



2015 Texas Housing Tax Credit Report

Texas Low Income Housing Information Service
texashousing.org



Summary

Our analysis seeks to understand how the current competitive housing tax credit scoring process is influenced by state representatives, as well as scoring of other local governmental and public support and the results of tiebreaking procedures.

The way that the Texas competitive housing tax credit program is currently structured puts our state representatives in a bind, caught between local prejudices and federal law.

Legislators have granted themselves the power to add or subtract points from housing tax credit applications in a manner that effectively overturns all the other points in the system that scores applications for tax credit units.

Our analysis of representative scoring indicates that the resulting allocation of affordable units in this program too often restricts housing opportunities for families, and increases the amount of affordable housing built in racially segregated and high poverty neighborhoods. This practice risks the State of Texas' certification of compliance with the Civil Rights Act of 1968 (Fair Housing Act) and creates doubt that state housing programs are fulfilling their mandate to "affirmatively further fair housing." If the state's certification was challenged, and Texas was found to be in non-compliance of the Fair Housing Act, the state would be at risk to lose federal housing funds in the future.

The U.S. Supreme Court recently affirmed the disparate impact provision of the Fair Housing Act as an integral and intended standard for compliance review. The parties to the suit that made its way to the highest court—the Dallas-based Inclusive Communities Project (ICP) and the Texas Department of Housing and Community Affairs (TDHCA)—will now head back to district court, where the state agency was previously found guilty of discrimination in the way that housing tax credits were allocated in the Dallas-Fort Worth area.

The federal courts have found that the state's policies, rules and scoring methods result in tax credits being disproportionately allocated to developments in low opportunity, high poverty areas, thereby *disparately impacting* the eventual tenants of these developments, who are largely members of a protected class under the Fair Housing Act, i.e. racial and ethnic minorities and families with children.

State devised statutes that govern the allocation of award of housing tax credits permit state representatives to add or take away scoring points for applications for housing credits in their districts. This study documents that some representatives have used this self-granted power with the effect of blocking housing developments for families with children that would otherwise be constructed in lower poverty, high opportunity neighborhoods in violation of the Fair Housing Act.

The scoring process

Before we dive into the analysis, here is a primer on how the process of housing tax credit allocation works:

- Tax credit applications compete in thirteen service regions around the state, each with an urban and a rural pool. There is also a separate, statewide at-risk competition to preserve existing affordable housing in danger of being lost. The scoring criteria used in the competitions are set out in a statute adopted by the Texas Legislature, which adjusts the criteria nearly every session (More than 30 bills pertaining to the program were filed in the 2015 session, several of which passed). TDHCA's own Qualified Allocation Plan (QAP) sets the specific numerical scoring values based on the priorities set out by the state statute.
 - Additionally, non-scoring criteria set a threshold for determining whether an application is eligible for the program at all. The process for applications takes place on an annual calendar with strict deadlines, and the credits are usually awarded at the end of July.
- Applications for housing tax credits receive points in the state's competitive process in several ways:
 - First, a self-scoring process performed by the applicant, governed by the rules of the QAP, awards up to 134 points. This creates a preliminary ranking of projects based on the merits of the development, its location and certain amenities. An applicant can face point deductions if the agency discovers significant errors or false claims in self-scoring. Then, the applications and scoring results are released for public review.
 - Next, four kinds of local entities can give additional points to an application. TDHCA reviews the input it receives and the appropriate number of points are added to, or subtracted from, each application. The four types of support points are:
 - Local government support (0 to 17 points);
 - Support from a state- or county-registered neighborhood organization (known as Quantifiable Community Participation, or QCP, 0 to 9 points);
 - Support from a community organization (0 to 4 points);
 - Letter of support from the state representative of the district where the proposed development is located (-8 to 8 points).
 - During the public review period, any member of the public can challenge opposition to a development from a neighborhood organization, or the claims made by an applicant in their application. If the challenge is validated by the state agency, applications can have their scores adjusted or deemed ineligible for tax credits altogether.

