funds. A consistency letter from HCCEDD must accompany the organization's multi-family acquisition and/or construction application.

Review Criteria

A multi-step process is employed in determining compliance to the concentration policy. Organizations seeking consistency determinations must be within the threshold levels described below to receive a favorable consistency determination. HCCEDD staff shall maintain a database of existing federally- and tax credit-subsidized properties. Staff will evaluate a **three-mile radius** around the multifamily apartment complexes and **five-mile radius** around senior housing facilities to determine the need for additional units to the area. To determine the estimated demand for affordable housing (senior or multi-family) the following method is used by HCCEDD staff:

1. The average of current occupancy rates of FSRR or Section 42 financed properties less than 15 years old in the designated area¹⁰ must be equal to or higher than the occupancy for "B" class property for the last published quarter (as published by O'Connor & Associates), but no less than 90 percent.
2. No non-stabilized¹¹ FSRR, Section 42 financed, or applying tax-credit (within the same application year) properties within 1 mile of property.
3. Projects will be compared to housing serving similar populations, for example senior to senior and multi-family to multi-family complexes.
4. Additionally, no proposed property may be located within the 100-year floodplain.

Consistency Letters will only be issued after completion of the evaluation process, and should be delivered within 14 days of receipt of the request, but in no case will the evaluation take longer than 30 days. If the project does not meet the threshold standards stated in Review Criteria 1-3 of this policy, certification of consistency will not be approved for the submitting project.

In cases where occupancy rates are lower than the established thresholds and population growth is expected in the development area to support the additional affordable rental units,

the developer of the project may submit a lease-up plan that discusses population growth causes and effects to area housing, marketing strategies, and pro forma to HCCEDD for review.

HCCEDD Director may review individual requests on a case-by-case basis and apply a waiver to the policy when the project serves to improve housing conditions and availability in a defined area, particularly in the response to natural disasters and areas of slum and blight.

ENDNOTES

- ¹ *State Assets and Opportunities Scorecard: Benchmarking Asset Development in Fighting Poverty*, Corporation for Enterprise Development, 2005.
- ² Goldstein, Deborah (1999). *Understanding Predatory Lending: Moving Towards a Common Definition and Workable Solutions*. Joint Center for Housing Studies, Harvard University.
- ³ Goldstein, Ira (2005). *Bringing Subprime Mortgages to Market and the Effects on Lower-Income Borrowers*. Joint Center for Housing Studies, Harvard University.
- ⁴ Collins, Michael et al. (2004), *Exploring the Welfare Effects of Risk-based Pricing in the Subprime Mortgage Market*, Joint Center for Housing Studies, Harvard University. (Source of table: Crews Cutts, et al.)
- ⁵ Collins, Michael et al. (2004), *Exploring the Welfare Effects of Risk-based Pricing in the Subprime Mortgage Market*, Joint Center for Housing Studies, Harvard University. (Quoted from Tempkin et al., 2002).
- ⁶ Quercia, R., Stegman, M., Davis, W.R., *The Impact of Predatory Loan Terms on Subprime Foreclosures: The special case of prepayment penalties and balloon payments*, The Center for Community Capitalism, University of North Carolina, January 25, 2005.
- ⁷ Mortgage Banking, "OCC Chief Cites 'Contagion Effect' of Mortgage Foreclosures," July 2005 p.10.
- ⁸ *Making it Work: Developing Affordable Housing in Rural Texas*, Texas Association of Community Development Corporations, February, 2002.
- ⁹ Stiles, Matt, *Driving Health Concerns*, HOUS. CHRON., January 1, 2006, B1.
- ¹⁰ Three-mile radius around submitting property.
- ¹¹ Properties that are less than three years of age.