



Texas Department of Housing and Community Affairs

Governing Board

Board Action Request

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**File #:** 806

**Agenda Date:** 11/7/2024

**Agenda #:**

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Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Waterview Apartments (HTC #21414)

**RECOMMENDED ACTION**

**WHEREAS**, Waterview Apartments (the Development) received a 4% Housing Tax Credit (HTC) award in 2021 for the new construction of 300 units in Anna, Collin County;

**WHEREAS**, Anna Crossing Partners LP (the Development Owner or Owner) requests approval to change the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies that at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election);

**WHEREAS**, Average Income has an administrative burden and risk of noncompliance with varying income levels, and lenders and syndicators have become increasingly unable to accept income averaging;

**WHEREAS**, with a change to the 40% at 60% set-aside and all of the units at 60% Area Median Income (AMI) to replace income averaging, the Owner was able to close with the lender and syndicator despite less favorable pricing terms;

**WHEREAS**, Board approval is required for a request to implement a revised election under §42 (g) of the Code prior to filing of IRS Form(s) 8609 as directed by 10 TAC §10.405(a)(4)(G), and the Applicant has complied with the amendment requirements under 10 TAC §10.405(a); and

**WHEREAS**, the requested change does not negatively affect the Development, impact the viability of the transaction, impact the scoring of the Application, or impact the HTC award;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material application amendment for Waterview Apartments is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

**BACKGROUND**

Waterview Apartments (HTC #21414) was approved for a 4% HTC award in 2021 for the new

construction of 300 units of general multifamily housing in Anna, Collin County. Construction of the Development is currently in progress. The Owner originally elected Average Income as the Qualified Low Income Housing Development Election, with an average income under 60%, which would allow the property to serve households with incomes ranging from 20% to 80% of the Area Median Income (AMI).

In a letter dated September 20, 2024, John Hickman, the representative for the Owner, requested approval for a material amendment to the Application to revise the Qualified Low Income Housing Development Election from Average Income to the set-aside requirement that specifies at least 40% or more of the residential units must be both rent restricted and occupied by individuals whose income is 60% or less of the median gross income (i.e., 40% at 60% minimum set-aside election). With this change, the Development would have all units restricted as 60% AMI units. The average income for the low-income units would remain at 60%.

The Owner states that since initial application in 2021, the financial feasibility for the Development has changed. At application, the tax credit equity pricing was \$0.90 and the debt financing at an interest rate of 3.75%. However, at the time of closing, the tax credit pricing had fallen to \$0.83, and the interest rate had risen to 4.04%. It was not foreseeable that the market would change as quickly as it did. Additionally, lenders and syndicators have become increasingly unable to accept income averaging due to the administrative burden and risk of noncompliance. Income averaging poses difficulties in maintaining compliance with the varying income levels, which increases the risk of errors during compliance monitoring process. The Owner closed with the lender and syndicator despite the less than favorable pricing terms by assuming a set-aside of 100% of the units at 60% AMI instead of the Average Income election. The Owner did not realize the requirement for a material application amendment until the Land Use Restriction for the Development was drafted by the Department reflecting the Average Income restriction.

The requested amendment to the Application does not materially alter the Development, nor does it have a negative financial impact on the Development because the average income remains at 60% of AMI with minimal impact to the potential gross income. The Owner has provided documentation from the lender and the investor acknowledging the requested change.

Staff recommends approval of the material amendment request.



# PROVIDENT

September 20, 2024

**Via Email**

Lucy Weber, Asset Manager  
Asset Management Division  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701

RE: Material Application Amendment Request  
Waterview Apartments, Anna, Texas – TDHCA #21414 / CMTS #5775

Dear Mr. Banuelos and Ms. Weber,

This is a request for a material application amendment on behalf of Anna Crossing Partners LP, a Texas limited partnership (“Owner”), in accordance with Section 10.405(a)(4)(G) of the 2024 Post Award and Asset Management Requirements Rules (the “Rules”). The Owner received an award of 4% Housing Tax Credits for the new construction of Waterview Apartments in the City of Anna, Texas (the “Development”). The 2021 4% Housing Tax Credit Application accurately indicated the Development will serve low-income households with a total of three hundred apartment units, of which all will be rent restricted. We respectfully request an amendment to the Application to implement a revision to the income limitation election under §42(g)(1) of the Internal Revenue Code of 1986, as amended (the “Code”), prior to filing of IRS Form 8609s as outlined in the table below. The Application elected the Average Income Test [ §42(g)(1)(C) ] and we wish to revise that election to the 40-60 Test [ §42(g)(1)(B) ].

	<b>2021 4% Housing Tax Credit Application</b>	<b>Requested Material Application Amendment</b>
Affordability:	75 units @ 50% AMI (25%) 150 units @ 60% AMI (50%) 75 units @ 70% AMI (25%)	300 units @ 60% AMI (100%)
Unit Mix:	34 One Bdrm 106 Two Bdrm 123 Three Bdrm 37 Four Bdrm	No change
Total Units:	300 total units	No change

We believe the requested amendment to the Application does not materially alter the Development, nor does it have a materially negative financial impact on the Development because the average income remains unchanged at 60% of AMI and the Potential Gross Revenue remains the same. Since the Development was not in the Competitive Round, the requested change in income limitation will not impact any other project.



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After approval of the Application submitted in 2021, multiple factors influenced the financial feasibility of the Development. The Application presumed tax credit equity pricing of \$0.90 and debt financing at an interest rate of 3.75%. In their respective term sheets included in the Application, both the lender and syndicator acknowledged the average income election by the Owner. By the time of closing, however, the capital markets were deteriorating, the Development's tax credit equity price had fallen to \$0.83, and the interest rate had risen to 4.04%. It was not foreseeable that the market would change as rapidly as it did. Additionally, lenders and syndicators have become increasingly unable to accept income averaging due to the administrative burden and perceived risk of non-compliance. Income averaging introduces difficulties in maintaining compliance with the varying income levels, which increases the risk of errors during the compliance monitoring process.

The Owner was able to close with its lender and syndicator despite the less favorable pricing terms by assuming a set-aside of 100% of the units @ 60% AMI in lieu of income averaging. We did not foresee that this change would require a material application amendment until the draft LURA was produced for review incorporating the average income restriction, otherwise we would not have taken the risk of closing without previously amending the Application. This The requested amendment will help to ensure the long-term financial feasibility of the Development while continuing to serve families with incomes at or below 60% AMI.

Attached are the Development Narrative (Tab #17) and the Rent Schedule (Tab #24) exhibits that have been revised to reflect this proposed change. The ProForma and Schedule of Sources exhibits are not impacted by this change.

Also attached you will find approval of the request herein from both the Owner's lender, Citibank, N.A., and syndicator, Stratford Capital Group LLC (the "Approvals"). In accordance with Section 10.405(a)(7) of the Rules, the Approvals include written acknowledgement that lender and syndicator are aware of the change requested herein which is necessary for the continued financial feasibility of the Development, and confirmation of any changes in terms as a result of the new election.

Included is the Material Amendment Fee of \$2,500.00 in accordance with Section 10.405(a) of the Rules.

Please let us know if you have any further questions or require further documentation.

Sincerely,

John Hickman  
Director  
Provident Realty Advisors, Inc.