

TCHFC POLICY GUIDELINES
TRAVIS COUNTY HOUSING FINANCE CORPORATION
(A nonprofit corporation created under the
Texas Housing Finance Corporations Act)

Policy Guidelines for Receiving and Approving
Applications for Financial Participation in
Residential Developments

I.

GENERAL PURPOSE AND SCOPE OF POLICY GUIDELINES

(A) The TRAVIS COUNTY HOUSING FINANCE CORPORATION (the "Corporation") was created as a duly constituted authority of TRAVIS COUNTY, TEXAS (the "County") pursuant to the Texas Housing Finance Corporations Act (the "Act"), for the public purpose of financing the cost of residential development, as defined in the Act, determined by the Corporation to be needed for the purposes of (i) providing for and promoting the public health, safety, morals, and welfare, (ii) relieving conditions of unemployment and encouraging the increase of industry and commercial activity and economic development so as to reduce the evils attendant upon unemployment, (iii) providing for efficient and well-planned urban growth and development including the limitation and prevention of potential urban blight and the proper coordination of industrial facilities with public services, mass transportation, and residential development, (iv) assisting persons of low and moderate income in obtaining decent, safe, and sanitary housing which they can afford, and (v) preserving and increasing ad valorem tax bases of local governmental units. The activities of the Corporation shall be limited solely to the accomplishment of such public purposes, and no plan of financing of any Residential Development ("Development"), as defined in the Act and in the applicable portions of these policy guidelines (the "Guidelines"), will be approved by the Board of Directors (the "Board") of the Corporation unless and until the Board shall first affirmatively find that such financing and its related Development will be in furtherance of such public purpose, to be determined in accordance with the procedures set forth in these Guidelines.

(B) These Guidelines relate solely to the requirements and procedures of the Board and the Corporation, and, notwithstanding full compliance with all of the requirements hereof, the Corporation will not issue any obligations pertaining to any Development unless the approval of the Commissioners' Court of the County has been obtained by written resolution adopted prior to the date of delivery of the obligations specifically approving the resolution of the Corporation providing for the issuance of the obligations.

II.

APPLICATIONS, APPROVAL STANDARDS

(A) Preliminary Filing Requirements.

(1) All persons (the "Applicant") desiring financial participation by Corporation in a Development shall file with the Corporation seven (7) copies of an Application for Financial

Participation (the "Application") as hereinafter provided and in the form accompanying these Guidelines.

(2) Along with the Application, the Applicant shall file with the Corporation seven (7) executed original copies of an Agreement to Issue Bonds substantially in the form and substance accompanying these Guidelines.

(3) The Applicant shall file with the Application the processing fee required elsewhere in these Guidelines.

(4) If the Applicant desires the Board to take preliminary official action pertaining to the issuance of obligations in accordance with relevant provisions of the Internal Revenue Code of 1986 and applicable Regulations and Revenue Rulings issued in connection therewith, then the Applicant shall also file a statement requesting such action, along with a description of the facts relating to such request.

(5) The documents and fee required by this paragraph shall be filed with the Corporation by mailing or delivering the same to the Travis County Housing Finance Corporation, Box 1748, 5th Floor, 314 West 11th Street, Travis County Administration Building, Austin, Texas 78767, Attention: Samuel T. Biscoe, President.

(B) Preliminary Official Action.

(1) Upon compliance with the preliminary filing requirements of paragraph II (A) of these Guidelines, if preliminary official action is requested pursuant to subparagraph II (A)(4), the Corporation will conduct an expedited preliminary review of such request, and such action will be scheduled for a regular meeting of the Board. The Board normally meets each Tuesday if there are agenda items to consider.

(2) The Board will take the requested preliminary official action, expressing its present intention to issue the obligations requested if such preliminary review of the Application demonstrates with reasonable certainty:

(a) that the Application, the obligations and the Development qualify for final approval of the Board in accordance with these Guidelines; and

(b) that all governmental approvals with respect to the obligations and the Development, including those requirements specified in paragraph I (B) of these Guidelines, will be obtained.