- Next, TDHCA reviews applications and public input for consistency with the QAP, and performs an underwriting that assesses the financial feasibility of proposed developments. The agency and its board have broad discretion to evaluate claims that affect scoring and eligibility. But, as we will see, TDHCA has historically been unwilling to employ this discretion to adjust the scoring factors, even when the support points undermine the state's policy objectives of siting housing in the best location and complying with fair housing law.

The difference between tax credit award winners and losers is often a matter of only one or two points. Sometimes there are multi-way tied scores that must be decided by two main tiebreaking criteria: Opportunity index points received in self-scoring and distance from the nearest active tax credit development.

After scores are finalized, agency reviews are completed and tiebreakers are applied, the awards are announced. The number of projects that receive an award in each region is based on the amount in tax credits made available to that region—an amount that correlates strongly with the population of the region. In the 2015 cycle, for example, nine projects were awarded in the Houston urban region (region 6), while most rural and some urban regions had an allocation of tax credits only large enough to fund one project.

Analysis

Our object is to assess the characteristics of the areas where housing development funded by the State of Texas through the tax credit program in 2015 and specifically to understand the impact of the community and state representative scoring points on locational outcomes.

In assessing the state's current competitive housing tax credit program, we have performed three analyses of the outcomes of the 2015 competitive cycle. First, we looked at the rankings of applications after the self-scoring phase both statewide and by region. As mentioned before, the self-score reflects the location and merits of the project itself. Rent levels, poverty rate, tenant services and local school quality are among the many factors considered in this phase. The resulting rankings are based on objective factors that are uniform for all applications, free from forces of prejudice and generally result in higher scores for projects that are proposed in lower poverty, higher opportunity neighborhoods.

Next, we looked at the final rankings and examined the applications that received an actual award of tax credits from the state on July 30. These awards are based on the self-score, local support points, and agency board adjustments combined. As it is common for very close and even multi-way tie scores to result after the self-scoring phase within a region, local support points are often the deciding factor in which applications will receive an award of tax credits. In this analysis, we found that the local support points, particularly those from the state representatives, ultimately determine tax credit award winners and losers in most regions.

Finally, we took a closer look at the locations of the award winners to get an idea of the projects that the current competitive housing tax credit program is funding. Even projects with a high self-score and maximum local support points can sometimes have undesirable qualities related to their site.

Part 1: Results after self-scoring

In the 2015 competitive housing tax credit cycle, there were 173 applications submitted seeking tax credits in Texas: 134 "general population" developments (herein referred to as **family** developments), 35 elderly-only developments and four supportive housing developments. Our analysis in this section, both statewide and by region, is based on the self-scores (specifically, the rankings posted by TDCHA on March 3, and an additional June 5 ranking that accounted for 12 applicants that were terminated, withdrawn or otherwise eliminated from the program).¹

¹ Reasons are not always known, but presumably some did not meet a mandatory program requirement, while others withdrew due to a low self-score or lack of local support.

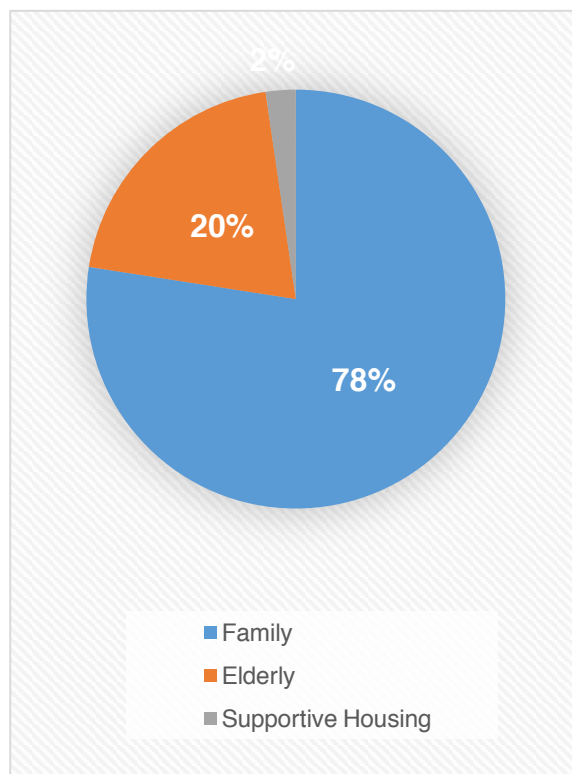
Figure 1 (at right): Housing types offered by 2015 competitive HTC applicants, from TDHCA log 3-3-2015

While not a guarantee of success, a high self-score, or at least one that is comparable to other applications in the region, is important. A majority of applications receive the maximum number of local support points, so in these instances the self-score is the deciding factor. A majority of applicants statewide—101 of them, or 58 percent—self-scored at 130 points or higher, and 26 (15 percent) scored the maximum 134 points.

Developers familiar with the competitiveness of this program know that every point counts. Many put ample resources into selecting their site in order to do well in the self-scoring phase. So well, in fact, that this year some regions had multi-way ties among some or most of their applicants. For example, nine of 11 applications in Region 9 Urban had a self-score of 132, while six of six in Region 4 Rural and 10 of 13 in Region 11 Urban had a self-score of 134. In almost every region, most of applicants were separated by only a few points. In Region 3, a mere four points separated 18 of the 19 top applicants.

As expected, the self-scoring process generally yields higher scores for developments sited in lower poverty Census tracts. Not only are projects awarded up to seven points for being in a low poverty area (defined as an area with a poverty rate of less than 15 percent except for the high poverty Texas border regions 11 and 13, where it is less than 35 percent), but chances are good that a lower poverty area will score higher than a high poverty area. Looking at the June 5 application log, 93 projects self-scored at 130 and above, and their average tract poverty rate was 13 percent, while the remaining 68 projects had an average tract poverty rate of 18.2 percent. Overall, the average tract poverty rate for family developments (14.6 percent) is virtually the same as that for elderly projects (14.5 percent).

In summary, the self-scoring process generally prioritizes projects that are located in low poverty areas, and prioritizes projects that accommodate a tenant population of all low income households, including families with children.² In regions with tied self-scores, it is difficult to determine a ranking to see what projects would have received a tax credit award



² This outcome may be affected by legislation passed during the 2015 Texas legislative session. H.B. 3311 mandates scoring parity between general and elderly projects.

based solely on their merits. The next part of our report examines local support, representative support and tiebreakers, which will determine a ranking for these and all other regions. We will see that not all high-scoring projects are necessarily desirable.

Part 2: Accounting for the effects of local and state representative support

We next examine the characteristics of applications that received a tax credit award after factoring in local support scores. Again, there are four ways an application can earn support points: From the local government, the state representative, a government-registered neighborhood organization (QCP) or a non-registered community organization that meets certain requirements if no QCP-eligible organization exists in the area of the application.

Local government

Local government support is a highly prioritized scoring item worth up to 17 points. Only one project this year—in a rural region with no competition—managed to receive an award without any local government support points. This score depends on the local city council (or county commission in an unincorporated area) adopting a resolution in a public forum in support of the project. TDHCA urges local governments to make their decision on providing these points only after consultation with relevant staff and legal counsel to confirm compliance with fair housing laws and any local housing agreements or plans related to federal funds. There is no data that indicates the extent to which this takes place, however.

In the 2015 cycle, 20 applications (11.6 percent) did not receive any local government support points, with three regions (3, 6 and 13) accounting for 14 of these. These 20 applications have an average tract poverty rate of 15.9 percent—slightly higher than the average for all applications—and half have a tract poverty rate of less than 10 percent. Additionally, seven of these 20 applications also did not receive representative support.

QCP and community organization support

These two forms of support can be analyzed together, as they work together in a way and result in an identical score for almost every application. According to the QAP, support from a QCP-eligible organization can award as much as nine points to an application. However, in this year's competition every application received either four or eight points for this field, derived from one of three scenarios: A QCP organization submitted a support letter (eight points), a neutral letter or no letter at all (four points) or no QCP organization is officially active in the area of the project site (four points).

Support or opposition from a QCP-eligible organization requires special scrutiny. The QAP rules governing QCP eligibility are peculiar, in that they specifically regulate an organization's creation and administration but do not regulate or even require proof of their mission or activities. An applicant or developer seeking tax credits can even provide "technical assistance" to help residents create a neighborhood organization in an area where none currently exists, a practice that has been noticed and sometimes criticized. QCP

organizations are held to fewer activity-related requirements than community organizations when pledging their support for a tax credit project, despite their higher priority in scoring.

All but four applications earned the maximum four points from two qualifying community organizations (two points per letter of support), which are only considered if there is no QCP organization in the site area. It is worth noting that these organizations, to be eligible, “must be qualified as tax exempt and have as a primary purpose the overall betterment, development, or improvement of the community as a whole...”³ This is arguably more of a burden than higher-prioritized QCP organizations must demonstrate.

Together, a combination of QCP and/or community organization support accounted for eight points for all but four rural applications. While it is important for developers to work with local community organizations when making housing investments, the fact that there is virtually no variation among the scores in this category renders it a non-factor in tax credit allocation.

State representative letters

The eight points that state representatives wield are highly influential, coveted, contentious and arguably the most determinative in the housing tax credit allocation process.

Representatives can support a project by submitting a letter that expressly states his or her direct support (eight points). But more importantly, they have three ways to effectively veto a development in their district: By submitting a letter of opposition (-8 points), a letter that does not expressly state support or opposition (zero points) or simply not submitting a letter at all (zero points). Unlike QCP and community organization letters, **representative letters do not need to include a justification of the representative’s decision nor a demonstration of any coordination with local government or organizations.** Many representatives simply say, in effect, “I object.”

Although a great majority of the 173 applicants in this year’s cycle received a representative support letter (84 percent), the projects that *did not* were almost always in “high opportunity areas”—applications that scored highly in neighborhood quality. In practice, many of these applications are in areas where no subsidized housing is available, poverty is low and the population is majority white.

Of the 33 proposed projects that did not receive representative support in 2015:

- 29 (88 percent) are in a Census tract where the median household income is in the top 50 percent for the county or metropolitan area;
- 33 (100 percent) received QCP and/or community organization support;
- 21 (64 percent) received local government support;
- 7 (21 percent) were withdrawn.

³ From 2015 Qualified Allocation Plan, §11.9(d)(6)(A)

Let's compare the poverty rates for the locations of developments that community organizations (not QCPs) supported and state representatives did not, and vice versa. This comparison suggests that some dissonance exists between the position of local community groups and their representatives on the application.

Twenty-four applications from throughout the state received community organization support but received neutrality or opposition from their state representative. These applications had an average tract poverty rate of **9.6 percent**, significantly less than the 15 percent average tract poverty of the 173 original projects as a whole. The average tract poverty rate of developments that received a representative's letter of opposition was only **6.4 percent**.

Now let's reverse this selection and look at projects that did not receive community organization support but did receive representative support, as happened 17 times this year. All but three received support from a QCP-eligible organization. Those 17 projects are located in Census tracts with an average poverty rate of **19.3 percent, more than double** that of the projects community organizations support and representatives do not.

If a state representative does not support a tax credit development in his or her district, then that development is very unlikely to be built. Of the 32 projects that received a letter of opposition or neutrality from a representative this year, **only one project, in a rural region with little competition, narrowly won an allocation of tax credits**. The other 31 projects either scored too low, or withdrew from the competition altogether before awards were announced, knowing that their chances of winning were slim to none.

Additionally, this year 13 representatives had the opportunity to submit a letter on two to five projects seeking an award within their district. Five of the 13 representatives chose to not submit a letter at all to two or more projects, totaling 11 projects (10 of which were for families) with an average tract poverty rate of just 7 percent. Four other representatives chose to support family or elderly developments in high poverty areas while simultaneously opposing family developments in low poverty areas.

One could argue that the scoring system for public and governmental input is weighted toward interests that will likely oppose tax credit developments in high opportunity areas (neighborhood associations, city and state government officials) and weighted against the interests of households who would like to have the choice to move into these types of neighborhoods. The only public input that might be expected to favor the interests of tenants is the community organization, which has the lowest number of points to award (two points per letter, up to four points). It's also important to note that all four types of points discussed in this section are awarded only by people who live in or represent the areas around a proposed development. No points are awarded in behalf of people who need affordable housing, who might actually *live* in the proposed development, most of whom are people of color and families with children.

Part 3: Results of the 2015 awards

The current award system creates two main problems. First, family housing tax credit projects are disproportionately located in areas of minority and poverty concentration, characteristics that frequently coincide with failing schools, few amenities and high crime. Second, there is an incentive to build a disproportionate number of projects for the elderly, who tend to engender less negative reactions from adjacent property owners.

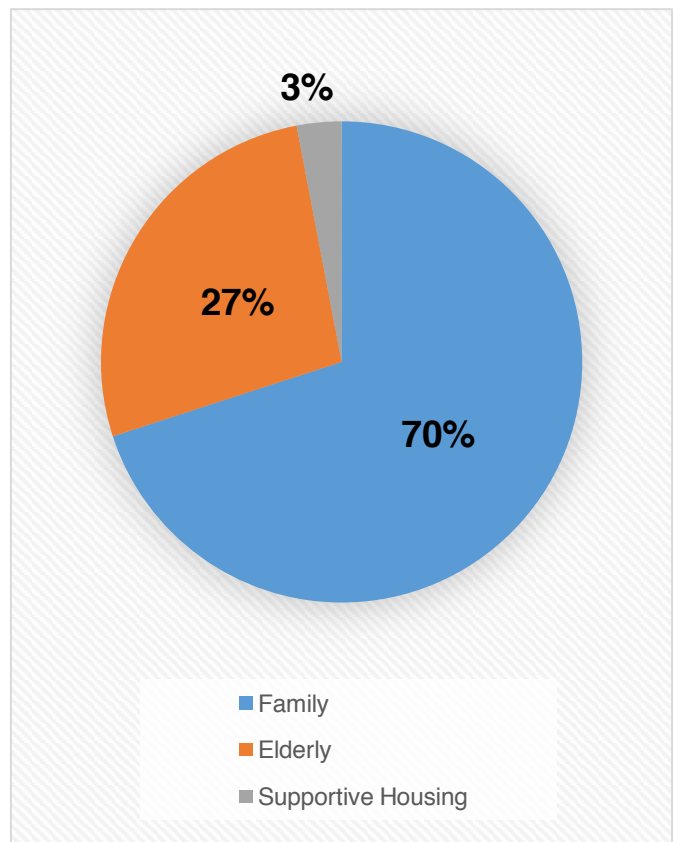
This is not to say that there are not a number of projects being awarded through today's system that appear to be good developments with merit. But the scoring factors on balance work against such developments.

Figure 2 (at left): Housing types offered by 2015 competitive HTC awardees, from TDHCA log 7-30-15

Overall, there were 45 family, 17 elderly and two supportive housing projects awarded this year, accounting for 70 percent, 27 percent and 3 percent of tax credit awardees, respectively—notably skewed toward funding elderly projects, considering that the original pool of applications was only 20 percent elderly. The results call into question whether this proportion adequately addresses low income housing needs in Texas.

This year's developments are located, on average, in Census tracts that have lower median household income (MHI) and higher poverty. Projects located in tracts where the median income is in the bottom quarter of the county or metro area made up only 27 percent of the original pool of applicants, yet they make up 33 percent of the awardees. Conversely, projects in the highest quarter of MHI tracts make up 49 percent of the original pool of applicants, but only 39 percent of awardees.

Looking at tract poverty rates also discloses problems with the scoring system. The average tract poverty rate of all awardees is 17 percent, higher than that of the original pool of applicants at 15 percent. Thirty-three percent are located in a tract with a poverty rate of over 20 percent, where only 25 percent of the original pool of applicants were located in such areas.



Additionally, elderly-only projects fared better than projects for families. The average tract poverty for the 45 family development awardees (removing one outlier at 50 percent) is **17 percent**, while the same for the 17 elderly developments (removing one outlier at 57 percent) is only **12 percent**. **Forty-seven percent** of elderly awardees are located in low poverty tracts (where the poverty rate is less than 10 percent), yet only **24 percent** of projects for families received an award in these same high opportunity areas, despite the fact the **40 percent** of the original pool of family applicants were located in such areas.

