



TEXAS AFFILIATION OF AFFORDABLE HOUSING PROVIDERS

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January 27, 2025

Ms. Lee Ann Chance
Texas Department of Housing and Community Affairs
221 E 11th Street
Austin, Texas 78701
leeann.chance@tdhca.texas.gov

Re: Texas Affiliation of Affordable Housing Providers – Public Comment on Proposed Changes to 10 TAC §10.406

Dear Ms. Chance:

On behalf of our membership, which represents a variety of disciplines and works diligently to provide affordable housing to low- and moderate-income families in the State of Texas, the Texas Affiliation of Affordable Housing Providers (“TAAHP”) respectfully submits the following comment on the proposed changes to 10 TAC §10.406.

§10.406 Ownership Transfers

A new documentation requirement has been proposed for Ownership Transfers, which we believe to be contrary to other provisions of the LIHTC program. The proposed language requires a Development Owner to obtain written support for an ad valorem tax exemption from the appropriate municipality or county prior to seeking an ownership transfer. This is problematic for a number of reasons.

First, there are many different types of ad valorem tax exemptions available for affordable housing, many of which are a matter of right under Texas law. TDHCA should not infringe upon these rights.

Moreover, the LIHTC program is designed to allow Public Entities (non-profits, housing authorities, and housing finance corporations) to acquire LIHTC properties at the end of the 15-year compliance period. In addition to infringing upon the rights of these Public Entities, requiring additional bureaucratic steps runs counter to the goal of the ROFR process, and potentially politicizes Affordable Housing, by introducing the uncertainty of a public hearing into a by-right ad valorem tax exemption. These public hearings are rife with NIMBY sentiment and could easily derail the long-term feasibility of the subject Development, which then could jeopardize the affordability restrictions.

Many of these points are expounded upon in the public comment submitted by Cynthia Bast of the BakerHostetler law firm. We concur with her analysis.

Therefore, TAAHP respectfully requests that the proposed language at §10.406(h)(10) be stricken from the rule, and that a public hearing be held to determine the best course of action to address the THDCA Board’s recent concerns regarding ad valorem tax exemptions.

On behalf of our membership, TAAHP thanks you and staff for all your efforts on the Asset Management Rule. If you have any questions or would like to discuss any of these items further, please do not hesitate to contact Kathryn Saar at (512) 828-6413 or via email at kathryn@tbsg.com any time.

Sincerely,



Kathryn Saar
TAAHP QAP Chair



Karsten Lowe
TAAHP QAP Co-Chair

CC: Nathan Kelley, President
Bobby Wilkinson, Executive Director, TDHCA
Rosalio Banuelos, Director of Asset Management, TDHCA