(3) Taking the requested preliminary official action will not obligate the Corporation to ultimately issue the obligations.

(C) Subsequent Filing Requirements.

(1) Prior to review of the Application for final approval by the Board, the Applicant may file such additional documents or statements in support thereof as the Application shall consider relevant and appropriate and shall file the following:

(a) such additional information as shall be requested of the Applicant by the Board;

(b) such additional information as may be necessary to demonstrate the Applicant's ability to comply with the approval requirements of the Commissioners' Court of the County;

(c) a pro-forma copy of any official statement, prospectus or other offering memoranda, through the use of which the proposed obligations are to be offered, sold or placed with any lender, purchaser or investor. Any offering, sales or placement material shall contain prominent disclosure substantially to the effect (i) that neither the Corporation nor the County has undertaken to review or has assumed any responsibility for the matters contained therein except solely as to matters relating to the Corporation; (ii) that all findings and determinations by the Corporation and the County, respectively, are and have been made by each of its own internal uses and purposes in performing its duties under the Act, under the Articles of Incorporation and Bylaws of the Corporation and under these Guidelines; (iii) that notwithstanding its approval of the obligations and the Facility, the County does not endorse or in any manner, directly or indirectly, guarantee or promise to pay such obligations from any source of funds of the County or guarantee, warrant or endorse the creditworthiness or credit standing of the Applicant or of any guarantor of such obligations, or in any manner guarantee, warrant or endorse the investment quality or value of such obligations; (iv) that such obligations are payable solely from the funds and secured solely by property furnished and to be furnished by the Applicant or any guarantor and are not in any manner payable from any funds or properties otherwise belonging to the Corporation; and (v) that by its issuance thereof, the Corporation does not in any manner, directly or indirectly, guarantee, warrant or endorse the creditworthiness or credit standing of the Applicant or of any guarantor of such obligations or the investment quality or value of the same; and

(d) proposed final legal instruments and documents authorizing and relating to the issuance of the obligations proposed and all leases, loan agreements, purchase agreements or other documents related thereto.

(D) Final Approval, Standards and Requirements.

(1) The Board will take up and consider its final action pertaining to an Application filed hereunder when requested to do so by the Applicant and upon receipt by it of the following:

(a) evidence satisfactory to the Board that the Applicant has complied with these Guidelines in all material respects not otherwise waived by the Board;

(b) evidence satisfactory to the Board that the Development which is the subject of the obligations has been approved or is reasonably expected to be approved by all applicable local, state or federal regulatory authorities or agencies, including compliance with all applicable local zoning, building and other codes.

(2) Applications will be finally approved by the Board if it first affirmatively determines:

(a) that all requirements for and prerequisites to final approval under these Guidelines have been met and are in form and substance satisfactory to the Board;

(b) that the operation of the Development will constitute a lawful activity, is qualified for approval by the County and complies with and promotes the purposes and satisfies the requirements of the Act and the statement of policy contained in paragraph I(A) of these Guidelines.

(3) After final approval by the Board, the Corporation will seek approval by the County, and will proceed to close the delivery of such obligations upon receipt of such approval in accordance with the documents approved by the Board and when finally approved by Bond Counsel in accordance with the terms of sale or placement. Final approval by Bond Counsel must include opinions addressed to the Corporation indicating compliance with the Act, with applicable federal and Texas securities laws, and the provisions of the Internal Revenue Code of 1986 permitting income from the obligations issued by the Corporation to be excluded from gross income by the holder thereof.

III.

FEES, OTHER COSTS

(A) Processing, Closing Fees and Costs.

