

# Texas State Affordable Housing Corporation

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## Affordable Communities of Texas Policies and Guidelines

1. **General.** These policies and guidelines (collectively, the “Policy”) have been approved by the Board of Directors of the Texas State Affordable Housing Corporation (the “Corporation”) and set forth the Corporation’s policies and guidelines relating to the Affordable Communities of Texas program (the “ACT Program” ). The ACT Program supports the Corporation’s public purpose of promoting the public health, safety and welfare through the provision of adequate, safe and sanitary housing primarily for individuals and families of low, very low and extremely low income and for persons who are eligible for loans under the Homes for Texas Heroes Home Loan Program. The ACT Program’s purpose is to create partnerships between the Corporation and local housing providers to acquire or accept donations of foreclosed housing assets, government properties and other real estate primarily for the benefit of, or to create affordable housing for, low-income households.
2. **Source of Funds for the ACT Program.** The primary sources of funding for the ACT Program are loans, grants or other sources of funding (“investments”) made by public and private entities to the Corporation. The Corporation may also commit its own funds to the ACT Program, accept private donations and grants, or apply for funding from government agencies. The availability of funds is dependent upon the Corporation’s ability to find new investments and generate revenue from the sale, lease or disposition of properties acquired by the Corporation.
3. **Eligible Activities.** The ACT Program focuses primarily on the acquisition of vacant or foreclosed housing units, land and other properties that may be used to provide safe, decent and affordable housing. Properties may be developed to preserve, rehabilitate, or construct housing for homeownership, rental, cooperative or any other form of affordable housing that is consistent with the Corporation’s public purpose. The ACT program may also be used to clear vacant or blighted structures, maintain vacant lots, and manage the rehabilitation of existing homes or construction of new homes on land-banked properties owned by the Corporation or Local Partners (hereinafter defined). The Corporation shall adhere to its procurement guidelines when selecting vendors or other parties to maintain, manage or redevelop ACT properties. The use of ACT Program funds may be limited by local, state, federal or other contractual agreements between the Corporation and the providers of such funding.
4. **Corporation’s Role.** To carry out the eligible activities of the ACT Program, the Corporation will enter into memoranda of understanding with its Local Partners (“Local Partner MOU”). Each Local Partner MOU will detail the responsibilities and roles of both the Corporation and Local Partner. The Corporation’s responsibilities may include any one or more of the following:
  - a. **TSAHC Land Bank.** In this capacity, the Corporation will acquire properties using ACT Program funds, hold properties in the Corporation’s name, and manage the redevelopment of properties directly or with assistance from Local Partners. The Corporation may use ACT Program funds to cover the cost of option fees, title reports, due diligence activities, environmental reviews, purchase price and closing costs. Local Partners may be responsible for financing the redevelopment of acquired land bank properties, unless otherwise provided by the Corporation through an agreement separate from the Local Partner MOU. The Corporation and the applicable Local Partner shall determine the appropriate end use of the property (for-sale or rental) and a timeline for completing redevelopment and occupancy by a qualified low-income household. The Corporation shall determine the final sales price or rental rates of all homes, in its sole determination, ensuring that Local Partners are reimbursed for reasonable rehabilitation costs from sales proceeds. The Corporation may also utilize

