

# Memorandum



CITY OF DALLAS

DATE May 14, 2021

TO Honorable Members of the Housing and Homelessness Solutions Committee

SUBJECT **Follow Up to the March 22, 2021 Housing and Homelessness Solutions Committee Meeting – “Fair Housing Updates: Overview of the Fair Housing Assessment Tool and Amendments to the Fair Housing Ordinance”**

The following information is provided in response to questions posed during the briefing entitled “Fair Housing Updates: Overview of the Fair Housing Assessment Tool and Amendments to the Fair Housing Ordinance” that was presented to the Housing and Homelessness Solutions (HHS) Committee on March 22, 2021.

## **Background: Fair Housing Assessment Tool**

The City of Dallas Office of Equity and Inclusion – Fair Housing Division has worked to develop the Fair Housing Assessment Tool. The tool consists of three parts including the scoring of goals, a summary analysis, and department updates. The tool will be utilized to assess proposed housing projects or developments that require fair housing review due to an applicant seeking city funds and/or a letter of no objection or support for tax credit projects. This includes, but is not limited to, Low-Income Housing Tax Credit (LIHTC), Notice of Funding Availability (NOFA), and economic development incentive housing projects.

## **Can the City provide a map of LIHTC projects within City Council Districts?**

The requested map has been created for LIHTC projects between 1990 to the present. Please see Attachment A (page 6).

## **Can staff provide a map of Fair Housing complaints?**

The requested map has been created for fair housing complaints with cause between 2018 to the present. Please see Attachment B (page 7).

The map provided specifies cases where a violation has been found in the complaints filed with the Fair Housing Division.

## **What is the Fair Housing Division’s time frame for assessment of a project?**

The 9% Housing Tax Credit (HTC) applications have a schedule built around the Texas Department of Housing and Community Affairs (TDHCA) submission deadlines; typically completed by the end of February. The 4% HTC applications are received year-round and submitted to the Fair Housing Division for review once the Housing and Neighborhood Revitalization Department confirms the application’s completeness and threshold requirements have been met. NOFA applications are completed on a case-by-case basis.

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Once applications are submitted to the Fair Housing Division, assessments are generally completed within a two-week time frame. In cases where a large number of applications are submitted at the same time, the two-week time frame may require an additional time extension. When questions arise, Fair Housing staff send inquiries for follow-up with the applicant. In the case of inquiries, assessment usually extends beyond the two-week time frame pending an applicant response.

### **Is it possible to change the name of the Low-Income Housing Tax Credit (LIHTC)?**

The LIHTC program is a federal program and naming is determined at the federal level, not the local level. Chair Casey Thomas and the Office of Government Affairs have sent letters to the Dallas legislative delegation advocating for a change in the name of LIHTC to “Affordable Housing Tax Credit.”

### **What is the law that allows the State to halt a locally approved project? How can local authority be protected?**

LIHTC projects are scored by the TDHCA based on the requirements of the Qualified Allocation Plan (QAP). The QAP is issued by the TDHCA and establishes a point system. The 2021 Chapter 11, Qualified Allocation Plan can be found at the following [LINK](#).

Under the QAP, a State Representative can provide a letter in support of (+8 points), neutral to (0 points), or in opposition (-8 points) of a project. The specific QAP language specifies:

*“(5) Community Support from State Representative. (§2306.6710(b)(1)(J); §2306.6725(a)(2); §2306.6710(g)) Applications may receive up to eight (8) points for express support, zero points for neutral statements, or have deducted up to eight (8) points for express opposition.”*

Therefore, a letter of opposition can lead to a project being halted.

Due to the fact the LIHTC program is a federal program and administered at the state level, municipalities like the City of Dallas cannot alter the scoring method. However, the TDHCA regularly conducts public meetings to receive comments on the QAP. This is where the City can provide its feedback on the scoring process.

### **Can an analysis of crime rates at all LIHTC properties be provided?**

The Department of Housing and Neighborhood Revitalization is currently working with Community Prosecution, Dallas Police Department, Code Compliance, the Office of Innovative Public Safety Solutions, and other departments to analyze crime rates at LIHTC properties. This analysis will include identifying the source and causes of crime at LIHTC properties.

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### **Can the City Council's input and community engagement be included in projects proposed to the City?**

City Council input and community engagement is facilitated outside of the fair housing assessment.

Currently the Comprehensive Housing Policy does not require applicants seeking resolutions of support or no objection to conduct community engagement. TDHCA requires applicants to notify elected officials, school districts, affected neighborhoods, and other associated community organizations as part of the application process. Public Notification specifications can be found in the Qualified Allocation Plan on page 110 at the following [LINK](#). City Council input is inherently sought when being requested by staff to approve or deny a project.

To what extent community engagement should be added to the process requires further review. It would also require amending the Comprehensive Housing Policy.

### **Can a safety component be added to LIHTC projects, including onsite security cameras and establishment of a neighborhood site coalition?**

Adding a public safety scoring component would require amending the Comprehensive Housing Policy. The Department of Housing and Neighborhood Revitalization is currently working on a standardized process by which developers work with the Office of Integrated Public Safety Solutions to ensure adherence to best practices in Crime Prevention Through Environmental Design.

### **Background: Recommendation to Amend the Fair Housing Ordinance (Ch. 20A)**

The Office of Equity and Inclusion – Fair Housing Division is an enforcement agency authorized by the U.S. Department of Housing and Urban Development (HUD) as “*substantially equivalent*” to HUD. This means the Fair Housing Division administers laws that provides substantive rights, procedures, remedies and judicial review that are materially and considerably equivalent to the Fair Housing Act. The Fair Housing Division received certification April 24, 1995, as a Fair Housing Assistance Program (FHAP) to administer and enforce fair housing laws throughout the city.

To remain certified, the City of Dallas must acknowledge that it will prohibit discrimination pursuant to the full extent of its fair housing law and affirmatively enforce said laws which includes adopting policies and procedural practices to support the agency's ability to carry out these measures.

From February 1 – 4, 2021, HUD conducted a Performance Assessment of the Fair Housing Division. Pursuant to this Assessment, HUD cited the City's subpoena process in the Fair Housing Ordinance as compromising the confidentiality of parties associated with fair housing cases and potentially hampering the investigative process.

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On March 22, 2021, the Fair Housing Division presented a proposal to HHS Committee requesting to amend the Fair Housing Ordinance, Ch. 20A, such that the Fair Housing Division is authorized to issue subpoenas without approval from the City Council.

### **Do other cities have the same or similar subpoena authority as the City of Dallas?**

In addition to the City of Dallas, the State of Texas has three other local FHAP organizations that enforce fair housing laws and investigate complaints of housing discrimination. These cities are Fort Worth, Austin, and Corpus Christie.

The Fair Housing ordinances in each of these cities grants their respective FHAP agency the right to issue subpoenas directly without city council review or approval. Each of these cities have operated in this manner for at least five years.

Dallas has the only FHAP organization that is required to seek city council review and approval before a subpoena can be issued to assist in its effort to end housing discrimination.

### **Do other City departments have the authority to issue subpoenas without City Council approval?**

Six boards and commissions have express authority to issue subpoenas without city council approval including the ethics advisory commission, civil service board, trial board, community police oversight board, employee retirement fund, and police and fire pension fund. Subpoenas may also be issued without city council approval by assistant city managers when investigating an employee appeal or grievance under Chapter 34 of the Dallas City Code and by department directors in investigating consumer affairs issues under Chapter 50 of the Dallas City Code.

Previously, the City Council granted subpoena authority for complaints and issues related to Paid Sick Leave, which was managed by the Office of Equity and Inclusion prior to the Paid Sick Leave ordinance being permanently enjoined.

The Fair Housing Administrator in his or her capacity over Fair Housing and Sexual Orientation & Gender Equality may utilize subpoenas but is required to seek City Council approval.

### **Why does the Fair Housing Ordinance require City Council approval to issue subpoenas? What is the legislative history?**

The Fair Housing Ordinance was originally adopted on November 17, 1971. At that time, the subject of “fair housing” was a novel concept both nationally and locally.

Staff conducted a thorough research on the history and background of the Fair Housing Ordinance. Staff has found that there is no definitive explanation why the City Council prescribed the procedural requirement for City Council approval necessary for issuing subpoenas.

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### **Next Steps**

On May 24, 2021, the Fair Housing Division will present a briefing memorandum for action to the HHS Committee. Staff will propose recommendations to amend the Fair Housing Ordinance that addresses the issue of subpoena authority.

Should you have any questions or concerns please do not hesitate to contact me or Mr. Barksdale Haggins, Fair Housing Administrator, Office of Equity and Inclusion at [barksdale.haggins@dallascityhall.com](mailto:barksdale.haggins@dallascityhall.com).



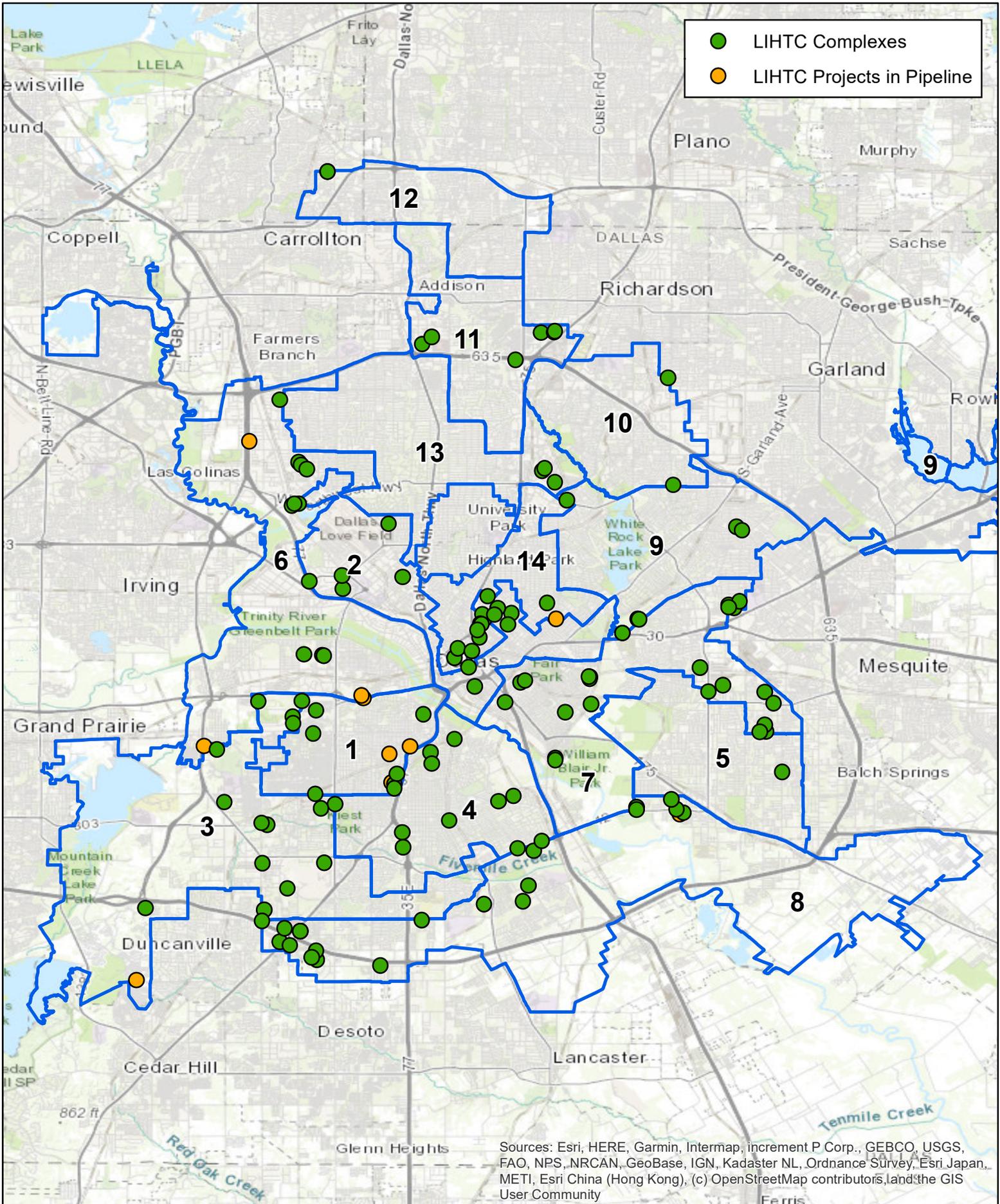
Liz Cedillo-Pereira  
Chief of Equity and Inclusion

