

Law Office of Elizabeth K. Julian

3301 Elm Street
Dallas, Texas 75226

Phone: 214-939-9222
FAX: 214-939-9229
ekjulian@prodigy.net

October 25, 2004

Center for Housing Research, Planning, and Communications
Texas Department of Housing and Community Affairs
P.O. Box 13941
Austin, TX 78711-3941

Re: Public Comment on Proposed Housing Tax Credit Program Qualified Allocation Plan and Rules for 2005

Despite the Department's laudable recognition of its duty to affirmatively further the goals of fair housing in the administration of the LIHTC program, the proposed 2005 QAP fails to take any meaningful steps to expand fair housing choice and opportunity for minority families with children outside areas of low income, minority concentration, where low income and affordable housing has historically been disproportionately located.

The Department's allocation of points to specific criteria, even under the constraints of the Attorney General's Opinion, almost guarantees that successful developments will likely be located in areas that do not give low income minority families with children access to the opportunities that are available in predominately non-minority, higher income, less distressed, and more fiscally healthy communities.

Specifically, of the 195 points an applicant may be awarded in the competition for tax credits, approximately 40% of the points encourage development in lower income, predominately minority areas compared to only about 2% which can be said to encourage development in higher income, non-predominately minority areas. Even that 2% is submerged in a menu of options that make it unlikely they will be selected given the lack of other criteria supporting such development.

I have previously submitted two comments to the Department related to the duty to affirmatively further fair housing, which, I attach and incorporate into this comment for all purposes. As noted in those earlier letters, the Department's Analysis of Impediments, as inadequate as it is as a fair housing assessment and planning document, does correctly identify the "NIMBY" problem as one which is an impediment to fair housing. The QAP, rather than effectively addressing that impediment, encourages it. It also encourages development that perpetuates the segregated housing patterns that scar the landscape, and the harm that such denial of opportunity imposes.

I therefore urge the Department to revise the 2005 QAP to include a separate scoring criteria specifically designed to affirmatively further fair housing with sufficient points attached to encourage proposals for development in non-low income, non-minority areas. I urge the deletion of all non-statutorily mandated criteria which encourages local opposition to affordable housing development or otherwise steers development toward low-income, minority areas. Finally, I urge the Department to assess the number of points afforded all criteria to insure that the cumulative impact of the scoring scheme is consistent with the duty to affirmatively further fair housing in the administration of the LIHTC program in Texas.

I endorse the comment submitted separately by the Lawyers' Committee for Civil Rights Under Law.

Sincerely,

Elizabeth K. Julian