(1) Concurrently with the filing of an Application, the Applicant shall pay to the Corporation a processing fee in the amount of \$3,000 (of which \$1,500 is for the preliminary services of the Corporation's general counsel which shall be remitted directly to Naman, Howell, Smith and Lee L.L.P., Attention: Cliff Blount, 8310 Capital of Texas Highway, Suite 490, Austin, Texas 78731), which amount is not refundable, whether or not the Application is approved or the financing of the Development is accomplished. If the Development obtains an allocation of state volume cap from the state, the Applicant will pay the following amounts to the Corporation upon receipt of such allocation of volume cap (if the Development does not require such allocation, the following fees will be paid with the Application):

(a) a nonrefundable retainer fee of \$5,500 for the services of the Corporation to evaluate the feasibility of the Development, services of the Corporation's engineering or other consulting firm, to make an environmental, traffic or other study related to the Residential Development covered by the Application, and other costs prior to closing.

(b) a nonrefundable fee of \$2,500 for the services of the Corporation's financial advisor and a fee of \$1,000 for estimated actual fees and out-of-pocket expenses of the Corporation's financial consulting firm. In the event that actual fees and expenses are less than \$1,000, the difference will be refunded to the Applicant. In the event actual fees and expenses exceed \$1,000, Applicant will be notified and requested to pay an additional estimated amount to cover such fees.

(2) Concurrently with the closing of any financing pursuant to an approved Application or immediately upon receipt of an invoice for the following if the closing does not occur in the time required by law or in a reasonable amount of time after commencement of services by professionals involved, the Applicant shall pay or cause to be paid the following professional fees and other costs, to-wit:

(a) the fees and out-of-pocket expenses of the Bond Counsel and the Corporation general counsel (with a reduction of \$1,500 for the prepayment provided in Paragraph III (A) (1) hereof;

(b) the actual amount of any closing or acceptance fees of any trustee for the obligations, any fees or premiums for casualty and title insurance, any security filing costs, any fees for placing the obligations, and any other costs and expenses relating to the obligations, their security, the Development, or the closing thereof, including any fees and expenses of any attorneys, consultants and other advisors employed by the Applicant or the Corporation payable at that time from that source.

(c) an issuance fee equal to 0.5% of the principal amount of the obligations to be issued if the obligations are a new issue and 0.25% of the principal amount if the obligations are a refunding or reissuance.

(3) In the event of a sale or transfer of the development or project (including the sale or transfer of the controlling interest of a general partner of a limited partnership or other controlling interest in the owner of the development or project), the Applicant (and, in any succeeding sale, the then owner) shall pay to the Corporation a refundable deposit of \$5,500. From such deposit, the Corporation shall pay the expenses of its legal counsel and other expenses associated with such sale or transfer and the consent of the Corporation with respect thereto. If the deposit is not sufficient to pay such expenses, the Applicant shall pay such additional expenses of the Corporation's legal counsel and other expenses in excess of the \$5,500 deposit.

(B) Continuing Costs.

Each Applicant shall pay to the Corporation, within ten (10) days after receipt of a bill or statement therefor, the following amounts, to-wit:

(1) any amounts payable pursuant to the Agreement to Issue Bonds and any other indemnity contract or agreement executed in connection with any financing hereunder;

(2) an annual fee equal to 0.10% of the outstanding principal amount of the Bonds. The first year of the annual fee is payable to the Corporation at closing, with the remaining annual fees payable on a monthly basis (1/12th each month) beginning on the first anniversary of the closing and continuing as long as any of the bonds are outstanding, or as otherwise agreed by the Corporation.

(3) an annual compliance fee equal to \$10 per residential unit for properties that are monitored by the Texas Department of Housing and Community Affairs for tax credit compliance; and \$25 per residential unit for properties that are not so monitored.

(4) the amount of legal and other administrative costs paid or incurred by the Corporation

(C) Changes in Fees.

The Corporation reserves the right at any time to change, increase or reduce the fees payable under paragraph III (A), and to make the same effective as to any Applicant whose Application is filed subsequent to the date of such change. The Corporation reserves the right at any time to change the method of allocation described in clause III (B)(2), if it should, in its sole discretion, determine such change to be reasonable and more equitable, such change to be effective upon the date specified by the Corporation.

IV.

MISCELLANEOUS

(A) Unauthorized Representations and Bond Marketing Practices.

(1) No Applicant, or any representative of Applicant or the Corporation shall represent, directly or indirectly, to any lender, interim or otherwise, supplier, contractor or other person, firm or entity that the Corporation has agreed or is firmly committed to issue any obligations in relation to any Development or Application until the Board has finally approved the same under these Guidelines, and then subject to the governmental approval of the County required by these Guidelines and the Corporation's Bylaws.

(2) No Applicant, or any representative of the Applicant or the Corporation, shall ever make any representation, directly or indirectly, express or implied, on any fact or facts contrary to the disclosures required to be made by clause II (C)(1)(c) of these Guidelines.

(3) Neither the Applicant nor any securities firm, underwriter, broker, dealer, salesman or other person, firm or entity shall offer, sell, distribute or place any obligations authorized by the Corporation by any process, method or technique or in any manner, transaction or circumstances or to any person or persons, the effect of which would be to require such obligations to be registered or would require filings to be made with regard thereto under the laws of the State or jurisdiction where such offer, sale, distribution or placement is made without first registering the same or making the filings regarding the same required by such laws.

(B) Amendments, Waivers, Effective Date.

(1) The Corporation reserves the right at any time to amend these Guidelines effective as to any Applications filed subsequent to the effective date of any such amendment.

(2) The Board reserves the right to waive any portion of these Guidelines as to any Applicant, Application or Development upon written request seeking such waiver and stating the reasons therefor.

- (3) These Guidelines are and shall be effective from and after their adoption by the Commissioners' Court of the County, and shall continue in effect until and unless amended, modified or repealed and shall be effective as to any Application pending at the time of their adoption and approval.

V.

ISSUER AND ANNUAL FEE COLLECTION POLICY

The purpose of this Policy is to give direction to the Corporation's staff for collecting the issuer and annual fees and steps to follow when a fee is not paid in a timely manner. It is the policy of the Travis County Housing Finance Corporation to charge two fees for issuing private activity bonds for multifamily housing projects:

- 1 A. If the financing is a new financing, an issuer fee at the time the bonds close equal to .50% (50 basis points) of the amount of bonds issued;
- 1 B. If the financing is a refunding or a refinancing (where the 50 basis point fee has previously been paid), an issuer fee at the time the bonds close equal to .25% (25 basis points) of the amount of bonds issued; and
2. An annual fee equal to .10% (10 basis points) of the outstanding principal amount of the Bonds.

Issuer Fee

The Corporation manager is to issue an invoice in coordination with the Corporation attorney before the bonds are issued. The Issuer Fee is to be paid as part of the closing costs of the bonds. Since payment of the Issuer Fee is required to close the bonds, payment of the fee has not been an issue.

Annual Fee

The Trust Indenture, Loan Agreement and/or Promissory Note normally address when and how the annual fee is to be paid. The Corporation manager is to take the following steps to collect the annual fee:

If the fee, or any monthly or other installment thereof, is not paid within ten days of the due date, the manager is to send an invoice requesting payment of the invoice and/or an explanation in writing of the reasons why the invoice cannot be paid within the next twenty days. A copy of the request should be sent to the Board of Directors, apartment owner, and other appropriate parties involved in the project. If the trustee does not have funds to pay the invoice, the manager should also request payment from the apartment owner.

If the invoice is not paid within 30 days of the due date, the manager is to inform the Board via an agenda item. The manager must inform the trustee and apartment owner that the matter is being taken to the Board. The Board might grant an extension of time to pay the invoice, seek to declare an Event of Default, or take other appropriate measures after consultation with the corporation attorney.