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- a shared equity agreement, in the form of a ground lease or other acceptable documentation, in order to recover its investment in a property and generate revenues for the ACT Program.
- b. TSAHC Land Trust. In this capacity, the Corporation may acquire real property, provide or accept mortgages and manage real and improved property in perpetuity for the benefit of providing affordable housing. The Corporation will assist Local Partners with the planning and redevelopment of properties and may commit ACT Program funds to cover predevelopment activities. After redevelopment the Corporation may split the land from the improvements and sell the improvements to the Local Partner or qualified low-income households. The Corporation will continue to own the land and grant access to the Local Partner or qualified low-income households through a ground lease agreement, mortgage or other legal agreement deemed appropriate in the sole determination of the Corporation. The Corporation may collect ground lease payment or other payments in order to cover its holding cost, monitoring expenses and other expenses associated with a land trust property.
  - c. Buyer Agent. In this capacity, the Corporation will serve as a conduit for the acquisition of properties on behalf of Local Partners, using funding provided by Local Partners. The Corporation will be reimbursed by Local Partners for any option fees, title agreements or due diligence activities required to purchase the property and paid for by the Corporation. The Corporation will immediately transfer ownership of the property to the Local Partner, be reimbursed for any expenses incurred during the acquisition process, and collect a transaction fee prior to transfer in an amount no less than \$500.00.
  - d. Land Bank Administrator. In this capacity, the Corporation will acquire properties using funding provided by Local Partners, hold properties in the Corporation's name, and manage the redevelopment of properties with assistance from Local Partners. The Corporation will be reimbursed by Local Partners for any option fees, title agreements or due diligence activities required to purchase the property and initially paid for by the Corporation. The Corporation will hold properties under its ownership until the Local Partner can complete redevelopment activities and place qualified low-income households into properties. The Corporation will collect an annual fee for overhead and administration, plus reimbursement for the actual cost of insurance premiums from the Local Partner. The Corporation shall transfer ownership of the property to the Local Partner within 60 days of written notice, and the Corporation will collect a reasonable transfer fee.
5. **Selection of Local Partners.** The Corporation intends to focus on developing partnerships with qualified nonprofit and local government entities as local partners (collectively the "Local Partners") that have established relationships to the communities where properties are acquired by the Corporation. The Corporation will market the ACT Program to Local Partners in targeted communities and/or may accept partnership applications from Local Partners. In either case, Local Partners must meet the following minimum qualifications:
- a. A nonprofit entity must be an active nonprofit 501(c)(3) or (c)(4) organization as recognized by the U.S. Internal Revenue Service, and registered as a nonprofit entity within the State of Texas;
  - b. Financial audits or statements of the Local Partner for a two-year period must reflect the entity's ability to manage funds appropriately, as determined solely by the Corporation;
  - c. At least two years of experience in the planning, marketing, development or management of housing programs for moderate and low-income households;

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- d. The ability to provide evidence of support from local government officials for their activities within the target community; and
  - e. The entity must not have an active exclusion cited within the Texas Comptroller's System for Award Management Database.
6. **Competitive or Select Application Procedures.** In the event the Corporation receives funding that requires the Corporation to utilize a competitive or other application process to disburse the funds, the Corporation shall publish on its website a request for proposals (an "RFP") and application materials. The Corporation will only accept applications when there are available sources of funds and will include all guidelines, procedures, thresholds and scoring criteria in the relevant RFP.
7. **Local Partner Approvals.** The Director of Development Finance (the "Director") is responsible for coordinating and overseeing the review of Local Partner applications. Local Partner applications that fulfill all of the threshold and selection criteria of this Policy and any applicable RFP will be recommended by the Director to the Corporation's President or Executive Vice President for approval and execution of a Local Partner MOU. If approved, the Local Partner must enter into a Local Partner MOU with the Corporation prior to the commencement of land banking activities.

**8. Project Approvals. The process of reviewing and selecting projects or properties that will be acquired utilizing ACT Program funds will be completed in the following manner.**

- a. Each project, proposed by a Local Partner or found by TSAHC staff, will be assessed to determine if the project will meet all of the requirements of this Policy. This includes, but is not limited to the Qualified Project, Affordability Threshold, Construction Standards, Locations Standards and Additional Threshold Requirements, in the proceeding sections.
- b. Once a project is determined to meet the requirements of this Policy, the Director will present a project summary to the President, Executive Vice President and Chief Financial Officer for approval.
- c. If a project's initial purchase cost exceeds \$500,000, the project summary will also be presented to the Board of Directors for approval.
- ~~a-d. Projects requiring board approval may be placed under contract, as long as the purchase agreement is conditioned upon board approval prior to closing. The selection of individual properties acquired by the ACT Program will be completed by the Director. If a property is selected, the President or Executive Vice President will execute purchase contract and other applicable documentation on behalf of the Corporation, and the Corporation's staff will pursue the applicable due diligence requirements of this Policy, including any requirements of the related ACT Program funding sources.~~

**8.9. Qualified Projects.** All housing units acquired by the Corporation must meet the following criteria in order to be considered a qualified project ("Qualified Project") for the purposes of this policy.

- a. A Qualified Project must be consistent with the public purpose of the Corporation;
- b. A Qualified Project must be financially feasible and provide sufficient funds to the Corporation to sustain the ACT Program;
- c. A Qualified Project must be located in an area that provides access to reasonable educational, and

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employment opportunities, and to transportation and other community services; and

- d. A Qualified Project must have a plan to ensure the property will be redeveloped primarily for the benefit of low-income Texans.

In order to be considered for the TSAHC Land Trust, a Qualified Project must also demonstrate a special circumstance or condition that justifies its inclusion in the Land Trust program. Such special circumstances may include the development of homes for persons with disabilities or other special needs, homes for extremely low-income households, and homes in areas considered to be high opportunity areas (such as areas experiencing gentrification or high income areas) that will advance the Corporation's public purpose and provide affordable housing opportunities in these special circumstances.

### 9.10. **Affordability Threshold.**

- a. The Corporation's public purpose requires that housing provided by the Corporation be used primarily for the benefit of low, very-low and extremely low-income households. To ensure adherence to these requirements, Qualified Projects will be required to meet the following minimum qualifications:
  - i. Acquired and developed units for homeownership shall be primarily made available to low, very low and extremely low-income households at eighty percent (80%) or below of the area median income (the "AMI") for the location of the property, or eighty percent (80%) or below of the statewide median income, whichever is greater;
  - ii. Acquired and developed units for rental shall be primarily made available to low, very low and extremely low-income households at or below 80% of the AMI for the location of the property;
  - iii. All multifamily properties (4 or more units) acquired and developed for rental shall be held to the following additional income and rent restrictions:
    - A. At least 20% of the total units in the development for persons or families earning 50% or less of the AMI, based on the size of the unit and number of persons occupying the unit; or
    - B. At least 40% of the total units in the development for persons or families earning 60% or less of the AMI, based on the size of the unit and number of persons occupying the unit.
  - iv. The Corporation may impose additional affordability requirements in accordance with funding limitations or on a case by case basis.
- b. Consistent with its public purpose the Corporation may permit the development of units for sale or rental to qualified low or moderate income households, not to exceed 120% of the AMI for the location of the property or statewide median income, whichever is greater; and
- c. In the event the President or Executive Vice President determines that a property is not suitable for low or moderate income households, due to environmental or location conditions, feasibility concerns, or any other reason deemed appropriate by the President or Executive Vice President, the Corporation may remove a property from affordability restrictions and sell it to a private or public

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entity, and funds from such sale will be used by the Corporation for the acquisition or rehabilitation of other suitable ACT Program properties.

**10.11. Construction Standards.** To ensure that working families have safe, decent, affordable housing, and to ensure long-term affordability and usability, all Qualified Projects must meet the following standards:

- a. All Qualified Projects, at the time of acquisition or completion of construction or rehabilitation, shall meet all local building codes for the jurisdiction where they are located. If the development is located in an area where no local building codes are in place or have been adopted, the development shall meet the most recent International Residential Code or International Building Code;
- b. All Qualified Projects, at the time of acquisition or completion of construction or rehabilitation, shall be compliant with the Federal Fair Housing Act Accessibility Standards, Titles II and III of the Americans with Disabilities Act of 1990 and §2306.514 (visitability guidelines) of the Texas Government Code. Borrowers must submit to the Corporation a certification from the project architect, engineer, or other third-party building inspector that the proposed Qualified Project will meet or exceed the above listed accessibility requirements;
- c. All Qualified Projects, at the time of acquisition or completion of construction or rehabilitation, shall be compliant with the U.S. Department of Energy's Energy Star Program, as confirmed by a certified third-party Home Energy Rating System ("HERS") inspector or as certified to by the Development's architect or engineer; and
- d. All Qualified Projects, at the time of acquisition or completion of construction or rehabilitation, shall have sidewalks, driveways and streets that are compliant with the Americans with Disabilities Act and Fair Housing Accessibility Standards.

**11.12. Location Standards.** The Corporation shall consider a variety of factors to determine if a Qualified Project is located in an area that promotes safe, healthy and decent housing for low-income households. The Corporation will consider a project's proximity to grocery stores, pharmacies, financial services and other commercial services. All Qualified Projects must meet the following minimum location standards:

- a. Qualified Projects may not be located within the 100-year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps; and
- b. Qualified Projects located within a county or city that is covered by the Texas Windstorm Insurance Association (TWIA) shall be required to secure windstorm insurance in accordance with the TWIA insurance policy requirements.