As an example, let's look at the Dallas-Fort Worth area (Region 3), where eight projects received an award this year. Before support points were added, Region 3's top eight developments had:

- 709 low income family units in seven developments;
- 123 elderly only units in one development.

After support points were added, however, the top eight developments had only:

- 337 family units in three developments;
- 601 elderly only units in five developments.

All but one of the original top eight received zero or negative points from a state representative, and four received all the other types of support points. While applicants at the self-scoring stage had an average tract poverty rate of **8.7 percent**, awardees (after the support points were included) have a rate of **15.9 percent**. Two of the three family developments in tracts where poverty rates exceed **35 percent**.

The disproportionate funding of elderly versus family developments has been going on for some time. The 2012 Housing Sponsor Report (HSR) provides a complete survey of multifamily developments that have received housing tax credits. Let's compare the distribution of tax credit properties to household distribution statewide and in selected metropolitan areas.

Notes on the following tables:

- The Elderly-Only HTC and Family HTC categories are based on the total number of low income units from the 2012 HSR
- The General Households category is based on the total number of households in a Census tract in the 2011 U.S. Census American Community Survey
- The MFI < 80% AMFI category indicates the percentage of households with a Median Family Income (MFI) of less than 80 percent of the Area Median Family Income (AMFI).

TEXAS			
	Type of Household (%)		
Census tracts where:	Elderly-Only HTC	Family HTC	General Households
MFI < 80% AMFI	54.6	70.3	32.5
>20% Households Below Poverty Line	54.4	70.4	31.7
<50% White, Non-Hispanic	67.8	81.7	48.8

AUSTIN METRO			
	Type of Household (%)		
Census tracts where:	Elderly-Only HTC	Family HTC	General Households
MFI < 80% AMFI	34.2	82.4	31.2
>20% Households Below Poverty Line	21.5	69.4	20.3
<50% White, Non-Hispanic	74.2	88.3	36.2

BEXAR COUNTY			
	Type of Household (%)		
Census tracts where:	Elderly-Only HTC	Family HTC	General Households
MFI < 80% AMFI	90.7	86.2	37.6
>20% Households Below Poverty Line	83.7	83.7	32
<50% White, Non-Hispanic	100	97.7	74.7

DFW METRO			
	Type of Household (%)		
Census tracts where:	Elderly-Only HTC	Family HTC	General Households
MFI < 80% AMFI	68.4	75.6	35.5
>20% Households below Poverty Line	55.3	69.3	24.4
<50% White, non-Hispanic	71.9	83.6	44.3

HOUSTON METRO			
	Type of Household (%)		
Census tracts where:	Elderly-Only HTC	Family HTC	General Households
MFI < 80% AMFI	55.9	71	36.1
>20% Households Below Poverty Line	47.7	64.7	28.9
<50% White, Non-Hispanic	74.3	84.3	55.8

Note how family tax credit units are located in areas of minority and poverty concentration more often than elderly-only units are. In the Houston region, 47.7 percent of elderly units and 64.7 percent of family units receiving a housing tax credit are located in Census tracts where the poverty rate exceeds 20 percent, but only 28.9 percent of the region's total housing units are located in these higher poverty areas.

Observations by region

The awards process takes place within sub-regions of the state. We studied the regional awards and offer some observations of specific issues in each region.

Region 1

- Three applications were submitted for rural family developments. Two received a neutral response from Rep. Ken King. The other project, in a tract with bottom quarter MHI, won.

Region 3

- The urban competition in Region 3 is deeply troubling with regards to fair housing. Despite calls on TDHCA to exercise its discretion to balance the harmful effects of the public support points, it appears that TDHCA did nothing. Five of the eight developments receiving an award, or 601 of 938 affordable units (64 percent), are for elderly only developments. Only one of the nine projects not receiving an award in the region is elderly, however. Most developments for families were in a position to receive awards before support points were factored in.
- The five elderly developments have an average tract poverty rate of 10.1 percent. The three family developments have an average tract poverty rate of 25.5 percent.
- The eight family developments that were not awarded funds have an average tract poverty rate of 6.4 percent.
- Seven of the eight non-recommended family developments have a self-score higher than all of the recommended projects.
- The eight losing family developments all received either zero or negative points from state representatives, and four also did not receive local government support.

