



The Senate of the State of Texas

COMMITTEES:

Finance

Veterans Affairs & Military Installations

Subcommittee on Base Realignment
and Closure B Chair

International Relations and Trade - Vice-
Chair

Infrastructure Development and Security

Senator Eliot Shapleigh
District 29

October 16, 2004

Ms. Valerie Funk
Executive Director
TVP Non-Profit Corporation
151 S. Prado
El Paso, TX 79907

MAIN DISTRICT OFFICE:

800 Wyoming Ave. Suite .A
El Paso, Texas 79902
915 / 544-1990
Fax: 915 / 544-1998

EASTSIDE DISTRICT OFFICE:

1801 N. Zaragosa, Suite C
EL Paso, Texas 79936
915 / 857-4800
Fax: 915 / 857-4854

CAPITOL OFFICE:

P.O. Box 12068
Austin, Texas 78711
512 / 463-0129
Fax: 512 / 463-0218
Dial 711 For Relay Calls

Email: eliot.shapleigh@senate.state.tx

Dear Ms. Funk:

Recently, you requested a letter of support from my office for a Low Income Tax Credit application for Americas Palms. I refused.

Here's why.

When I was elected, I found that the bulk of Low Income Tax Credits went to Dallas, not to El Paso or elsewhere. Without a doubt, El Paso was not getting its fair share of Low Income Tax Credits, even though the need for more affordable housing in El Paso was dire.

As a result, I introduced and passed SB 1112 in 1999 that required that each region in Texas receive an equitable allotment of Low Income Tax Credits. Because of this bill, El Paso receives many more Low Income Tax Credits today, resulting in more affordable housing options for El Paso families.

Because of the great need and demand for affordable housing, it has been the policy of my office to provide letters for support for all organizations seeking Low Income Tax Credits. TDHCA's process for determining who is awarded tax credits is a fair and competitive process that takes into consideration a community's affordable housing needs and goals. If done professionally, this process results in a competitive market, with numerous quality applicants and the best affordable housing projects for El Paso.

I make only one exception to this general policy of supporting all projects—the business or organization responsible for the project must be a reputable organization of good standing in our community. If it is not, I will not support the project. In the past five years, every organization competing for Low Income Tax Credits has received a letter of support from my office.

Until now.

Based on this long standing office policy, my office will no longer support Low Income Tax Credit projects being proposed to the Texas Department of Housing and Community Affairs (TDHCA) by Tropicana Homes. In the past, I have provided letters of support to Tropicana Homes as they competed for Low Income Tax Credits. However Tropicana Homes' egregious actions of this past year have led me to conclude that I can no longer support them as a reputable organization of good standing in our community.

Because I believe that it is important that my actions be held up to review by my colleagues and my constituents, I am writing you to outline the reasons for my action on this issue. If you believe any of these facts are not correct, please advise me in writing within 10 days.

Last year, Tropicana Homes engaged in a fierce campaign to destroy the project of one of its competitors, Investment Builders. This campaign was marked by highly unethical tactics and political manipulation that successfully high-jacked a competitive process put in place by the TDHCA to review affordable housing projects based solely on the merits of what they bring to a community. It is my fear that if, as legislators and representatives, we do not speak out against such tactics and manipulation of due process and competitive markets that we will soon find our community held hostage by such activity. The result will be decisions based on political influence, not competition, that drive up cost and drive quality down.

Based on depositions filed in lawsuits, the subsequent settlement of legal claims and a review of project information submitted to TDHCA, I outline the basis for my concerns below:

- Last year, Investment Builders and Tropicana Homes both had significant projects competing for a limited amount of tax credits to be awarded to our region. Investment Builders' project, Suncrest Townhomes, was awarded the bulk of the tax credits because it not only scored high but also met important set aside goals of the TDHCA. Suncrest Townhomes was a joint project of both Investment Builders and the El Paso Housing Authority's non-profit Community Development Housing Organization.
- When it was made public that TDHCA would most likely be awarding the bulk of tax credits to Investment Builders and as a result Tropicana Homes' large projects would not be eligible for funding in this cycle, Tropicana Homes began a concerted political campaign to destroy the competing project.