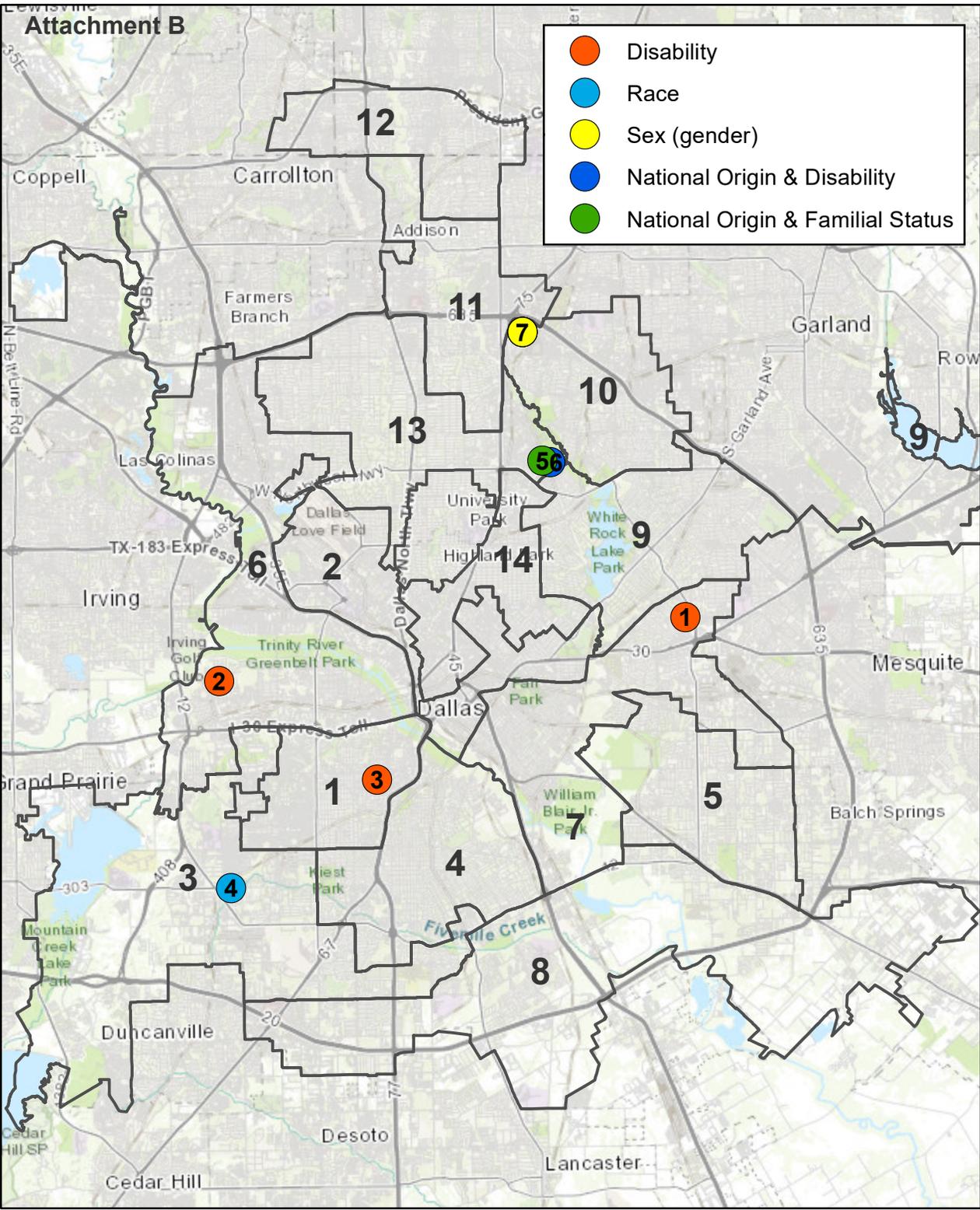
### **[Attachments]**

c: T.C. Broadnax, City Manager  
Chris Caso, City Attorney  
Mark Swann, City Auditor  
Billierae Johnson, City Secretary  
Preston Robinson, Administrative Judge  
Kimberly Bizer Tolbert, Chief of Staff to the City Manager  
Majed A. Al-Ghafry, Assistant City Manager

Jon Fortune, Assistant City Manager  
Joey Zapata, Assistant City Manager  
Dr. Eric A. Johnson, Chief of Economic Development and Neighborhood Services  
M. Elizabeth Reich, Chief Financial Officer  
Directors and Assistant Directors

# Dallas LIHTC Projects 1990-Present





# Locations of Fair Housing Cases Determined Cause 2018-Present

<b>1</b>	1721 John West Road Dallas, TX 75228 Disability
<b>2</b>	3531 Abilene St Dallas, TX 75212 Disability
<b>3</b>	435 W 9th St Dallas, TX 75208 Disability
<b>4</b>	4554 W Kiest Blvd Dallas, TX 75236 Race
<b>5</b>	6808 Eastridge Dr Dallas, TX 75231 National Origin & Familial Status
<b>6</b>	6832 Larmanda St Dallas, TX 75231 National Origin & Disability
<b>7</b>	8322 Campanella Dr Dallas, TX 75243 Sex (Gender)