Region 5

- The only project in the state that did not receive representative support and still won an award is The Carlyle in China, TX. That development has also received press attention and strong local opposition.
- Of The Carlyle's two rural competitors, one withdrew after a local government action effectively blocked the project and the other received a very low self-score that offset the full local support points it received. The Carlyle won by one point.
- In the urban competition, there were only two elderly projects competing. The winner is located in a tract in the bottom quarter of MHI, with a 35 percent poverty rate and within a mile of two other tax credit developments. The loser is in a tract in the top

quarter of MHI, with a 13 percent poverty rate and a majority white population. It had a lower self-score, but also received zero points from the state representative.

Region 6

- The urban competition was impacted by local support scoring that resulted in an increased number of elderly developments receiving an award.
- Of 1,006 total affordable units receiving an award, 623 (62 percent) are in family developments, 323 (32 percent) are in elderly developments and 60 (6 percent) are supportive housing.
- Overall, awarded projects have an average tract poverty rate of 13.2 percent. The three elderly developments have an average tract poverty rate of 2.9 percent, while the four family developments have an average tract poverty rate of 16.8 percent.
- Several applications were withdrawn early in the process, likely due to state representative opposition. The remaining two projects without representative support were in high poverty areas and did not win an award.
- Five of the nine awarded projects are in tracts in the top quarter of MHI, but that includes all three elderly developments.

Region 7

- Two projects in low poverty areas did not receive representative support, but the two winners are in low poverty areas as well.

Region 8

- The rural competition had two projects, and the higher ranked project was in a tract in the second quarter of MHI with a 17.1 percent poverty rate. However, the underwriting process led to a non-recommendation for this project, so its competitor—in a bottom quarter MHI tract with a 33.9 percent poverty rate—received an award.

Region 9

- All of the projects in the urban competition are for family developments in top quarter MHI tracts with low poverty. However, the awarded projects have fair housing issues.
- The highest scoring project, Reserve at Engel Road in New Braunfels, is located on the city's periphery, in a light industrial area on busy Interstate 35 with poor access to services and amenities. This project had the highest tract poverty rate in the competition at 14.3 percent.
- The second place project, Artisan at Judson Park in San Antonio, is also located in the urban periphery, on busy Loop 1604. It is physically isolated from services and amenities, and is across the highway from a large quarry and concrete facility.

- The third and fourth place projects, which did not receive awards, are located at the western edge of the city in an area of newer homes, services, and amenities.

Region 11

- The urban competition almost resulted in a virtual 10-way tie. Three projects received two extra points for being located in a *colonia*. However, on closer inspection, none of the three appear to be located in a state-recognized colonia, which are by definition low income neighborhoods. Awarding points for large tax credit developments in colonias, as part of the state statute, seems at odds with good public policy. The TDHCA board did grapple with this issue in an extended debate over whether this policy is appropriate.
 - The first place project Sundance Meadows is located at the northern edge of Brownsville, north, and well outside of, the Cameron Park colonia.
 - Second place La Palmilla is located at the southeastern periphery of Edinburg. It is in the area of, but not within or adjacent to, a recognized colonia. It is, however, located within the 100-year floodplain.
 - Third place The Heights Apartments is also located at the southeastern periphery of Edinburg, just a mile north of La Palmilla and also not within nor adjacent to a colonia.
- The Region 11 competition had a number of issues. All of this year's recommended projects are located in the urban periphery, one is in a floodplain, two are a mere mile apart and seven applications received a two point deduction for not being located in a colonia. Collectively, these issues should prompt an evaluation of the state statute and the QAP's rules, spatial characteristics and emphasis on development in "underserved areas."

Region 12

- The urban competition had three projects and the awardee, a 194-unit elderly project in Midland, won because the other two projects, both family developments in San Angelo, received a neutral response from their district's state representative. All three were located in tracts with high MHI and low poverty.

Region 13

- Only two projects received the 17 local government support points, from the City of El Paso, making that the deciding factor in this competition.
- First place Dyer Palms is located at the far northern periphery of El Paso in a tract in the second quarter of MHI and with a 22 percent poverty rate. Its location is desolate and isolated, with a few light industrial sites in the area.

- Second place Sherman Plaza is a rebuilding project for the local housing authority, and is located about three miles east of downtown El Paso. It will add 34 units to the current property for a total of 178, all for low income households. The development is located about a quarter-mile northeast of a wastewater treatment plant, was second-to-last in self-scoring, second highest in poverty rate and is in a bottom quarter MHI tract. Were it not for the City Council's support, this project would not have received an award.

Recommendations

The LIHTC program is flawed thanks to a scoring process imposed by state statute and adopted in the QAP. There are several ways that the program could better achieve its goals of providing housing opportunities for low income families in high opportunity neighborhoods:

- **Decrease, or entirely eliminate, the points that state representatives wield in the tax credit process.** As the system currently stands, representatives have the power to make or break a project regardless of its objective fair housing benefits. In many cases representatives must choose between the state’s responsibility to affirmatively further fair housing and the anti-low income housing biases of some of their constituents. The prominence of representative points in the current system and the failure to adequately provide for the interests of tenants in the public input process ensures that prejudice against low income housing consumers is built into a process that is supposed to work for, not against, families in need.
 - It’s worth remembering that members of the Texas Senate also used to have the power to assign or take away points from tax credits applications that only State House members currently wield. The Senate moved to repeal this provision of state law several years ago after a joint House and Senate committee studied the practice and recommended doing away with it. The House representative letters were kept, led by an eleventh-hour push by Rep. Debbie Riddle, who has been a vocal opponent of tax credit properties in her district.
 - If representative points are not removed from the system, **representatives should be required to explain their opposition or neutrality to a project**, just as is required of QCP and community support. Additionally, TDCHA could follow its policy toward community input, which currently states that "input that the scoring of which the Department determines to be contrary to the Department's efforts to affirmatively further fair housing will not be considered." If representative letters are to be included in the system, the same criteria should apply.
- **Enact tiebreaking measures that emphasize developments in high quality neighborhoods rather than simply prioritizing dispersion**, which has the effect of pushing awards to the urban periphery. The self-score is supposed to be a good measure of the spatial qualities of a location, and should result in the best quality projects being awarded the highest scores. However, our analysis finds certain projects that received the maximum or near-maximum score in this category raise concerns about whether the locations are really the best in the competition. Some regions have projects scored competitively that are near environmental hazards, on busy freeways, in floodplains and isolated from services and amenities. While the applicant may have figured out how to “check the boxes” on their application, the outcome is not always the most desirable for residents. The TDHCA board should exercise its “broad authority” and act transparently and

publicly to correct this problem. The board should also consider changes to future QAPs that ensures high score results for high quality projects in high opportunity areas.

- In the Region 9 competition described above, there was a seven-way tie for two tax credit allocations and tiebreaking measures had to be employed to pick the two winners. The measures take into account the opportunity index points requested in an application, pertaining to the quality of the location, its amenities and the distance to the nearest active tax credit development. Proximity was the deciding factor. Because the two winners are located at the periphery of their respective cities, they had the easiest path to the awards, as they were furthest from other tax credit developments—and from most everything else. The five losing projects were also located toward the urban periphery, but for the most part they also did not abut busy highways or environmentally hazardous sites and were located near services and amenities.
- **Restructure points for development in a colonia in consultation with colonia residents.** While colonias are most certainly in need of investment and services, large apartment complexes are not necessarily the type of investment that will benefit these communities. Already suffering from concentrated poverty and inadequate infrastructure and often beyond public transportation and remote from urban amenities, colonias do not stand to benefit from the typical tax credit development without other significant community development investment. This scoring item needs to be reevaluated for future QAPs, incorporating input from community groups in colonias.