**12.13. Additional Threshold Requirements.** All Qualified Projects must meet the following additional threshold requirements:

- a. A general review of environmental conditions at each Qualified Project location. The environmental review may include a review of city or county environmental records; an environmental notification process, as may be required by the Corporation's funding partners; or a Phase I Environmental Site Assessment and any necessary updates, based on the Corporation's sole determination of need;
- b. The Corporation generally will not fund a Qualified Project that may cause the displacement of a low-income household. Exceptions to this requirement may be considered on a case-by-case basis;

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- c. The Corporation will use minimum underwriting standards in evaluating all projects. The Corporation will review such items as debt coverage ratio, cost of project maintenance and the Local Partner's financial strength and creditworthiness. The minimum underwriting standards will reflect the nature of the project, its location and the AMI for qualified low-income households. The Corporation's Director shall be responsible for determining the feasibility of each project; and
- d. The Corporation may require a third-party market analysis, or may conduct its own assessment of market conditions, to determine the feasibility of a proposal. Current information on demographics, population growth, employment trends, median home prices, zoning requirements, absorption rates, and any other indicators of the market capacity may be considered in the Corporation's review.

**13.14. Security Interest.** To ensure the fulfillment of the applicable Affordability Threshold, a variety of agreements may be filed and recorded in the deed records of Qualified Projects. At a minimum, the Corporation may consider the following security interests, or any combination thereof:

- a. Deed Restriction or LURA: The Corporation may file a deed restriction or Land Use Restriction Agreement (the "LURA") in the real property records that defines limitations on resale and occupancy of the Qualified Project. Deed restrictions may or may not be filed as non-foreclosable instruments.
- b. Shared Appreciation Agreement: A shared appreciation agreement (the "Shared Appreciation Agreement") will be filed and recorded as a mortgage instrument, deed restriction, or other form of agreement or instrument acceptable to the Corporation, and will allow the Corporation to recapture grant funds or equity transfers (or the equivalent thereof) to a Qualified Project upon any future sale or transfer of ownership. The Corporation shall seek to recapture 100% of such grant dollars and/or a percentage of such equity transfers. The total recapture amount will depend on the net proceeds available after repayment of superior liens.
- c. Ground Lease: The Corporation may also hold properties and sell or lease their improvements to Local Partners to operate affordable rental housing, or sell improvements to qualified low-income households. In either case, the Qualified Project will be restricted for occupancy in accordance with the applicable affordability requirements through a ground lease agreement.

e.d. Loan or Lien: The Corporation may issue a note or mortgage to a Qualified Household, in a primary or subordinate lien position, in order to secure a financial stake and provide security for an affordability term. The note or mortgage may be made on a repayable or forgivable basis. The Corporation may forgive any unpaid balance of a note or mortgage to a Qualified Household prior to the end of the term of the note or mortgage, if the Qualified Household can demonstrate extraordinary circumstances which had not been reasonably foreseeable at the time the note or mortgage was made, and merit the need for forgiveness of the note or mortgage. Any forgiveness of the note or mortgage will be made at the sole discretion of the Corporation Executive staff.

**14.15. Project Monitoring.** The Corporation requires that all Qualified Projects undergo a regular review to determine that the project continues to meet the applicable Affordability Threshold criteria and goals of the ACT Program. The Corporation may require, especially in the case of rental developments, that an asset management or asset oversight review be completed on an annual, semi-annual or other periodic

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basis, as determined by the Corporation. The Corporation may charge an annual fee in order to cover the cost of such reviews.

15.16. **Disposition of Properties.** To accomplish the sale or transfer of Qualified Projects, the Corporation may rely on its Local Partners to market, broker, or otherwise sell or lease Qualified Projects. In the absence of a Local Partner, or as otherwise determined necessary, the President or Executive Vice President of the Corporation shall be authorized to list properties for-sale as owner without representation, contract disposition activities to a licensed real estate broker or contract with any other qualified third-party entity for the disposition of the property.

16.17. **Insurance.** The Corporation shall be authorized to carry general liability, property, casualty and other necessary insurance coverage on Qualified Projects. The President, Executive Vice President, or Chief Financial Officer of the Corporation shall be authorized to contract for such insurance services.

17.18. **Fees.** The Corporation may charge fees, penalties, or any other monetary amounts deemed reasonable by the Corporation's President or Executive Vice President to cover the cost of operating the ACT Program, including application review, professional fees, asset and compliance reviews, ground leases, maintenance or holding costs, and any other applicable costs associated with operating the program.