

City of Austin




Neighborhood Housing and Community Development

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April 18, 2017

TO: Mayor and Council Members

FROM: Rosie Truelove, NHCD Interim Director 

SUBJECT: April 20, 2017 Council Meeting Agenda Item #37

With the well-documented need for affordable housing in Austin and the improving national economy overall, developers of affordable housing have increasingly begun using Private Activity Bonds combined with 4% non-competitive Low Income Housing Tax Credits (LIHTC) as financing vehicles for their developments. The Texas Department of Housing and Community Affairs (TDHCA) administers the LIHTC Program for the entire state.

TDHCA rules require that a developer applying for 4% non-competitive tax credits must obtain a resolution of “no objection” from the local governing body having jurisdiction over the site of the proposed development. NHCD’s role in this process has been to serve as the administrative vehicle to facilitate developers’ requests for Council resolutions of “no objection.” Since 2015, NHCD has brought approximately 18 such requests for Council resolutions. To date, all requests for these resolutions have been approved.

On March 23, 2017, staff requested that Item #62 be postponed indefinitely. Item 62 was to set a public hearing to consider approval of a “no objection” resolution for the TX Creekview Austin, LP affordable housing project located near the intersection of Old Manor Road and Springdale Road in District 1. Item #62 was postponed due to concerns raised by the Housing Authority of the City of Austin (HACA) regarding the legal authority of the housing project to be built within the Austin city limits. HACA’s concern stemmed from the financing arrangement with the Strategic Housing Finance Corporation of Travis County (SHFC).

After consultation with the Law Department, NHCD is bringing the item back for the April 20, 2017 agenda as item #37 to set a public hearing for May 4, 2017. The developer of the project is Rise Residential Construction; SHFC will finance the project and control the general partner entity of TX Creekview Austin, LP. HACA raised

concerns regarding the role of SHFC, questioning whether the involvement of SHFC resulted in the project being unable under state law to be constructed within Austin.

Local Government Code section 392.015 limits the operation of a county housing authority to the county in which it is created, excluding areas within a city limits. Section 392.017 further limits a county housing authority from undertaking a housing project in a municipality unless the city council authorizes it in a process established in the local government code. It is important to note that SHFC is formed as a housing finance corporation, not a housing authority.

Consistent with the position of the Texas Attorney General Public Finance Division, the Law Department has opined that the above mentioned provisions in the local government code regarding a housing authority does not apply to a housing finance corporation. Consequently, the City Council is legally authorized, though of course not required, to approve the "no objection" resolution when the public hearing set by Item #37 is conducted.

In support of the City's goals to produce more affordable housing in all areas of the City, it is not NHCD's intention to take a position on the merits of a particular development requesting a resolution of "no objection" for the purposes of applying for LIHTCs. Certain information about each proposed development is obtained and provided as backup to each of these agenda items. Because a public hearing is required prior to the Council vote on the resolution, interested parties have an opportunity to voice any concerns before Council takes action.

If you have any questions, please feel free to contact me.

cc: Elaine Hart, Interim City Manager
Bert Lumbreras, Assistant City Manager