- In a deposition, dated August 19, 2003, Al Velarde, spokesperson for the El Paso Housing Authority, Mr. Velarde states that immediately following the TDHCA meeting of June 25, 2003 where Bobby Bowling IV of Tropicana Homes traveled to Austin for the sole purpose of protesting the awarding of tax credits for Suncrest Townhomes, Mr. Velarde was approached by Mr. Bowling and told, "Well, you and your conspirators have taken all the tax credits, and now I won't get anything" (page 14, Oral Deposition of Alfonso V. Velarde, August 19, 2003, Investment Builders Inc., Plaintiff, vs. Housing Authority of the City of El Paso, and Paisano Housing Redevelopment Corporation). Later in the conversation, Mr. Velarde remembers that Mr. Bowling, "At one point in time say that the mayor was going to remove the board and remove Mr. Montiel (Director of the El Paso Housing Authority), and I believe he mentioned something about the administration, as well." (page 18, Oral Deposition of Alfonso V. Velarde, remarks by Mr. Bowling also confirmed in an Inter-Office Memorandum written by Mr. Velarde to Mr. Montiel on 6/25/03).
- According to depositions filed in this case, Tropicana Homes asked political allies at City Hall to influence the fate of the competing project by pressuring the Board of Directors of the El Paso Housing Authority to either destroy the project or be removed from the Board. Specifically, in a deposition by Rudolf Montiel, he states that in a conversation with Laura Uribarri, the mayor's executive assistant, she said, "Again, she reiterated the board and I would be removed." While this pressure was couched in policy concern, it was clear that the intent was to assuage a vocal political ally and contributor.
- On July 18th, Representative Anthony Cobos, Teresa Caballero (legal counsel for Tropicana Homes) and Mr. Bowling appeared on a local radio show together to discuss the Suncrest project. On this show, Representative Cobos stated that there would be a change in the board the following week.
- On July 22nd, the City Council approved a resolution adding a six new board members to the Housing Authority essentially ensuring the majority opinion on the Board. At this meeting Mr. Bowling stated that the Council should support this item because the Housing Authority had "flown individuals to Austin to lobby in support of the Suncrest Townhomes project" (City of El Paso Minutes, July 22, 2003). It was clear from the discussion leading up to the vote that one of the main reasons guiding City Council's action was that the current Board would not succumb to Council pressure and destroy the Suncrest project.
- Eventually, intense political pressure and increasing and burdensome legal fees associated with defending the project against political manipulation led to a settlement between the Housing Authority, the City of El Paso, Investment Builders and Tropicana Homes. The agreement between the Housing Authority and Investment Builders to build Suncrest Townhomes was cancelled and Tropicana Homes, as next in line for tax credits, was awarded the tax credits that would have gone to build Suncrest Townhomes. As part of that settlement, Tropicana Homes paid \$500,000 to the El Paso Housing Authority for settlement of claims relating to alleged activity that clearly violated Texas law. For your review, I am attaching a copy of the settlement and a copy of the check.
- The political campaign to destroy Suncrest Townhomes was marked by nasty character attacks on members of the Board of Directors of the Housing Authority on websites, on radio talk shows and at other public forums; hooded protests at City Hall (photo enclosed) and at the place of business of one of the members of the Board of Directors; and baseless and fierce

charges against anyone who chose to defend the Suncrest Townhomes project as good for this community. Paid employees of Tropicana Homes wrote on the websites, illustrated cartoons and orchestrated the attacks. Tropicana benefited from these tactics and at no time took a position opposing such tactics.

- My expectation is that businesses should compete for business within the legal and ethical framework created by a community, state and local law. We simply can not compete as a community if political influence, campaign donations, public hearing stunts and hooded protests replace open, transparent competition by those who bid on projects with public institutions. As a result, I refuse to support any application from an entity that supports or engages in such behavior.

If you have any reason to believe this information is not correct, please advise me in writing. If you would like to meet with me about this matter, please contact Sarah Enriquez in my office at 544-1990.

Very truly yours,

A handwritten signature in black ink that reads "Eliot Shapleigh". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Eliot Shapleigh

ES/sbcc: