

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Robert E. Johnson Building  
Central Conference Room  
1501 North Congress  
Austin, Texas

February 5, 2009  
9:30 a.m.

MEMBERS:

C. KENT CONINE, Chair  
TOM CARDENAS  
GLORIA RAY  
JUAN MUÑOZ  
SONNY FLORES  
LESLIE BINGHAM-ESCARREÑO

STAFF:

MICHAEL GERBER, Executive Director

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM	3
PUBLIC COMMENT	3
CONSENT AGENDA	
Item 1: Approval of items presented in the Board materials: Financial Administration Internal Audit Community Affairs Multifamily Finance Disaster Recovery Bond Finance Texas Homeownership Rules	12
ACTION ITEMS	
Item 2: Board	13
Item 3: Multifamily Division Items - Housing Tax Credit Program	14
Item 4: Multifamily Division Items - Private Activity Bond Program	54
Item 5: Rules	59
Item 6: Real Estate Analysis	69
Item 7: Disaster Recovery	69
Item 8: Bond Finance	93
Item 9: HOME and Housing Trust Fund Programs Division	99
Item 10: Executive	112
EXECUTIVE SESSION (None required)	
REPORT ITEMS	113
ADJOURN	114

P R O C E E D I N G S

MR. CONINE: Good morning. I will call to order the February 5 meeting of the Board of the Texas Department of Housing and Community Affairs.

Ms. Bingham?

MS. BINGHAM: Here.

MR. CONINE: Mr. Cardenas?

MR. CARDENAS: Here.

MR. CONINE: Conine is here.

Dr. Muñoz?

DR. MUÑOZ: Here.

MR. CONINE: Gloria Ray?

MS. RAY: Here.

MR. CONINE: Sonny Flores?

MR. FLORES: Here.

MR. CONINE: Everybody is here. We have a quorum.

We have public comment scheduled at the beginning of the meeting and at particular agenda items. If you want to speak before the Board for any reason, I'd ask that you sign a witness affirmation form.

The first witness affirmation form I have is Tim Leonhard.

MR. GERBER: Mr. Chairman, the acoustics in the

room are terrible so please be sure to speak very loudly into the microphone, and Board members, we need to use the microphones.

MR. LEONHARD: Good morning. My name is Tim Leonhard, managing director of MMA Financial based in Dallas. I'm here to discuss a Board item that will be coming in front of you in March regarding the structure of TDHCA HOME funds behind tax-exempt bond finance transactions, in particular four bond transactions that are ready and will be coming before the Board for approval in March: Costa Mariposa in Texas City, Costa Mirabella in San Antonio, Woodmont Apartments in Fort Worth, and Encino Point Apartments in Austin.

The requests that will be coming in front of the Board in March is to structure the HOME funds as soft versus hard payments, and the rationale is the ability to leverage more effectively the first mortgage proceeds which would be tax-exempt bond credit enhancement through Freddie Mac. Given the current market conditions for permanent credit enhancers, Freddie Mac is effectively the only permanent long term credit enhancer left in the country at the moment and have tightened their credit parameters rather significantly, given that they have no competition and our entire industry is headed towards a

tighter credit environment.

When the HOME funds are structured as hard pay versus soft pay -- which is what we typically see in most municipalities -- it limits our ability to leverage up the bonds on the first mortgage and thus kills the viability of the projects. As I mentioned, Freddie Mac is the only remaining long term credit enhancer in the country. The private placement bond buyers are no longer; the banks are no longer; Fannie Mae is no longer in the business, so we're trying to basically come up with a structure to make these tax-exempt bond transactions work.

We have met with the staff members who basically are going to stand behind the current Board policy and the current Board policy is that these must be hard pay loans. I would request that the Board consider, for a few different reasons, structuring these HOME funds as soft, first being that the HOME funds are going to be subject to a standard form of subordination in our credit agreement and it's highly unlikely that TDHCA would elect to foreclose on a second mortgage, have to repay off the first to recoup its own funds. I believe that private activity bonds are a great resource for the Board to leverage its limited resources.

The four projects in question total \$100

million in total development costs and are only requiring \$8,500 a unit in HOME funds, so about 8-1/2 percent of total project cost of that to me is a tremendous leverage versus looking at the way you leverage HOME funds on 9 percent transactions is going to be a much higher percentage of total project cost. I also feel that using private activity bonds is the only way that these 4 percent credits are ever materialized and invested in our state. If we don't use private activity bonds, the 4 percent credits never materialize and we've lost investment in our state.

Finally, and one last comment, Freddie Mac -- and I've discussed this issue with them -- is willing to restructure in terms of their credit enhancement to allow a fully amortizing 30-year term credit enhancement which would eliminate balloon risk and put the TDHCA HOME funds in a much better position to be repaid, not taking refinancing risk, yet we would allow our credit enhancement to be prepaid at par at the end of the compliance period, thus allowing TDHCA to be refinanced out should the equity in the real estate break. So I'm just here to have you start thinking about a Board agenda item that will be coming in front of you in March, and thank you very much for your time.

MR. CONINE: Mr. Leonhard, just for our edification and since you're in the business full-time, why is Freddie doing credit enhancement and Fannie not?

MR. LEONHARD: The real issue is liquidity. The only way to effectively do a tax-exempt bond at the moment is through variable rate bonds where the agency provides liquidity support for a seven-day put by the bondholders. Fannie Mae has about \$18 billion in variable rate bond liquidity commitments, and as you may recall back in September when the money market funds broke the "buck," they had about \$16 billion in puts to them and it freaked them out, to be quite honest with you -- sorry it's not a more sophisticated term -- but I think they're just a little more gun shy. Freddie Mac only has about \$8 billion in liquidity exposure, and Freddie just tends to be a little more nimble as it relates to reacting to market situations.

I talked to the gentleman who runs Fannie Mae's bond program yesterday and expect that they will get back in the business but given the conservatorship that both agencies are under, I think people are just hesitant to step outside the box. So right now Freddie is the only credit enhancer, long term credit enhancer in the entire country, with the exception of very few select regional

banks who are looking for CRA credit.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MR. LEONHARD: Thank you for your time.

MR. CONINE: Emanuel Glockson.

MR. GLOCKSON: Good morning, Chairman, members of TDHCA, executive director. I'm Emanuel Glockson, developer of Windvale Park. It was an '05 tax credit property placed in service in '06. I'm here today to talk about a change in utility allowances that we had. I'd like to pass out --

MR. CONINE: Don't pass out.

(General laughter.)

MR. GLOCKSON: I'm sorry -- to share with you the utility allowances that were used when the property was developed. As you can see the one-bedroom allowance was \$53 and the two-bedroom was \$60, a three-bedroom was \$67. We were notified in July of '08 of a utility change of an increase of a one-bedroom to \$119, and a two-bedroom increased to \$146, and a three-bedroom to \$180. This development has a HOME loan of about \$1.5 million second lien, and I understand from staff that I need to appeal to



the Board to ask the Board to instruct staff to maybe look at some type of loan restructuring on this development because it has negative cash flow of approximately \$3- or \$4,000 a month.

Any questions?

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Take a look at it, staff.

Cynthia Bast.

MS. BAST: I'll wait till the agenda item.

MR. CONINE: Is there anybody else. Barry Palmer, do you want to talk? Barry Palmer, you've got some time; he gets five minutes.

MR. PALMER: Good morning, Board members. My name is Barry Palmer of the Coates Rose Law Firm, and I'm here today to talk to you about an issue that's not on the agenda this month but that will be coming up on the Board agenda next month that Tim Leonhard talked about previously which is utilizing TDHCA HOME funds on a subordinate basis to help make 4 percent tax credit tax-exempt bonds work in the state.

Now, in years past, the 4 percent bond program accounted for over half of the tax credit units that were developed around the state. You were closing 50 to 60

deals per year. Unfortunately, a combination of factors, rising construction costs, declining tax credit prices, rising interest rates, have impacted the ability to successfully develop under the 4 percent program so that last year in 2008 there were only ten transactions closed throughout the state, and the outlook for 2009 looks even more bleak.

At this point there are only four transactions that have bond cap from the Bond Review Board and are moving forward to a 2009 closing. And today I wanted to talk to you about those four transactions and what we can do to make sure that they close.

Now, utilizing the 4 percent program, the only way you can close a transaction these days is with some soft money from either local jurisdiction or the state or bonds. In these four transactions, the Costa Mariposa in Texas City, Costa Mirabella in San Antonio, Woodmont in Fort Worth, and Encino Point in San Marcos, we have a total of 928 units with a total development cost of approximately \$100 million. Of that, we are utilizing \$8-1/2 million of TDHCA HOME funds which equates to roughly \$9,100 a unit of TDHCA funds in these units. The other \$92 million is being provided by outside sources, either private lenders, tax credit investors, or local

jurisdictions.

All of these projects have to close by April 3.

These are projects ready to start construction on April 3. Each of these projects will create 50 to 75 jobs in their local community during the construction process. For two years, that would create 200 to 300 jobs over these four communities with over 20 jobs on a long term basis after they're complete.

The problem that we have is that both senior lenders, as Mr. Leonhard talked about earlier, are requiring that subordinate financing must be on a soft basis payable out of cash flow as opposed a hard debt requirement. Now, in other HOME entitlement jurisdictions we work in, the HOME loans are always put in on a soft basis payable out of cash flow, but in the past TDHCA has had a policy requiring that HOME loans be made on a hard debt basis with a must pay requirement.

Now, TDHCA staff will tell you in the past the history has been that on cash flow loans they haven't gotten repaid. Our projections on these four deals show that there's substantially more money that gets repaid to the TDHCA using a cash flow payment structure with a 4 percent interest rate as opposed to a must pay requirement with a zero percent interest rate.

But putting aside that argument for a moment, I encourage the TDHCA to revisit its policy of requiring that HOME funds be lent on a hard must pay basis. We believe that 928 units of affordable housing at \$9,100 a unit of TDHCA funds is a tremendous investment for the TDHCA, and that in these difficult economic times that the focus on the HOME program should be on making a maximum impact as opposed to focusing on how to get the money back later.

So next month we're going to be coming to the Board asking you to approve these transactions. Again, it's \$9,100 a unit for 928 units that will invest over \$100 million in these four communities that will create 200 to 300 jobs right now, not next year, so we thank you for your consideration.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

That concludes the public comment that I have for the opening part of the meeting. Let's move now to the consent agenda, items 1(a) -- I think 1(p) got pulled, so items 1(a) through (o). Any comment?

(No response.)

MR. CONINE: Can I get a motion on the consent

agenda?

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move that we accept the consent agenda.

MR. CONINE: Motion to accept the consent agenda. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Moving on to item 2(a), Mr. Gerber.

MR. GERBER: Mr. Chairman, item 2(a) is the designation of the assistant presiding officer, secretary and treasurer and one or more assistant secretaries in accordance with Texas Government Code, Section 2306.030. It's recommended that Tim Irvine, our new deputy executive director, be designated as secretary and treasurer, and

Kevin Hamby be designated as assistant secretary, and Ms. Ray to be assistant presiding officer.

MR. CONINE: Okay. Tim Irvine for assistant secretary?

MR. GERBER: Secretary and treasurer.

MR. FLORES: So moved, Mr. Chairman.

MR. CONINE: There's a motion, and we want to make sure that Ms. Ray is vice chairman of the Board.

MR. FLORES: Yes, we are.

MR. CONINE: That's in your motion, I'm sure.

MR. FLORES: Yes.

MR. CONINE: Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Item 3(a), Mr. Gerber.

MR. GERBER: Mr. Chairman, item 3 is the

Housing Tax Credit items, and Robbye Meyer, director of Multifamily, is going to present those.

MS. MEYER: Robbye Meyer, director of Multifamily Finance.

The first item that we have for housing tax credits is 06118, Sunset Haven Apartments. They're requesting two amendments to the application: the first is a change in flooring covering from carpet to 100 percent vinyl flooring, and a change in the wiring from CAT5 wiring to CAT3 wiring with RG-6 COAX and provide wireless routers to the tenants.

The change in the flooring is requested for the preference of the tenants, for safety and convenience, and it's easier for wheelchair maneuvering and cleaning of floors. The difference in the wiring is related to the networking capabilities in the units. The owner installed CAT3 wiring and RG-67 COAX and is proposing to provide tenants with wireless routers to provide networking capability.

Staff is recommending the flooring change, however, since the CAT5 wiring was a threshold requirement in 23007, the QAP does not give the staff the ability to allow alternatives to threshold. Staff recommend the Board approve the flooring, however, staff is recommending

that the Board deny the wiring change because it was a threshold requirement.

MR. CONINE: I do have some testimony on this one. Cynthia Bast.

MS. BAST: Good morning. Cynthia Bast, Locke Lowe Bissel and Liddell. I'm here with Bill Lee of Tekoa Partners who was the developer for Sunset Haven, and to be respectful of your time, I will consolidate all of our comments.

Sunset Haven is a residence for the elderly in Pharr. It is the second development that this team has constructed in Pharr. I'm sorry, this one is in Brownsville. It has 100 units that leased up within a matter of weeks.

This amendment involves two items, as Robbye noted. The first is changing carpeted flooring to vinyl resilient flooring for the ease of walkers, canes and cleanliness and such for the elderly. Staff has recommended that change be approved, and so I simply ask that you confirm staff's recommendation there.

The second item relates to the electrical wiring in these units. The 2006 QAP, under which this property was built, contained a requirement that the units be wired such that the residents could have multiple



computers network within their units, and I note that the TDHCA standards have now changed, and in fact, the 2009 QAP does not have this same requirement. Nonetheless, this was a threshold requirement in 2006 and the owner admits that they did make an error in failing to install this wiring and networking capability.

The error can be addressed by giving the residents plug-in devices that allow them to network their computers within their units, and staff agrees that these devices do give equivalent functionality to the wiring that was omitted. So the owner has agreed to purchase these devices, and if they are installed in all of the units, that cost is approximately \$16,000. The owner has also committed to add three more computers to the residents' community center to be generally available, and that would cost another \$3,000 or so.

In arriving at this proposed solution, the owner did survey all of the residents on site as to their computer needs. There are 100 units in this property and only three of the elderly residents even have computers and none of them have any interest in networking multiple computers within their units. Because the wiring requirement was part of the threshold criteria, staff cannot recommend approval of this change, however, the

Board does have authority to do so.

So considering all of the elements there, that the residents will have equivalent functionality with the plug-in devices, that the networking capability provided will actually exceed the current 2009 TDHCA standards, that the residents will have additional computers available in their community center, and that only 3 percent of the residents have any computer needs, we respectfully request that you do grant the owner's request for this amendment. Thank you.

MR. CONINE: Any questions of the witness?

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move that we grant approval for both amendments, both the flooring and wiring.

MR. CONINE: Motion to approve both requests. Is there a second?

MS. BINGHAM: Second.

MR. CONINE: Second by Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MEYER: The second amendment is 08133, the Gardens of Sienna Apartments, Timber Creek Senior. The owner has requested to change the site plan, the number of buildings, the building plans and the unit plans. Both the net rentable area and the common area increased in size but insignificantly. The new site plan spread the buildings over a larger portion of the site. The final plans contain six buildings instead of one and it has three three-story buildings and three one-story buildings.

The owner explained that the changes were necessary in order to produce a plan to allow some of the buildings to be placed in service earlier than the others, and the more staggered placement in service dates would allow some of the credits to be accessed sooner and allow the credit period for the development to begin earlier as a prerequisite for optimizing the syndication rate.

Staff is recommending the approval with no penalties.

MR. CONINE: Staff is recommending approval, we have no witness affirmations. Do I hear a motion?

MR. FLORES: Motion to approve staff

recommendation.

MR. CONINE: Motion to approve staff recommendation by Mr. Flores. Do I hear a second?

MS. BINGHAM: Second.

MR. CONINE: Second by Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MEYER: The third one is 08401, Artisan at San Pedro Creek. The owner is requesting approval to eliminate 5,000 square feet of retail space that was originally proposed on the ground level of one building. The owner also requests approval for changes in the site plan and building plans that will result from the elimination of the retail space and from refinements in the design.

The latter changes included a reduction of the matching building height from four stories to three stories and eliminating the sole elevator in the original

plan. They're also increasing the masonry veneer from 5 percent to 15 percent and increasing the carpet from 40 percent to 70 percent. The owner indicated that the unit mix and net rentable area will not change. The original application and underwriting does not reference the retail space as part of the total development cost of the project.

Staff found that except for the retail space and any impact on the development cost resulting from other changes, the modifications were insignificant because the final development plan was equivalent to the development as originally proposed. The retail space was not a cost that was included the eligible basis, and therefore, was not funded by tax credits.

Staff recommends approving the request with no penalty.

MR. CONINE: No witness affirmation on this one as well. Do I hear a motion?

MS. BINGHAM: Move staff's recommendation.

MR. FLORES: Second.

MR. CONINE: Motion by Ms. Bingham, seconded by Mr. Flores to approve the staff recommendation. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

MR. CONINE: The motion carries.

I had a witness affirmation for Southern View. That wasn't the one you just did?

MS. MEYER: No. That was pulled.

MR. CONINE: That was pulled.

MS. MEYER: 3(b), Chairman and Board, at the December 16 meeting, the Board agreed to consider waivers of the 2009 Qualified Allocation Plan and Rules for 2007 applications that were returned and reapplied under the 2009 application cycle. The Board requested those applications to submit narratives stating issues that would warrant special consideration between their 2007 application and their application for 2009. Staff identified several global issues as follows:

Waiving pre-application request deadline for neighborhood organization -- that was in December, it was done after the Board decided this; allowing them to use the same third-party reports that they used in 2007; use the same underwriting, just update it to today's costs; allowing the same points for income levels of tenants that

were proposed in 2007; allowing three application points if they submitted a pre-application in 2007; allowing the housing needs scores that they had in 2007 to remain in 2009; and to allow the previous 10 percent test documentation and the carryover documentation to be amended and not have to submit the full documentation again.

The Department did receive information for consideration on the following four applications, as reflected in your Board write-ups. For the Board's information, the Department did receive \$245 million in pre-application requests for 2009 in the competitive cycle for about three times the funds that are available. We, therefore, expect competition to be similar to or greater than it has been in previous years, even with the additional allocation that we've received.

Per the Board's request, we are reporting to you the waivers that these applications have received, and I'll go through each one of those individually at the Board's pleasure.

MR. CONINE: Let's get the public comment up and listen to them first and then we'll ask for discussion. The first one I have is Terri Anderson.

MS. ANDERSON: Good morning, Chairman Conine

and Board, I'm Terri Anderson with Anderson Capital, LLC.

I'm representing Villas on Raiford Carrollton Senior Housing, L.P., application number 07303 and 080.

I submitted documentation effective January 15 to staff in an effort to have Villas on Raiford considered under the same item for '07 transactions that have given back their housing tax credits and reapplied under 2009, however, because we did not give back housing tax credits which we have not let to date -- and the reason behind that is we have an '07 and an '08 split allocation, we have a commitment letter from WNC at 74-1/2 cents, and we are in the process of moving forward on our transaction -- our main concern was it previously was the placed in service date for '07 tax credits and if we were to be able to get an '09 housing tax credit allocation for that same amount of housing tax credits, we would obviously defer that placed in service date, so basically 35 percent of the units would be placed in service under the '07 carryover agreement requirements and then the balance would be placed in service for the 2008 carryover agreement.

To date we have not turned in those housing tax credits but we would still like to get the same consideration, given the fact that we are an odd duck --



as you mentioned at the last Board meeting -- but in addition to that, this property is actually located in a high opportunity area and would be eligible for a 30 percent increase in housing tax credits under the 2009 QAP, and because of a reduction in the housing tax credit purchase prices as well as the significantly high spreads, we currently have a Fannie Mae quote and our spread over the tenure is 555.5 basis points which it puts us at a total of about 7.75 percent interest rate which significantly impacts HOME proceeds, as I'm sure you can appreciate.

So we are trying to put the transaction together. We do have our commitment letters, as I mentioned, from our construction lender which is Stearns Bank, from WNC which would be the tax credit syndicator. They've indicated that they would actually make some considerations in the limited partnership agreement for the swap-out, effectively, of the '07 credits for '09 credits, as well as any additional credits that we may receive in order to substantiate the transaction.

So my request is that you all would accept the documentation submitted to TDHCA staff that actually delineates the loss in points on this transaction that would be 24 points in total plus -- actually 25 points,

and then there are additional 10 points that are available in the region. So thank you for your time.

MR. FLORES: Chairman?

MR. CONINE: Question by Mr. Flores.

MS. ANDERSON: Yes, sir.

MR. FLORES: What's the name of the project?

MS. ANDERSON: It's Villas on Raiford Carrollton Senior Housing, L.P., and it could not be placed on the agenda because we had not returned those housing tax credits.

MR. FLORES: So we can't consider it today, or can we?

MR. CONINE: I guess since it's not on the agenda, she's asking it to be placed on the agenda for next time, not this time.

MR. FLORES: I see. Is that all you're asking?

MS. ANDERSON: Essentially, yes, sir, and to have the same consideration. We have gone in and done all the notifications necessary in order to be able to submit an application by February 27, so we are fully anticipating applying to TDHCA for 2009 credits on February 27, but would like to be given the same consideration as the other '07 transactions.

MR. CONINE: They want to be under the '07

umbrella.

MR. FLORES: I understand, but if all she's asking is that it be considered the next time, I'll make the request of the staff, if that's all it takes; if not, I'll make a motion.

MR. CONINE: Are there any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

MS. ANDERSON: Thank you, sir.

MR. CONINE: Ron Pegram.

DR. MUÑOZ: Is that all it took is for Sonny to ask for it to be placed on agenda?

MR. CONINE: I think that's all it takes.

MR. PEGRAM: I'm Ron Pegram, here on behalf Peachtree Seniors, TDHCA number 09108. This is a 2007 application that was awarded credits and reapplied under the 2009 QAP.

We're here asking that we be allowed to recapture 14 points that we lost as a result of complying with the 2009 QAP. We had, as requested, submitted to staff the areas in which our application was impacted and how that loss of points occurred.

Sir, I'd like to just ask that we be allowed to

recapture those 14 points. If you have questions, I'm happy to answer them.

MR. CONINE: Questions of the witness?

MR. FLORES: Mr. Chairman, who is the staff person, Robbye?

MR. CONINE: Robbye.

MR. FLORES: Robbye, there's a discrepancy here. There's eight points on the write-up and he's saying 14 points. What's the situation?

MS. MEYER: His is actually the fourth one listed on the sheet.

MR. FLORES: Yes, but I see that you mention in the writeup there's 8 points he's asking for and he just mentioned 14 points. Which is correct? In his testimony he mentioned 14 points.

MS. MEYER: He's also listing the global issues at the very beginning; those actually had point values attached to them.

MR. FLORES: So he's correct on the 14 points. Okay, thank you.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

Tim Lang.

MR. LANG: Chairman Conine, members of the Board, good morning. My name is Tim Lang and I am the general partner of Hampton Villages, TDHCA number 07137, a 2007 allocation that had to return its credits and is reapplying again in 2009.

At the last Board meeting, the Board indicated that it would provide those properties special preference in this year's cycle. We were also advised to submit some suggestions as to ways to streamline those applications which you have in your Board book.

I'd like to bring special attention to one suggestion which is for the Board to consider awarding these developments tax credits early in June rather than July. The reason for this is that many of those deals have a fair amount of the site work already completed, and if we were able to secure a syndicator in the second quarter of this year, we would be in a position to deliver credits this year as well.

Another reason, Hampton Villages also has a USDA loan commitment that is set to expire in July of next year which is fully paid, fees everything, and pretty much ready to go, and we have options for two extensions on that, but it's my understanding that there will be a new

person appointed to the USDA this year and we have no guarantee whether that will be extended or if we will have to incur those fees over again and to reapply for that loan commitment.

So I thank you for your time and consideration.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

Diana McIver -- we've got two for Ms. McIver, so I guess you get double the trouble.

MS. McIVER: Chair and members of the Board, my name is Diana McIver, and I will take these two developments separately. My client on one of them has not arrived yet, so I'm going to take Liberty Hill first, in the event that she gets here.

So the first one I'm talking about Liberty Hill; its number was 07220, and we did return our '07 tax credits within the amnesty period. Our requests -- and they are in your Board book -- were several related to scoring. One that's quite significant is that we took the local political jurisdiction points in our '07 application, we actually spent \$40,000 paying the fees for that loan, drawing it down, and then repaid it with a pre-development loan from the investor. So we're asking that

we not be asked to do that again, one, because it's expensive, but two, because our source has gone away so it gets a little difficult in rural areas.

On the rent levels per unit, scoring criteria number 7, we had worked something out with TDHCA in underwriting that would ask that that be respected and basically it's at a quasi-urban/rural market, Liberty Hill is, and we've worked with underwriting and they have allowed us to do 50 percent rents -- that's what the rent will be -- but we were allowed to market to 60 percent of AMI.

The third one was the pre-application incentive points, we're asking that those be waived or given to us. And the last one on scoring is the Green Building Initiatives. We are ready to start construction, our plans are done, and so it would cost money at this point to go back in and redo the application.

On the threshold requirements, we are asking that our Phase I environmental assessment, as updated for the Department in June, be honored. Nothing has happened to the site in the interim. And also, the market setting, nothing has happened in Liberty Hill that would change our market setting, so we're asking that you accept those older reports.

Underwriting, again, we're asking for the same underwriting treatment. One of our big issues, though, is the tax credit cap per developer, and our partner, Mark Mayfield of the Texas Housing Foundation, in '07 we each took the full \$600,000 against our caps. We're asking, now that there's the \$2 million cap and we did not anticipate that we'd need this in '09, what we're asking is that we be treated like a rural joint venture. The rural joint venture is usually between an inexperienced developer and an experienced developer. Mark does have -- his organization has an experienced certificate but they cannot be the guarantee, so it could be called financial capacity building instead of experience capacity building. But we would ask to be treated the same way as a rural joint venture in the split of the cap.

And then as has been mentioned, we may have some issues with Section 538 financing, so we may need to restructure our financing, and that may involve needing to reactivate or resubmit for HOME, and then like everyone else we would ask -- and I believe the Board approved this the last time -- that we get credit for all of the tax credit fees that we paid as well as the HOME application fee.

So that's really our request on Liberty Hill.



MR. CONINE: Is that all?

MS. McIVER: That's all on Liberty Hill. Did I stay within my three minutes?

MR. CONINE: Yes, you did. Are you going to go on to anything else?

MS. McIVER: Why don't I move on to, then -- unless there are questions on Liberty Hill, I can move on to The Canyons.

MR. CONINE: Any questions on that project? You said Liberty Hill, but you meant San Gabriel

MS. McIVER: Yes, San Gabriel Crossing in Liberty Hill.

The next project, as you're going to find of every one of these '07s, was a little bit different. The next one, we're consultants to Sears Methodist on the rehabilitation of The Canyons in Amarillo, Texas, and what the issues are there is on the scoring side the initial projections that they picked was a 22-point scoring criteria, it was 10 at 30 and the remainder at 60, and what happened this year in the QAP is that only accounts for 18 points, so they're asking to be grandfathered in in that category.

On the local political subdivision points, the situation there is we had already gotten that based on 5

percent of our total development cost -- which now have increased -- and we've gotten them from the housing finance agency in the area. We haven't drawn them down yet and we're just asking that that be honored and that we not have to go back to them for the minimal amount that would take it back up to 5 percent.

The rent level of unit scoring criteria, there's a new points given in the 2009 QAP that's significantly different from the '07 QAP, and it basically says that you get more points for doing more 50 percent units, and we were under the old category of doing the not more than 5 percent market for the maximum points. So that's another place that we would ask for a waiver to go back to the '07 QAP.

We'd ask for the pre-application points to be waived or honored because we did submit a pre-application -- and by the way, this project also gave back its credits, so in both of these cases we've given back the credits so we've given you the money to fund us again -- if you want to look at it that way.

This is a rehab; we would ask to have the points waived for Green Building Initiatives. Again, it is ready to go.

Threshold requirements, this sponsor has spent

a mega amount of money getting reports done, the Phase II environmental, and nothing has happened. We ask that those be honored and that we not have to update them. And the same with the market study, it's an occupied property, nothing in the Amarillo market is going to affect it. The residents are their residents, they're recycling them into the new rehabbed units. And again, the tax credit fees, we ask that they be waived.

The one issue that comes up with this project is it has a significant gap in funds, and the City of Amarillo does not have enough HOME funds to really fill that gap, so what we're asking is that the Board consider making Housing Trust Funds available for this kind of situation. And I just got an e-mail this morning that the U.S. Senate yesterday, as part of the stimulus bill has \$2 billion in HOME funds to go to the state to help tax credit projects that are in this kind of situation.

So my request would be -- if you can do it legally -- I mean, it's still got to go through the House and we know it's not there -- but if and when we get it, that we be allowed to use those for urban projects with participating jurisdictions and not just the rural projects. I don't know if that takes an act of legislature or not, but I'm just going to throw it out

there and we can be considering it.

MR. CONINE: Nice try.

MS. McIVER: And Kevin says it takes an act of legislature. Well, at least they're meeting this year.

So those are the requests on The Canyons. My client, Jan Thompson, just walked in, but I think I've covered everything in the letter so I think we're okay.

MR. CONINE: Okay. Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

That completes the public testimony on this particular item. I have a question of staff before we get too far into this, and this whole thing is walking on treacherous ground, I might say, but again, in the spirit of trying to play Santa Claus and do some of these things that we want to try to do, some of the individual requests, as I see them, might be statutory issues versus policy issues that the Board has the authority to waive. Do I get that right?

MR. HAMBY: Kevin Hamby, general counsel, assistant secretary.

Yes, that is correct, Mr. Conine. There are some of these that you would run into statutory problems,

predominantly the ones that are issues that are requirements in the statute like any kind of qualified neighborhood and county map of 2007 or senatorial letters. And while the Green Building questions that we have internally in here that have been requested are for point items, they would still have to meet the statutory requirements that are now in place for Green Building which I'm sure they're aware of. Those would be the largest issues.

The \$2 million credit cap is a more sensitive issue because our rules don't necessarily have that division, there is no financial expertise to be loaned in our rules. We have a new development group that you can split, the experienced developer does not have to charge against the cap for the full amount, we don't have exactly what we've asked for. So that's not necessarily a waiver, it's an entirely different fact pattern that doesn't exist at this point, we don't really have any precedent for it, we don't have any rule in existence to do that. So that would probably create a little bit of a statutory problem that might exceed your ability to waive issues because it really affects the \$2 million cap issue.

Was there anything else that was statutory?

MR. GERBER: HOME funds.

MR. HAMBY: That can't happen unless the legislature changes. Unless, again, if you put a restriction on it and we did not exceed our current 5 percent cap for persons with disabilities and you put a rural restriction on it that was then matched to that, you could do that. That would be the only way you could do it; you couldn't just do a general HOME fund because that's a state law, not a federal law.

MR. CONINE: All right, thanks.

Board members, again, I think we need a little more time to digest what we've been asked to do here because it's beyond what we've normally done in the past, and I see no reason why we couldn't table this item till our next meeting in March. We've had the request that staff look at a couple of other projects that aren't on our list and we could ask staff to include those two in our next discussion in March, and that would give, I think, both staff and the Board time to understand the ramifications, or what we can change through policy and what statutorily may not be able to change on each one of these.

Do you see a problem with that, Ms. Meyer?

MS. MEYER: If I may interrupt you, that puts the developer at a disadvantage because they don't know

what you're going to do, and the other developers because they don't know what you're going to do with these, so they don't where they're going to score, they don't know where they're going to move in the list, and the deadline is the 27th of this month.

MR. CONINE: For the actual submission?

MS. MEYER: So these developers don't know.

MR. CONINE: We're already so over-subscribed.

MR. HAMBY: Which is why the competition is a big deal for them.

MR. CONINE: I know, I understand that, but I'm uncomfortable, I guess, in making decisions on these four individual projects without understanding the full ramifications of those.

MR. FLORES: Well, Mr. Chairman, if we don't act, then we automatically kick this out. If you're correct on the deadline -- Robbye, you said the deadline is the 27th, I assume 27th of February.

MS. MEYER: The 27th of February. Statute requires us to submit applications by March 1.

MR. HAMBY: One of the issues is that what you approved earlier was that other than funding, et cetera, that the applications should look exactly the same as what they did in 2007, and if there was difficulty meeting the

current QAP, then there would be waivers requested and perhaps waivers granted, and I think whenever you look at like the Green Building Initiatives, clearly if you don't have any ability to put that in -- that's a possible six points, and so if you don't have the ability to put that in, in the lottery that may make you non-competitive because we were over-subscribed in some of those regions.

I have not looked at any of these individually to see whether they are or not.

And so that's where they're kind of trapped at both places. If you don't waive them something, they can't change their applications, otherwise, they're just a 2009 application, and so I think they're caught in the middle on that.

MR. CONINE: All right. But if we approved a motion that would allow all six of them in under future circumstances to be decided -- in other words, we're just saving them a slot, didn't we do that at the last Board meeting anyway?

MR. GERBER: No. You made them compete, you allowed them not to have fees because you couldn't grant them that sort of motion because they had no application in the process.

MR. CONINE: So we've got to get them in



somehow.

MR. GERBER: You've got to get them in and they have to be part of the process.

MR. CONINE: I understand what you're saying. We can essentially approve the generic, across-the-board stuff that's mentioned in the eight bullet points, and then do the case-by-case scenarios at the next Board meeting. Would that work?

MR. GERBER: In the competitive rounds, the people who aren't one of these four wouldn't know whether or not they were competing against somebody in the early going on the Green Building Initiatives points. That's the biggest issue, I believe, that you have is the people aren't one of these folks wouldn't know if they're getting, without having to do the work, the Green Building Initiatives points. I guess the local political subdivision points, as well, whether or not you're going to carry those forward entirely and give them the full level of 18 points

MR. CONINE: There's only one additional one that is not on our list. Is that correct?

MS. MEYER: That's Villas of Raiford. They've not returned credits, that's why they're not included.

MR. CONINE: Right, but they've asked to be in

that group if they return credits. Correct?

MS. MEYER: Correct.

MR. CONINE: Isn't that what she just asked?

MS. MEYER: Correct, but they're not going to return credits until they know they're getting another award.

MR. CONINE: Well, that isn't what we asked everybody to do. What we asked everybody to do was if you're an '07 deal, we asked them to apply and get in the competitive cycle with everybody else, and we would waive a bunch of conditions and fees and so forth, and I think that's the spirit of what we asked them to do.

Any other questions of staff at this point?

MR. FLORES: Mr. Chairman, as far as procedure, if we approve that they be allowed to apply and we allow the seven global points that they've asked for and then let the grading department take care of grading below that line, wouldn't that take care of it and let the chips fall where they may at the staff level? The global items you said were essentially Board items and something we could approve and had nothing to do with the legislative items that you mentioned at another point. If we agree to let them in, give them those seven global points and then let the staff grade them as they might further down and let

the chips fall where they may. Of course, obviously, the Green issue and some others may kill somebody, but it at least puts them in the cycle.

MR. CONINE: None of the seven global issues are statutory issues.

MR. HAMBY: No, those are all ready to go, if you want to do them, you can. I think one of the concerns that we had was if you're not going to approve like letters from senators -- which I don't think you can statutorily is the problem, but that's my opinion and you have to make the final decision -- in the previous point about participation, they would have to meet those deadlines and so they would need to know to be doing so. So those are ones that might be problematic for somebody trying to apply because those obviously are large point items that have significant swings of up to 19 points.

MR. CONINE: But it would make sense if we would waive those deadlines that we could and those that we can't statutorily, we wouldn't be able to anyway, whether it was today or whether it was March, and I assume staff would advise them so.

MR. HAMBY: Yes, sir, we can do that.

MR. CONINE: I'm ready for a motion, I think.  
Any other questions of staff?

MR. FLORES: I'll make the motion and you and Kevin fix it for me if you need to.

MR. CONINE: Okay, we'll do that.

MR. FLORES: I move that these four projects be eligible for 2009 cycle with the seven global issues being allowed as part of the approval process, and that the staff grade them in accordance with our normal rules.

MR. CONINE: Can we look at the individual requests at our next meeting?

MR. FLORES: And the individual requests will be looked at at the next Board meeting.

MR. CONINE: I've got a motion. Is there a second?

MS. RAY: Second.

MR. CONINE: Any further discussions?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Okay, we can go to 3@ at this point.

MR. GERBER: There are no housing tax credit

appeals, so we'll move on to 3(d).

MR. GOURIS: Tom Gouris, deputy executive director for Programs.

Post Oak East Apartments is a 246 unit apartment complex in northeast Fort Worth that was constructed using \$13,600,000 in Priority I Private Activity Tax-exempt Bonds issued by the Department and \$651,347 in annual 4 percent low income housing tax credits. As a Priority I development, the transaction was induced, approved and closed with rent restrictions and income restrictions providing 15 percent of the units affordable to households earning 30 percent or less of the area median income.

Because this was a bond program requirement, the restriction was only included in the Bond Regulatory and Land Use Restriction Agreement and not in the Low Income Housing Tax Credit. The owner is requesting relief under the regulatory agreement for these 15 percent of the units that were at 30 percent.

The owner did receive a preference as a Priority I transaction by choosing to make this restriction. It does, appear, however, that by the end of the award year, some funds were made available to transactions with a lower priority which might have

enabled the project to receive an allocation with a less restrictive rent structure. There's no way of knowing for sure at this point because we don't know what they would have asked for and what their allocation number would have been.

Preliminarily, underwriting confirmed that there is a need for some relief in rent restriction or a reduction of the permanent loan amount. The property currently has 105 residents with Section 8 rental choice vouchers, most of which would meet the 30 percent income limit. These residents currently pay what they can afford to pay and the rest is made up with the voucher, and most of the payments are even less than the 30 percent rent level.

These residents currently are placed in non-30 percent units and households in the 30 percent units are currently receiving a true rent reduction without any rental assistance. The permanent loan guarantor, Fannie Mae, in underwriting the 30 percent rents does not give effect to the Section 8 vouchers, they weren't counted. Without the owner's ability to convert to permanent financing, the construction lender could foreclose. Any such foreclosure could eliminate both the Regulatory Agreement and the Tax Credit LURA and all restrictions on

the property would be eliminated, although it's possible that the lender would maintain the Tax Credit LURA if they found they would use the tax credits for themselves.

Staff is not recommending the requested amendment because it would violate the Priority I request, however, if the Board considers the amendments to the Regulatory Agreement, staff would encourage the release of only the rent restriction and maintenance of the income restriction in order to encourage the continued access of the units to households of lesser means through the use of independently acquired rental assistance.

MR. CONINE: I have a witness affirmation form for Granger MacDonald, and he's got time.

MR. MacDONALD: Good morning. I'm here to ask you to help keep Post Oak Apartments in Fort Worth, just south of DFW Airport, in affordable housing. This a problem that's been generated by our global economy and even six months ago would not have occurred. We have a loan extension which is due in eight days, February 13 -- and that date is not lost on me at all -- Friday the 13th is pretty ominous -- but anyway, at our current underwriting standards, we will be unable to obtain the extension. Our credit enhancer has already told us that without some relief on the set-aside that the credit

extension will not be granted, so it's pretty cut and dried from that standpoint.

The property is a very high class property in a good neighborhood, it's next to a new park, many of the units have garages, there are no tax credit units in the near vicinity, and should we fail and the property go back to market rate under foreclosure rules, it will eliminate affordable housing in this sub-market of Fort Worth.

We currently have two LURAs on the property, as Tom said, one a tax credit LURA for 100 percent of the units leased at 60 percent of median, and then the bond LURA which is an additional 15 percent of the units to be leased at 30 percent of median. We're asking to have the two LURAs merged or to reflect one another at 60 percent of median.

The property was originally financed with \$12.6 million of non-taxable bonds and \$1 million taxable bond B piece, or in layman's parlance, a soft second. The B piece, the \$1 million, has been canceled by the lender, forcing us to have to deal with the entire \$13.6 million in bonds in our balance. Without the change in the LURA, the project will not underwrite at \$13.6 million. We can simply not overcome the load of the additional \$1 million in debt. None of the participants in the deal, we as the



developers, the syndicators, the lenders, or the TDHCA staff would ever have done this deal without the \$1 million soft money. And now our extension not being approved by the lender without it, it's a pretty cut and dried decision for us.

We're not asking to be bailed out here after we made huge fees. We have deferred 100 percent of our developer fee, 113 percent -- yes, 113 percent of our builder fee, and in addition to that, we've put \$500,000 of our own money into this project. If we get the extension, we'll have to put up \$250,000 more in extension fees.

We have audited financial statements -- which the staff has -- that proves this up, it's not just my word. And in our discussions, one of your own staff members asked me why we didn't just let the property go into foreclosure instead of feeding the deal, and my answer was that's just not what we do, but we're out of options.

The staff is obviously reticent to make this change in the LURA, and I can understand why, and there's really no way of knowing whether this 15 percent allocation or Priority was actually the swing, as Tom pointed, as a crucial element in us getting the award or

not. While we're asking to have the rent restriction eliminated, we do not have any problem at all serving the 30 percent community, and as Tom stated, of our 246 units, we have 105 Section 8 vouchers currently which are people that are at 30 percent of the median or less. We are very agreeable to keeping 15 percent of the property in Section 8 vouchers as long as it's on a best efforts basis.

Our underwriters, because we are not a Section 8 property, don't have a Section 8 contract, will not allow us to state we're going to keep Section 8 vouchers or they'll keep us at the 30 percent of median. If we can work some sort of language where we will keep the income limits at 30 percent so we're serving the 30 percent community, but then let the rent level be at the 60 percent mark, I think it will satisfy the underwriters, it will serve the community, and it will also keep the balance of the property of affordable housing.

Any other questions?

MR. CONINE: Any questions of the witness?

I've got a couple of questions. On a best efforts basis for the Section 8 tenants, how many total units do you have?

MR. MacDONALD: Two hundred forty-six; it would be 39 units.

MR. CONINE: And how many do you have there now?

MR. MacDONALD: A hundred and five.

MR. CONINE: Section 8?

MR. MacDONALD: Yes, sir.

MR. CONINE: My concern, if we decide to do this, would be if there was some reason that you had a mass exodus of Section 8 tenants down below the 39 number, how long would you be willing to hold a unit on the market for future Section 8 tenants so that you could at least get back up to the 39 level?

MR. MacDONALD: And I think that's exactly what the underwriters are saying when they say that we've got to do it on a best efforts basis. I mean, we don't have any way of looking into the future and seeing what kind of changes may take place in the Section 8 program where only the housing authorities get to use Section 8 vouchers. We're willing to say that we'll have units at 30 percent of median income but we've just got to be able to say that we may lease to them at the full 60 percent rents.

MR. CONINE: Well, that's what the voucher is paying.

MR. MacDONALD: Yes, sir, and that keeps the tenant from having to come up with the money.

MR. CONINE: And the project then underwrites, I guess, at the \$13 million number if we allow that to happen?

MR. MacDONALD: It's a little short. We'll get a six-month extension that will give us a chance to get there. At the current level, what the hell, we'll just add some more money to it.

MR. CONINE: And we're dealing with a debt service coverage ratio these days of what?

MR. MacDONALD: This one is one fifteen. That's part of the reason why we're fighting so hard is because this thing is financed with low bonds and it's a very good rate, we're trying to preserve that, obviously, in this marketplace.

MR. CONINE: And you deferred both the developer fee as well as the builder fee?

MR. MacDONALD: 113 percent of the builder fee.

MR. CONINE: There was a little problem with the original underwriting on this deal, wasn't there?

MR. MacDONALD: Our problem with the original underwriting was that we all expected rent increases that we did not get, we had increased utility allowance and we had a catastrophic increase in property taxes, and that really added to it. And if we'd have gotten those and

been able to keep the B piece alive, we wouldn't be here, we'd already be converted and down the road. And the real problem is losing the B piece, that million dollars killed the deal.

MR. CONINE: Any other questions of the witness? I mean, this isn't something we normally like to do but I heard you say the project is in a nice location and if it was foreclosed it would wipe out the LURAs and the thing would go to market rate rent.

MR. MacDONALD: Without question this will go into market rate and it won't be affordable housing anymore which is not the mission any of us signed up for.

MR. CONINE: Any other questions of the witness? If not, I'd entertain a motion.

Wait a minute, one more question of Tom. In your writeup you suggested potentially releasing only the rent restriction and maintaining income restrictions.

MR. GOURIS: That's correct.

MR. CONINE: And Mr. MacDonald, that will end up getting you where you need to go?

MR. MacDONALD: Yes, sir.

MR. GOURIS: And I want to make clear because he mentioned 60 percent rents. In the presentation or proposal to us, they were talking about 50 percent rents

for those units, and if that's a change, I just want to make it clear.

MR. MacDONALD: We would like 60 percent.

MR. CONINE: Wait a minute, I missed that loop.

MR. MacDONALD: We originally asked hoping that we could make it work with going to 50 percent rents on the 15 percent portion, but it has to be the 60 percent now that the underwriter has gotten through picking our bones.

MR. CONINE: Tom, what did you say?

MR. GOURIS: And we didn't evaluate it at 60, we evaluated at 50.

MR. CONINE: At 60 he would be would be better off.

MR. GOURIS: Yes, it would be better off.

MR. CONINE: One more question for you, Mr. MacDonald. I was getting at and I was just thinking about if for some reason you fell below the 39 units of 30 percent income, would you be willing to hold vacant units to get back to 39 for a 60-day period and then after that open it up to the entire market?

MR. MacDONALD: That seems fair.

MR. CONINE: Does that get you where you need to be?

MR. MacDONALD: Yes, sir.

MR. CONINE: I will entertain a motion from the Board at this time.

MR. FLORES: I got too confused, Chairman, especially the last part about the 60 days. Why don't you try making the motion.

MR. CONINE: I would say we would allow the release of the rent restriction up to the 60 percent of median income level with the caveat that the 15 percent at 30 units be at 39 units of the project be held open for 60 days for future 30 percent income limits and after that time he would be open to leasing those to 60 percent of median income. Did I mess up?

MR. GOURIS: I think he was also suggesting that he would be fine with leaving them at 30 percent units and just charging them the 60 percent rent.

MR. CONINE: He can get whatever he can get.

MR. GOURIS: But he can increase the incomes to 60 percent.

MR. CONINE: I guess I didn't mean to say that if I said that.

MR. HAMBY: And this would also be pending approval if we need to, so we have to look at it with the attorney general to make sure they'd sign off on this.

It's a modification to the priorities of the bonds.

MR. CONINE: The bond priority?

MR. HAMBY: Right.

MR. CONINE: Has everybody got what the intent of the motion is, including staff?

MR. GOURIS: I think we're there.

MR. CONINE: Do I hear a second to my motion?

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Thank you.

MR. GERBER: Mr. Chairman, at your direction, 4(a) is pulled and so it's deferred until next month, however, I do believe there's public comment.

MR. CONINE: Yes. I'm going to let these guys go ahead and speak so they don't have to come back. David Nance on item 4(a).

MR. NANCE: Good morning, Mr. Chairman, Board.



I appreciate the opportunity to be with you this morning

I just want to comment very briefly on item 4(a) and state the association's support for this effort, particularly in these tough economic times, I cannot tell you how much we appreciate staff's efforts to reduce unnecessary fees that are facing rental property owners and appreciate the concept of making sure that both 4 percent and 9 percent properties are treated in a similar fashion. We feel like this is an effort that will not produce any quality of housing issues but will, in fact, make the process more efficient, and once again, help property owners save some needed dollars in tough economic times. I appreciate staff's efforts on this and hope the Board will consider it favorable when the time comes. Thank you.

MR. CONINE: Thank you. Any questions of the witness?

MR. FLORES: Mr. Chairman, is this item on our agenda?

MR. CONINE: The item was on our agenda, it's being pulled for right now, probably will be back next meeting, but since David was here, I gave him a chance to speak on the agenda item.

We appreciate you sharing those ideas over at

the Governor's Office as well, if you would.

MR. NANCE: Certainly will, sir.

MR. CONINE: Thank you.

Granger MacDonald. He left, I guess, didn't want to speak to this item.

Let's move on to item 4(b).

MR. GERBER: Mr. Chairman, 4(b) is the presentation, discussion and possible approval of the first supplement to the Trust Indenture for Wildwood Apartments and The Meridian, Resolution #09-023.

Chairman Conine and Board, both of these transactions were originally issued by the Department in September of 2001, both have been placed in service and completed the cost certification process and are considered to be passed their initial lease-up period. Prior to completion of the cost certification, the original owner and principal of the general partner, William Brisben, left the transaction as part of a larger settlement with the syndicator/investor, Sun America/AIG.

The owner is requesting the Department's approval to restructure the original bond transaction which would result in changes to the trust indenture.

The original bonds were credit enhanced by AMBAC, however, they never stabilized under this program.

As a result, they were purchased in lieu of redemption and are currently being held by AIG Retirement Services. Under the proposed restructuring for Wildwood, the subordinate taxable bonds have been canceled, senior bonds have been transferred to the Freddie Mac trust that will then sell certificates of interest in the bonds to eligible investors. The bonds will then be credit enhanced by Freddie Mac at the trust level, carrying a AAA rating. It's expected that the amount of senior tax exempt outstanding for Wildwood would be reduced to \$6,602,000.

Wildwood is currently operating at a 0.53 debt coverage ration, however, it is anticipated after the restructure that the property will be at a 1.15 DCR which is within the Departments limits. A preliminary underwriting review by our staff confirms that a restructuring of this magnitude is required. The subordinate tax-exempt bonds and taxable bonds are no longer fully serviceable primarily because operating expenses have increased so significantly compared to what was projected in 2001.

Under the proposed restructure for The Meridian, the taxable bonds and subordinate tax exempt currently held by AIG Services will be canceled. The

amount outstanding from Meridian will include \$8.13 million in senior tax-exempt bonds and \$391,000 in subordinate tax-exempt bonds. The Meridian is currently operating at 0.68 debt coverage ratio, however, it is anticipated that after the restructure the property will be at a 1.15 debt coverage ratio.

A preliminary underwriting report Department staff confirms the need for and the appropriateness of this proposed restructure. The first supplement to the trust indenture proposes the following changes: first, changing the bond payments from semiannually to monthly to mirror the mortgage payments; two, changing the optional redemption provision which affects the date on which the senior bonds are eligible for optional redemption; and the final proposed change is that the interest rate which will be from 5.45 percent to 6 percent on the senior bonds and 5.86 percent to 6 percent on the subordinate bonds still outstanding for The Meridian. The restructure will result in decreasing the overall debt on both properties by \$12 million, thereby reducing the debt service on both properties by \$943,000.

Staff is recommending the approval of the First Supplement to the Trust Indenture for the Wildwood Apartments and The Meridian, Resolution #09-023.

MR. CONINE: Any discussion?

MS. RAY: Do we have any public comment?

MR. CONINE: No public comment.

MS. RAY: Mr. Chairman, I move staff's recommendation.

MR. CONINE: Motion to approve staff's recommendation by Ms. Ray. Is there a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Moving on to item 5.

MR. GERBER: Mr. Chairman, item 5 is the Compliance Monitoring Rules. The draft rules were posted in the *Texas Register* and made available for public comment after the November Board meeting. Comment was received from five different commenters. Changes to rules were made to the definition of substantial

construction based on a comment that was received. Specifically the requirement to have all major utility transmission construction in place has been changed to be "all necessary utilities available at the property." Department staff believes this addressed the concerns of the commenters and also reflects the Department's intention which is that utilities needed to commence construction be available.

In addition, comment was received that evidence of substantial construction should be demonstrated by expenditure of a percentage of the construction contract.

Department staff believes that a better way to evaluate construction is evidenced through physical attributes not financial ones. As a compromise, the definition requires all new construction properties to meet a list of seven criteria, some of which are physical. In addition, new construction properties must meet one of the following: they has have expended 20 percent of the construction contract, or have 100 percent of the foundations in place, and 50 percent of the framing completed, or they must have 25 percent of all residential buildings roofed.

Comment was also received about utility allowances, allowable application fees, and uniform physical condition standards requirements. In general,

these sections of the rules reflect federal rules and regulations and Department staff does not have the ability to change or waive those federal requirements. Minor adjustments and changes were made where possible.

Patricia Murphy is here to answer questions that might be of interest to you, but beyond that, we'd ask for your approval of the rules.

MR. CONINE: I have one public comment, Barry Kahn.

MR. KAHN: Good morning, Mr. Chairman, Board. My name is Barry Kahn, I'm a developer in Houston and we're also in the property management business. In talking to my staff this week about the rules, all they said was they wanted to compliment the staff on how helpful they are when they do have issues that do arise.

I'm here, though, to talk about the definition of commencement of substantial construction, and I'm a board member of TAAHP and we've gone through some of this and would like to modify this a little bit if at all possible. I'd like to make several recommendations here.

First of all, one of the requirements is completion of the foundation of the clubhouse. Several of our members have issues with this, one, it's never been a requirement, two, some people don't commence construction

of the clubhouse till later in the development or at the end, and then others, the clubhouse involves this one building that includes the entire development and in order to meet the time deadline, even though the development may be progressing, it becomes an issue.

And on any of these, particularly in today's environment, I believe this rule really arose from you, Mr. Conine, because people were abusing commencement of substantial construction. In former days, a lot of syndicators would sign the partnership agreement, the lenders would sign their agreements, it would all be held in escrow till the project was really commenced, somebody put a bulldozer on site, moved some dirt and they'd say they commenced substantial construction. And because of the abuse, rules evolved, and we believe the rules have really gone beyond their original intent.

And in today's environment, nobody is going to be starting construction once they have a real deal. There isn't a syndicator that's going to sign a partnership agreement unless he's really got the money and ready to proceed. And then you have to get a lender to sign off the deal and let a deed of trust be recorded in their name. If all the other pre-development requirements haven't been met, in today's environment, it's just not



going to move forward.

And continuing with the list, on building permits, we'd like to change that to infrastructure permits. Some municipalities don't permit the building permit to be issued until the infrastructure is in, so you could be well on your way on the development and not have your building permit, you just have your infrastructure permit, and we recommend that that be either deleted or changed to infrastructure permits.

All the framing completed. Some people do developments in phases, particularly if it covers a larger piece of land, and we would recommend that be deleted. All necessary utilities available at the property, again, you're not going to have your infrastructure permits or any type of building permit unless that's done, so it kind of overlaps, and some utilities really aren't brought to the property until the end and may be well be underway by the city or municipality.

All right of way access, again, you aren't going to get your building permits, we recommend that that be deleted or at least a letter from the municipality that such will be completed by the completion date. They may be putting in a new road or whatever and it may be something beyond the control of the developer.

As far as 20 percent of the construction contract, we request that that be 10 percent. As I mentioned, you aren't going to have a lender advancing money in today's environment unless it is significantly underway, and 10 percent in the ground, and we talked about some money having purchased materials off site, that should satisfy the requirement. And we're also willing to suggest that somebody delivers to the Department their signed partnership agreement and their construction loan documents.

With that, we'd appreciate if you would consider these changes, and we thank you and we're willing to answer any questions.

MR. CONINE: Any questions of the witness? These are all things that we might consider, but what happened with the process, why weren't these included -- if they're not included with what we got in our Board books? Why are these showing up at the last minute?

MR. KAHN: Well, I personally submitted public comment to get the list trimmed down to basically the loan documents and having spent 10 percent of the construction cost.

MR. CONINE: You're listed here as being one of the commenters.

MR. KAHN: Right, and that recommendation was made.

MR. CONINE: All these were?

MR. KAHN: No. I prepared it on a simpler format.

MR. CONINE: Why are we getting these at the last minute is what I'm asking?

MR. KAHN: Well, we didn't get the Board book realizing that the recommendations had not been accepted until a week ago.

MR. CONINE: Okay. Could staff comment on that?

MS. MURPHY: Patricia Murphy, director of Program Management and Compliance.

Mr. Kahn's public comment was included. He suggested that delivery of an executed partnership agreement with the investor be included; that's in the proposed definition. And the executed construction loan and construction loan agreement, that's been included as well.

MR. CONINE: Wait a minute. Rattle off the numbers that you're saying are in there. Do you have his letter?

MS. MURPHY: The letter that he e-mailed on

December 18, 2008.

MR. KAHN: Mr. Conine, item 6 and 7 is all that was addressed in that letter.

MS. MURPHY: So the comments that were received during the public comment period have been incorporated into the definition or responded to in the response.

MR. KAHN: Excuse me again, sir. My recommendation was to be limited to those items, that everything else be deleted.

MR. CONINE: Right. And staff chose not to delete them. Right?

MR. KAHN: Right.

MR. HAMBY: If I could, Mr. Conine, as you consider this list today, some of these would be substantial enough that we'd have to pull back out this portion of the rules.

MR. CONINE: Say that again, I didn't quite hear you.

MR. HAMBY: Some of these items would be substantial enough that we'd have to pull back down the rule. For instance, one would be a substantial change, so if you agree with one, you'd probably have to pull down the rule and put that back in. Removing all building permits would be fine because that's a technical change,

it just moves from building permit to infrastructure permit, everybody would have to get some type of permits.

Three, if you change that, you probably would have to pull down the rule again. Four is marginal, you probably could get by with that and go forward. Five, you might have a problem because of the change, but it is still requiring some municipality saying that these are all available. Six, you could do easily if you wanted to, but seven you would probably have to pull down the rule because some people might not be as willing as Mr. Kahn to give up their partnership agreements.

So just kind of as we look through this list, you could send most of the rest of it forward, all the rest of the rule forward except for this definition which we would encourage you to do if you want to tinker with this, probably two and five and six would easily go if you chose to do them, but the others might require this definition be pulled back down and put out for public comment.

MR. KAHN: Excuse me, Mr. Conine. As to delivering the partnership agreement, all developers are required to do so at cost cert anyhow, so it's just moving up the time line.

MR. CONINE: So if we would suggest these

changes, we would pull it down and re-circulate it for how long?

MR. HAMBY: Since these might be considered substantial comments, you'd probably have to put it back out for 30 days, once it was published in the *Texas Register*.

MR. CONINE: And that would put us in a jam for this year, doesn't it, pretty much?

MR. HAMBY: Yes, I believe so -- no, actually it wouldn't because you're talking about these would not actually take effect until December of this year, so you could do that.

MR. CONINE: Okay. Ms. Ray?

MS. RAY: Mr. Chairman, my concern about these comments coming in at this time that we've always had a process in place to ask for comments when we put it in the *Texas Register* the first time. The comments came in, the comments were considered. Now at this late date here we are coming with some more comments, so I have a concern about that because that delays the process. We have worked very hard, we've worked with the affordable housing community and all the communities with which we do business to comment during the comment period. But now when we're trying to complete the comment period, they

bring some more considerations, we're never going to finish like that, and I have some concern about that.

MR. CONINE: Any other discussion or questions?

(No response.)

MR. CONINE: Do I hear a motion?

MS. RAY: Mr. Chair, I move staff's recommendation to send this out for the *Texas Register*.

MR. CONINE: Move staff's recommendation as submitted. Do I hear a second?

MS. BINGHAM: Second.

MR. CONINE: Second by Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GERBER: Mr. Chairman, item 6(a), there are no appeals for this month. We'll move on to item 7 which are the Disaster Recovery items, and Kelly Crawford, our deputy ED for Disaster Recovery, will present those.

MS. CRAWFORD: Good morning, Mr. Chairman,

Board members.

Item 7(a) is an update from the Disaster Recovery Division on the progress of the CDBG housing activities under Round 1 and Round 2, as well as the Affordable Housing Pilot Programs.

For Round 1, I'm pleased to report that the COGs have completed assistance to 47 additional households since the last Board report, for a total of 387 households to date, another 48 are currently under construction and the COGs have drawn down 60 percent of their award amounts.

MR. GERBER: Kelly, all the houses that are going to be constructed are either being constructed or are in the process of finalizing their bids, and so we will meet the April 30 deadline now established for all the COGs to finish their contracts and to complete how many homes?

MS. CRAWFORD: I think we have 505 or 518.

For Round 2, several advances of note have been made. For the Houston program, the City of Houston has expended approximately 59 percent of its \$42 million allocation through January. The Housing Safety component has expended 88 percent of its \$20 million allocation, and the Apartment to Standards component has two multifamily



rehabilitation projects. One project is fully underway and the other is expected to commence in the first quarter of this year. The Apartment to Standards Program was also allocated \$20 million and is 30 percent expended.

The Harris County program has expended approximately 5 percent of its \$21 million allocation. A monitoring review was conducted in December of 2008 and there were no issues or concerns identified during the monitoring visit. The county is working with a CPA firm to certify hospital services provided to Katrina evacuees and will soon be able to report \$6.2 million which will bring them to 37 percent expended.

As you'll see in item 7(c), they're also requesting to reprogram another \$8 million to a multifamily rehabilitation project that will assist them in moving funds quicker to address continuing needs for Katrina evacuees.

And then for the Multifamily Rental Rehabilitation/Restoration Program, you have been given some handouts to see some pictures to give you a feel for what activity looks like out there on these projects

MR. GERBER: These are six of the seven properties. Six of them are under construction, the seventh one will be under construction in the next month

or so, but it's nice to see that progress is well underway.

MS. CRAWFORD: And once those are completed, they'll restore 813 rental units to house low income individuals and families.

And Don Atwell is here with ACS to provide the update on the Homeowners Assistance Program.

MR. ATWELL: Good morning, Mr. Conine, members of the Board. Don Atwell with ACS.

First the good news. We've brought two more contractors into the process to build. Over 90 homes have already been assigned to one of those contractors. We've been working with the permitting agencies in Beaumont, Port Arthur and Orange and are scheduled to go out to Jasper to decrease the time it takes to get a home permitted, and in those conversations we've gotten commitments to go from two to three weeks to get a permit to less than a week, so those meetings have been very successful.

We've gotten the environmental clearance for the release of funds from the Regional Planning Commission area, and the request for release of funds has been submitted for both the DETCOG and the H-GAC area.

As far as the actual production, 2,840

applications have been returned -- that means they've sent back the application itself, all the associated documents required have not been returned. There have been 1,799 applications returned that included all of the documentation but we shouldn't necessarily assume that it's a completed application, there's still quite a few pieces of data that need to come in from third-parties -- titles, insurance information, et cetera -- that's required to get them to the point that they could completely through the eligibility process.

We've determined eligibility on 893 applicants, we've done 795 initial damage inspections, and there are 637 applicants that are moving through the environmental clearance process. I have to commend Kelly and her staff on how quickly they're turning around the checklists when we send them out, usually it's intra-day once they're up at TDCHA.

We've met with 223 applicants, we will allow them to select the homes that will be built for them. There are another 160 that are in the process of being scheduled, so a total of 383 that are in the home selection process.

Now we get to the sort of not as good news, and Mr. Gerber and Ms. Crawford have made it very clear that

production to date and the actual construction of homes is not acceptable, and we're moving all the resources we can towards that process. There have been 36 homes that have actually closed. Three of those have finished construction, three are in construction, and the remainder are in the permitting or kickoff process. The biggest hindrance right now in moving the rest of the homes forward is the decision on abatement and demolition, and we're looking to work with the Department and State Health Services on exactly how to move that forward.

In addition, one other thing, there were 4,223 applicants that moved over from Round 1 to be certified Round 2; 1,800 of those individuals have not responded at all, and so two weeks ago we sent them a letter that said if we don't hear from you, you're going to lose your place in first-come/first-served. And so tomorrow, 700 additional applications will go out to new people that are on the waiting list who have expressed interest in participating in the program. Any questions?

MR. FLORES: Yes. Mr. Chairman, may I?

MR. CONINE: Mr. Flores.

MR. FLORES: I notice that Jim Walter has ceased existence, it says, and you have two additional contractors added. Are these contractors capable of doing

enough houses or are they small, one-house-at-a-time-type contractors?

MR. ATWELL: No, sir, they're actually not. One of them is SWMJ which is affiliated with [indiscernible] which is a large home construction firm, and they've committed to being able to do up to 500 homes by themselves if necessary. The other one is a consortium, Diamond Construction, and again, they have significant capacity as well.

MR. FLORES: During slow times like this, you start noticing the productivity and the ability to move on contractors. Some things have changed, so have you noticed any change in productivity and the ability of them to move a house forward?

MR. ATWELL: In Southeast Texas, there's obviously a lot of construction activity going on already, outside of this program. They will be able to move fast. When I talked to SWMJ, Mark Jungers, earlier this week, he thinks that they get a home completed in 45 days. We'll see if they actually make that, but that was the time frame he was putting out there.

MR. FLORES: And then you have Heston homes with the special contract on pre-manufactured houses. Have they put anything on the ground yet?

MR. GERBER: That would be different contract, and the answer is no, but almost.

MR. FLORES: I'd be interested in seeing how that comes out. Thank you.

MR. GERBER: Don, would you want to commit to the Board how many construction starts we'll see in that number at their March 12 Board meeting?

MR. ATWELL: Can I make a commitment after the meeting on Friday? Thank you.

(General talking and laughter.)

MR. GERBER: We've had some pointed discussions about the need to move aggressively with construction, that there are homebuilders that are waiting that have capacity, and that we will lose that capacity if we wait too much longer. We've locked them in and we want to make sure that, frankly, they don't move on to other areas. There's a lot of work down there from Ike, those resources are coming along as well. Plus, I think with this particular program we've tried two different models: we've tried the councils of government model to see if that worked to deliver assistance quickly, it's proven to deliver assistance, not necessarily quickly; we've gone now to what is an alternative plan which is the state doing the work and there's a lot of scrutiny that we're

all being subjected to, that we will have our first hearing by the Senate Finance Committee on the 16th. They've already had one hearing this week on the Hurricane Ike expenses and Hurricane Rita did not come up -- we expected it to but it did not -- I'm sure it will come up at the hearing on the 16th and I'm sure it will come up at other hearings as well.

We've really emphasized production, we know we're behind on production, and I think Don and his team, which includes Reznick and Shaw, understand the extreme scrutiny this program is under. But this meeting happens at a point where it is a little bit of a challenge.

Anything else you want to share, Don?

MR. ATWELL: No, sir, just our commitment to kick up the production and escalate it.

MR. GERBER: And I will say that Don and Mr. Shaw and Efraim Reznick and Paul Rathlesburg is here, and others from his team are here, and have been in Texas 24-7 working for the last many months. These are tough issues and every other state that has received funds through this program have experienced similar problems.

MR. GERBER: Switching over the to the Alternative Housing Pilot Program, Mr. Flores, that you referenced, we are in the process of doing environmental

clearances of about 20 households in Southeast Texas, and we'll have the first homes on the ground in the course of the next six weeks. The rest of the homes are going to be used by the City of Houston, working with community development corporations, to meet needs associated with Hurricane Ike. So we've identified interest in the ability to move those homes more quickly, and so we're in partnership with them and working through the details of that, but we believe that we have a better mechanism now to actually move those homes.

Kelly, anything you would add to it?

MS. CRAWFORD: No.

MR. GERBER: With item 7(a) done, we'll turn then to item 7(b) which is a discussion about what we're doing with Hurricane Ike and Hurricane Dolly, and I'll ask Tim Irvine, our new deputy executive director, to walk us through where we are.

MR. IRVINE: Thank you. Good morning, Mr. Chairman, members of the Board, Mr. Gerber. I am Tim Irvine; I am the deputy executive director. And I want to talk about a lot of aspects of Ike, and I'd like to begin talking at a fairly global level and then bringing it down to some specific staff recommendations for how we propose to be proceeding.



As the federal government has taken action to make slightly over \$6 billion available for disaster recovery on a national basis, and has specifically already allocated a little over \$1.3 billion of these funds to the State of Texas for recovery from Hurricanes Ike and Dolly, that is what we're working on right now. The governor has exercised his prerogative to designate the Office of Rural Community Affairs as the primary agency responsible for the administration of these CDBG emergency funds that have been granted to Texas, and we are working very closely with ORCA because we are designated as the exclusive agency to handle all of the housing related aspects of this recovery activity.

The way that this has taken shape is through an extensive public input process, working with local governments and hearings and so forth, a decision has been made as to how allocation would take shape and how it would be administered. And I realize that we have tried the COG-administered model and had some difficulties with that, and this time we're going to something that is a little different, but it uses the COG process as a policy maker and decision maker on the front end to decide, based on additional local input, how to allocate these dollars between non-housing needs and housing needs.

ORCA has developed a method of distribution that requires public notice, public hearings, extensive public input, and within the month of February, by the end of February, these COGs -- unless they request and obtain extensions -- will be providing to ORCA their initial assessment and decision as to how the funds would be allocated between housing and non-housing needs.

Let me back up for a second. The COGs are making this decision with respect to money that has been allocated among the regions based on a percentage formula that mirrors FEMA disaster damage estimates. There were some concerns over the way that those estimates were handled, especially in the areas impacted by Dolly, and in the total allocation there is a significant portion, approximately 15 percent, available for planning activities. A large portion of that would be reallocated back to the COGs to boost the funds available to help Texans in those most impacted areas.

So the COGs, working with this formula of distribution, will be making their decisions as to housing allocations and not housing allocations. Right now we're talking about something that's a little bit theoretical because even though we talk about \$1.3 billion being available for these activities, not one penny is yet

available. HUD has yet to publish its rules in the *Federal Register* that will give the exact guidance on how this program will be administered. But we've been working very closely with HUD, very closely with ORCA, having weekly or more frequent meetings with ORCA, and we're trying to get this as ready to go as possible so that the moment that HUD publishes those rules, ORCA will be ready to file with HUD our action plan. A draft -- and I emphasize draft -- of that action plan in your materials.

The way that this process is intended to work is that the COGs would make their method of distribution decision, would provide a completed application that shows the kind of methodology that they employ would meet the HUD CDBG requirements, and based on that, they would also identify subrecipients, principally cities, counties, units of local government, and these subrecipients would then enter into appropriate contracts with TDHCA to administer these contracts at the local level.

In most contracts they would develop scope of work statements that would specifically delineate the housing activities that they want to pursue, whether it was single family rehab, single family reconstruction, multifamily rehab, multifamily construction, technically anything that's on the CDBG eligible list is open as an

option, and one of the options that would be available -- this is in the draft plan -- is a compensation model.

We understand that there are lot of complexities and concerns about compensation models because you want to be careful about giving money to someone when they don't have necessarily have the background and resources that they can use and administer that money effectively. The beauty of a compensation model, on the other hand, is it does get relief to Texans in perhaps the quickest possible way.

So we're working many, many tasks in a parallel mode, and we've been in discussions with Houston, Harris County and others about the possibility of compensation models and are looking for ways that we can develop and refine that possible approach.

MR. GERBER: But Tim, is it fair to say that we are aware of the weaknesses of a compensation approach as used in Louisiana and Mississippi and we would strongly want to link any compensation approach that was adopted by a local entity to a clear mechanism to make sure that they could actually build new homes or repair existing homes?

MR. IRVINE: Absolutely. Regardless of what program is chosen and what entity is contracting with us a subrecipient to administer it, we want an auditable trail

that the program requirements are being addressed.

MR. GERBER: And again, this would be locally determined, so we don't really know, that is just one of a menu of options that locals are developing and considering. They may choose, in fact, to operate through their programs or do construction programs on their own, similar to the models that Texas has already employed. In Southeast Texas in particular, Beaumont, Orange and Port Arthur, they already have capacity to operate a system like that, so they may, in fact, build on that system as to one option that they may be considering. Houston and Harris County and the City of Galveston, in particular, all seem to have a very different ideas and are looking at a broader menu.

MR. IRVINE: And capacity was absolutely a central issue and the COG-administered situation, and we have been pretty emphatic and explicit in our draft action plan about the subrecipients being able to establish for us that they do, in fact, have capacity. We are working on pulling together workshops in the impacted areas to meet with these people to talk about how we would go about issues such as document capacity. We're looking at the possibility of perhaps several hundred contracts, some of which might be fairly small, and we are looking at the

possibility of encouraging or perhaps requiring that small recipients enter into consortiums to draw upon those entities that do have established capacity. We realize that capacity is just going to be essential to the effective administration of such a complex and open-ended program.

That is the general structure. There are two affordable housing rental pieces that I would like to talk about more specifically. One is a statutory requirement, it's a federal requirement situation that 10.6 percent of the total front be available and be used, set aside for affordable housing rental matters. We have reason to believe that existing deals that are already moving forward within the affected regions will be able to take up most, if not all, of this set-aside requirement, but in the event that they don't, our final approval of particular applications will enable to go back and refine those kinds of things with the COGs.

We also are anticipating sometime very soon an additional amount, perhaps as much as one-half to \$2 billion, being allocated to Texas, and in the way that we handle the second tranche, there would be some additional flexibility, should we need it, for addressing the affordable rental housing set-aside.

Getting deals done that are already moving forward but have hit snags, due to the problems in the credit markets and so forth, is a major priority and we have been very conscientious about finding the best possible way to enhance these deals, and in that regard, we have carved out another \$58 million set-aside under this program for affordable rental housing stock. We are anticipating that what we will do in that regard is put out a NOFA.

We want, for obvious reasons, to be able to target the particular deals which are already out there, but on the other hand, because of the nature of the federal grant and the fact that this is a large impacted region, we would anticipate that this NOFA would really have two stages. One would be on an allocated basis to make the funds available within all of the regions, and then on fairly short order, if they are not fully utilized, that we would be able to collapse it into a region-wide fund. It certainly can't be a statewide fund, this is all very directed relief, but we would be able to leverage existing tax credit deals.

Timing-wise, this probably won't work for the brand new ones that are moving forward but we would anticipate it would certainly be available to leverage

with the deals that are already out there.

Those are the general parameters that we have worked to establish. In my materials -- I apologize, I'm sort of a corporate geek holdover and I prepared this as a resolution and I understand that in the usage and parlance of this particular board, resolutions have very specific and limited narrow applications. So I would ask that you all of the recitals in my resolution and just use them to document for the record the factors that you're considering in taking action, and staff requests and recommends that you authorize us to proceed with these matters in a manner presented specifically with the expeditious development of one or more NOFAs that meet the general parameters that I described for the \$58 million set-aside.

Anything else you wish to add, Counsel, Kelly?

MR. CONINE: Any questions of Mr. Irvine?

Tim, on the \$58 million, as you may know, I have some great concerns on the single family side and 13 different COGs being able to construct homes in an efficient manner, and I see where we have the ability if we don't see a subrecipient in that are that doesn't capacity, taking it back to TDHCA, but we've been through the CDBG money and so forth, and contractors gearing up,



based on what we heard from Mr. Atwell a few minutes ago, and my concern is that if we have 13 different folks trying to figure that system out, it will take them a whole lot longer than one giant coordinator. Can you explain how this would work otherwise?

MR. IRVINE: Well, Mr. Chairman, I really wish I knew in detail how it will work, and in the next couple of weeks we'll be getting the feedback from the COGs as to their distributions and kinds of plans and subrecipients that they are targeting. I think that making this as effective as possible is going to involve a lot of technical assistance, we're going to be talking to cities and counties about that. I also hope that we can move forward with the possibility of expanding the current model as the state's available solution if we can find a way to make it interface pretty seamlessly with their processes, and if we can, in fact, address some of these issues that Don and Kelly have discussed, and we do, in fact, see that sort of see that sort of fervor moving forward and see the kind of responsiveness.

MR. GERBER: Mr. Chairman, I would just add in this instance we're somewhat limited. The funds have to start with a request to the governor who then makes the decision about how the funds are divided and what he has

done is he has put that decision for which funds will be for housing and which for non-housing into the hands of the agency for distribution, but that's put the decision-making power of how the funds are divided into the hands of the COGs. That doesn't necessarily mean that they'll do the work -- in fact, in most instances, they won't -- and then it goes to the individual cities. We will be looking very closely at which cities have capacity and which counties have capacity and looking for broad consortiums, and to the extent that we need to, placing thresholds on capacity so that we can ensure that we're going to get what they pledged to accomplish. But it's a very challenging contract, to be sure.

MR. CONINE: Based on this NOFA, how soon will we know, having a billion three, with all these 13 different COGs, how they have dissected between housing and other?

MR. IRVINE: We will know that by the end of this month, and within the next couple of weeks after their initial application and after the distribution, we will have the specifics as to who they anticipate to be subrecipients and the specific activities that they will be selecting. But we'll know pretty much by the beginning of March how the money is going to be split up and who

they're suggesting will be the subrecipients. And at that juncture we will really begin getting into the specifics with each of the proposed subrecipients on issues of capacity and contracting, scope of work, those kinds of things.

And this is a major caveat that everybody needs to remember at all times: we're going down this road in an effort to expedite this to the fullest extent possible, but HUD has not published rules yet, and none of this will occur until HUD publishes rules, none of it will occur with finality until HUD publishes rules. The distribution decisions, the allocation decisions, we have good reason, based on discussions with HUD, to believe that this will all work and will meet the HUD CDBG requirements, but the actual finalization of that is going to be HUD rules.

One other thing that I really want to point out that is really troublesome and it's very hard for us to work with this, and that's financing and staffing issues for this. Because we do not have the federal dollars available for this yet, we are constrained to put all of the positions that are conducting these activities into our existing budget funded with GR. So we have very limited ability to add staff and we can't just tap the federal money and bring in 20 or 30 people, and when

you're talking about a program of this potential magnitude and programmatic diversity, I think the staffing needs are going to be pretty darn significant and we're really looking forward to getting some of this crystallized and getting the federal money in.

MR. GERBER: I might add that we are going to hire at least five people that will be able to compliment staff, and be reimbursed for that out of GR funds that we have available to us that we can use for hiring purposes.

So we will begin some wise hiring and use our existing Disaster Recovery staff, continue to count on them to work through these issues.

I would also add that we received word of the \$1.3 billion in a report to the Board on November 26. It's now been ten weeks and we've not yet seen the rules, nor do we believe that the rules have made it to Congress yet, as required, so that they can then be issued in the *Federal Register*. Until that happens, the State can't submit its plan and we're all sort of operating just based really off of past practice, we're basing our correct grasp of the state action plan based on what we did in Katrina and Rita.

The other thing I would note is that we are heading towards a model that very much works in some

respects like the City of Houston and Harris County model in which we have had both of those entities in the state of Texas. They are big agencies, they are big governments, they have significant capacity, and as you'll recall, they indemnify the State of Texas for any screw-ups that they should make in their administration of CDBG funds, and they have performed quite well.

So we will be looking for that kind of capacity to step up to administer the grants, and where there is not capacity, we will not hesitate to turn down contracts to very small cities that have one person who is the city manager to administer a million dollar grant. That's just not something that we're going to deal with, we're going to have people working in regional consortiums and groupings of smaller communities because this is an area the size of West Virginia that we're talking about, and we need to make sure that we can move the dollars within the time frames that the governor has laid out. We want to make sure that we're successful and we're setting our communities up to be successful in that.

Tim, anything else you want to add?

MR. IRVINE: No. I'd like to just summarize and put a bullet on that that we're really sharing with the Board our general architecture, much of which is

constrained by policy decisions that have been made by the governor on the way this is all to be established and administered, and we're asking something that's really a little bit out of the ordinary, we're asking, subject to the general policy description that I've given you, for the Board to authorize us to go ahead and get a NOFA going as soon as these approvals do issue and the rules are published by HUD.

MR. CONINE: Ms. Ray?

MS. RAY: Mr. Chairman, given that we are moving ahead and we haven't gotten the money, I assume this discussion is leading us to a motion to approve the NOFA to be published at such time as the funds are available. Is that correct?

MR. IRVINE: The NOFA will be published only at such time as the funds are committed and available at the federal level, really as evidenced by the rules having been published as well.

MR. HAMBY: I would just interject, the reason that this is a motion constructed the way it is now is your statute has a requirement that this Board sets policy and that the staff carries it out, and what this would do to some degree is shift a portion of that policy-making role, based on what you've see now, to Mr. Gerber and Mr.

Irvine with the oversight of the Chairman, and so you're basically sharing your authority to do this NOFA that you've not seen, and that's why it is before you.

MS. RAY: Mr. Chairman, I move that the Board approve the issuance of the NOFA at such time as the federal funds are available and to share the responsibility with the executive director to make the requisite decisions with oversight by the Chairman.

MR. CONINE: Motion by Ms. Ray. Is there a second?

MS. BINGHAM: Second.

MR. CONINE: Second by Ms. Bingham. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GERBER: Mr. Chairman, I would just add we appreciate your help and expertise in this area, and we will tap into others of you who have significant expertise to make sure that we get this right.

Turning to item 7(c) which is an amendment by Harris County. Just to quickly tell you what Harris County is trying to do, we gave them \$20 million largely for a myriad of social services to serve Katrina evacuees.

The social service needs of those Katrina evacuees have changed over the course of the last several years and the result is that they don't feel like they have as great a need in some areas as they do in others.

They have previously not considered doing a housing rehabilitation program, they now believe that that would be the greatest thing that they could do with these dollars would be to use \$8 million of them to rehabilitate a couple of properties. So they're asking in their existing allocation of \$20 million that there be the appropriate reduction in certain social services that are listed in your Board item and that the funds remaining available be allowed to be used for a rehabilitation program for multifamily properties. So we would ask for a motion to approve Harris County's request

MS. BINGHAM: Move staff's recommendation.

MR. CONINE: Motion by Ms. Bingham. Is there a second?

MR. FLORES: Second.

MR. CONINE: Mr. Flores seconded. any further



discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, 8(a), Matt Pogor, our director of Bond Finance, is going to quickly walk us through the interest rate swap policy.

MR. POGOR: Matt Pogor, director of Bond Finance.

Chairman and Board members, item 8(a) is requesting approval of the Department's interest rate swap policy. The Department adopted an interest rate swap policy on September 9, 2004 to establish guidelines for the use and the management of all interest rate swap management agreements, including but not limited to interest rate swaps, caps, collars and floors, incurred in connection with the issuance of a debt service obligation.

The interest rate swap policy sets forth the manner of the execution of the swap, provides for security and payment provisions, risk considerations and certain other relevant provisions. The Department's interest rate swap policy requires the deputy executive director of

Administration and director of Bond Finance to review annually the interest rate swap policy. Staff sought advice from our swap financial advisor, swap financial group, and our financial advisor, RBC Capital Markets, for an understanding of current operational parameters, and if the Department needed any changes because of the current market conditions. None was recommended at this time except those discussed below.

The changes that are before the Board today include recommendations from the State Auditor's Office resulting from our audit of the Single Family Revenue Bond Program. Language was added to provide the Board specific notice of staff recommends the use of forward starting swaps, fixed or declining notional value swaps or knockout provisions. Additional changes were added to meet the requirements of the State Government Code, Chapter 1371.056.

Staff is recommending approval of the Department's interest rate swap policy, item 8(a).

MR. CONINE: Any questions of Mr. Pogor? If not, I'll take a motion.

MR. FLORES: Move approval, Mr. Chairman.

MR. CONINE: Motion to approve by Mr. Flores.  
Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Going to 8(b).

MR. POGOR: Chairman and Board members, is requesting approval of Resolution #09-025, authorizing the transfer of the Single Family Mortgage Revenue Bonds 2005 Series A and 2007 Series A interest rate swap counterparty from Bear Stearns Financial Products, Inc. to JP Morgan Chase Bank. The terms of the existing agreement for the Department would not change.

With the acquisition of Bear Stearns, JP Morgan assumed a number of interest rate swap transactions, including those executed under agreements with Bear Stearns Financial Products, BSFP which was a Bear Stearns derivative product company. Derivative product companies, or DPCs are formed by financial institutions as a special

purpose highly rated AAA providers of interest rate derivative products, primarily interest rate swaps.

As a result of the recent events related to Lehman Brothers and the bankruptcy filings of two Lehman Brothers DPCs, rating agencies, and Moody's, in particular, are questioning the potential of a voluntary bankruptcy on the part of DPCs. A voluntary bankruptcy poses a significant risk that, at the very least, counterparties will not receive payments due to them on a timely basis. Therefore, a financial institution which sponsors a DPC may be informed that in order to maintain a AAA rating, it must provide additional capital to support the DPC, even though there is no contractual obligation to do so.

JP Morgan has indicated it would not put up additional capital for Bear Stearns financial product going forward. In order to be proactive and to address the possible downgrade by Moody's regarding Bear Stearns financial product which would result in bonds being tendered, and with JP Morgan alternatively stepping in to be our swap counterparty, TDHCA is recommending transferring Bear Stearns financial product to JP Morgan Chase Bank.

Staff is recommending approval of Resolution

#09-015, item 8(b).

MR. CONINE: Do I hear a motion?

MR. CARDENAS: Move staff approval.

MR. FLORES: Second.

MR. CONINE: Moved by Mr. Cardenas and seconded by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Item 8(c).

MR. POGOR: Chairman and Board members, item 8(c) is requesting approval of Resolution #09-025, authorizing application to the Texas Bond Review Board for reservation of single family private activity bond authority.

The 2009 MCC program is expected to close on February 27, 2009, and in order to close the 2009 mortgage certificate program, an application must be filed with the Texas Bond Review Board to draw down \$60 million of volume cap.

At the June 26, 2008 TDHCA Board meeting, the

Board approved Resolution #08-025 authorizing application to the Texas Bond Review Board to draw down \$129.6 million of remaining reservation of TDHCA 2008 single family private activity bond authority. The reservation for this \$129.6 million of 2008 volume cap expired on February 5 -- which is today. TDHCA was not able to utilize the volume cap as originally planned because of market conditions and has filed for a carryforward of the \$129.6 million 2008 volume cap.

Because the original reservation expired on February 5, prior to the February 27 expected closure of the MCC program, a new application must be filed with the Texas Bond Review Board. The resolution authorizes the filing of the application. The \$60 million of H.R. 3221 volume cap will not expire before February 27, 2009, thus no action of the Board is required.

Staff is recommending approval of Resolution #09-024, item 8(c).

MR. CONINE: Any questions on this particular item? I'll take a motion.

MR. FLORES: So moved.

MR. CONINE: Motion to approve by Mr. Flores.  
Second?

MR. CARDENAS: By Mr. Cardenas. Any further

discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries.

Going to 9(a), Housing Trust Fund Program.

MR. GERBER: Mr. Chairman, Jeannie Ayala, our director, had her baby in January, so in her absence, Cameron Dorsey is filling in and has a number of awards, and Cameron will walk us through 9(a).

MR. DORSEY: Cameron Dorsey, programs manager, HOME and Housing Trust Fund Division.

Item 9(a), staff recommends that we postpone this until next month. A couple of days ago the applicant submitted a letter requesting that this be delayed to next month. Because of an ice storm in the Midwest and they couldn't travel to be here at today's meeting. So with the Board's indulgence, we'd like to move that to next month.

MR. CONINE: Pull it and save it till next month. Go to 9(b), please.

MR. DORSEY: 9(b), these are two amendment requests for your consideration. The first one is from

the City of Bonham. The city is requesting an amendment to extend their contract by six months to April 30, 2009.

This would be the city's third amendment. The first amendment was approved by the executive director on February 13, 2008 which extended the contract by six months to allow additional time for the city to identify eligible applicants.

The second amendment was approved by the Board on June 26, 2008 which provided additional time to address a conflict of interest waiver request for one of the homeowners to be assisted and reduce the number of households served from ten to four. The actual time required to process the conflict of interest waiver exceeded the previous six-month extension, so this third amendment will provide additional time to close the loan to provide assistance to the fourth and final household.

City of Bonham staff and the city's consultant have adequately administered the contract by providing assistance to three eligible households and submitting all documentation for the conflict of interest waiver request to serve the fourth household. In addition, the city is not responsible for the delay in processing the conflict of interest waiver request which was approved after the contract expiration on October 31. An extension to April



30, 2009 will allow sufficient time for full execution of the contract amendment and completion of the loan closing.

Staff recommends the City of Bonham be allowed to extend their contract to April 30, 2009 to assist the fourth and final household under this contract.

MR. CONINE: I have no public comment.

MS. RAY: So moved, Mr. Chairman.

MR. CONINE: Motion by Ms. Ray to approve. Is there a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. DORSEY: The second amendment request for your consideration is Cambridge Crossing. Cambridge Crossing is a 60-unit multifamily development that received a 9 percent housing tax credit allocation and a \$420,000 HOME award at the July 31, 2008 Board meeting.

The HOME funds are structured as a loan amortized over 30 years with an interest rate equal to AFR. The Department executed a contract with the development owner on December 17, 2008. At the December 18 Board meeting, the owner spoke during public comment and requested that the Board consider reducing the interest rate from AFR to zero percent.

Staff has reviewed the request and has prepared several options for consideration. The owner indicated that the interest rate reduction is necessary as a result of a \$318,000 increase in development costs and a reduction in credit pricing from 78 cents on the dollar to 72 cents. The applicant has also presented a \$100,000 increase in conventional debt and an increase in the interest rate from 7 percent to 8.5 percent. The applicant indicates that these changes resulted in an increase in gap funding of \$669,000, but this is only partially satisfied by the Board's previous action to increase tax credit allocations for 2007 and 2008 transactions.

The applicant suggested the development is no longer feasible without a change to the HOME loan terms. The underwriting analysis confirms that based on the new assumptions provided by the applicant, the development no

longer has sufficient net cash flow to repay the anticipated deferred developer fee within the Department's 15-year standard. The underwriting report provides three options for the Board's consideration which are included in your Board book.

After discussing these options with the applicant, staff recommends that the Board approve an amendment to HOME contract number 1000991 for Cambridge Crossing to reflect an increase in the HOME loan from \$420,000 to \$1,320,000 to be structured as a fully amortizing and repayable first line mortgage with an interest rate of 4.5 percent which is slightly higher than AFR was at the time of underwriting, amortization of 30 years and a term of 18 years, as reflected in option 2 of the underwriting report.

Staff recommends that the Board approve the amendment subject to one additional HOME unit for a total of 13 HOME units and the conditions of the underwriting report.

MR. CONINE: I have a witness affirmation form from Ms. Diana McIver.

MR. McIVER: We accept what staff has offered.

MR. CONINE: Any other questions of the witness?

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move staff's recommendation.

MR. CONINE: Move for staff recommendation. Is there a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. DORSEY: Item 9(c) is a whole host of HOME Program award recommendations.

On July 31, 2008, the Board approved the 2008 Single Family NOFA which made available approximately \$23 million for Owner Occupied Housing assistance, Tenant-Based Rental assistance, and Homebuyer assistance programs. In December, the Board approved the transfer of \$4 million in declined funds to the NOFA which increased the total amount of the NOFA to approximately \$27 million.

The additional funding was set aside to increase the Owner Occupied Housing assistance programs set-aside.

To date, 64 applications, totaling a little more than \$21 million in project and administrative have been received. The Board has previously approved funding for 40 applications totaling approximately \$12.9 million in project and administrative funds. Today staff is recommending 20 applications for an award totaling approximately \$6.9 million in project funds and \$281,728 in administrative funds which will result in 197 affordable housing units. Two applications are being recommended with changes as reflected in your Board book, and I can discuss those changes at your request in more detail.

MR. CONINE: Cameron, which two are those?

MR. DORSEY: Those are the City of New Braunfels and Fort Bend County Women's Center. One is an OCC application and the other is a TBRA application.

MR. CONINE: Ms. Ray?

MS. RAY: Are there any witness affirmation forms for these two?

MR. CONINE: No.

MS. RAY: With the Chair's permission, may we make a decision on these?

MR. CONINE: Have you finished your presentation?

MR. DORSEY: I have a couple more lines. Four additional applications are still being reviewed and are in the process of clearing deficiencies and may be considered at a future Board meeting. All applications have been reviewed by the portfolio management and compliance division and no issues were identified.

I've got a recommendation and if you would like to take this section as one and then take the other sections individually, we can do that as well.

MR. CONINE: Let's take it all in one bite.

MR. DORSEY: All right. The next is the awards under the Contract for Deed NOFA. On May 5, 2008, the Board approved a NOFA for the Contract for Deed Program which made approximately \$9.3 million in funding available. Funds are available on a first-come/first-served basis until all funds have been awarded or May 1, 2009.

To date, three applications totaling \$1.5 million in project funds and \$60,000 in administrative funds have been received. In December the Board approved two applications totaling \$1,040,000 in project and administrative funds. One application for \$500,000 in

project funds and \$20,000 in administrative funds is being recommended for funding today. If the attached award recommendations are approved, a total of \$7.78 million will remain in the NOFA.

The Rental Housing Development NOFA awards. On June 26, 2008, the Board approved the 2008 Rental Housing Development NOFA that set aside \$5 million for new construction or rehabilitation and acquisition and rehabilitation of affordable rental housing. Subsequent to approval of this initial funding, the Board approved transferring all the remaining funds from the 2008 NOFA to the 2008 NOFA for a current balance of approximately \$19,486,052 in funds available.

The NOFA allows applications in a first-come/first-served basis until April 30, 2009. To date, the department has received 18 applications for a total of more than \$25 million. Of these applications, two applications were terminated and three applications were withdrawn. The Hyatt Manor application, application number 08344, was withdrawn subsequent to finalization of the Board agenda, therefore, it is reflected on the agenda today but has been removed from the award log and writeup.

Of the remaining 13 applications, approximately \$19.8 million, five are being recommended for awards

today. Four of the applications on today's agenda are being considered for awards in conjunction with forward commitments of housing tax credits from the 2009 credit ceiling in accordance with the Board's decision in November. Two applications are being recommended for HOME awards totaling \$2,175,000 and two applications are not being recommended for HOME awards. The remaining application has an existing award of 2008 housing tax credits and is being recommended for a HOME award totaling \$400,528 in order to fill the gap in financing resulting from the volatility in credit and debt markets.

All the applications being recommended for funding have completed three stages of the application review process. The two applications that are not being recommended for HOME awards failed to meet the financial feasibility criteria in the 2008 real estate analysis rules and guidelines. Additionally, staff has determined that awards of HOME funds for these two applications may not represent a prudent use of Department funds due the financial infeasibility of an existing Corsicana property sharing several development team members. That's in reference to the development that Mr. Glockson spoke to at the beginning of the meeting that will be on next month's agenda for consideration of a modification to the existing



HOME loan. So appeals of these two not recommends will also be on that agenda so you'll be able to hear them all together.

If the recommendation is approved, \$2,625,528 in project funds will be awarded and a balance of approximately \$16.9 million remains in the NOFA.

One last NOFA here, the CHDO NOFA. A CHDO NOFA for a little less than \$6 million was approved by the Board on June 26, 2008. Subsequent to approval of this initial funding level, the Board approved transferring all remaining funds in the 2007 NOFA to the 2008 NOFA for a current balance of approximately \$6.3 million.

The NOFA allows applicants to request funding on a statewide first-come/first-served basis until April 30, 2009. To date, the department has received one application for a total of \$4 million which is being considered for award today. The development has an existing 2008 award of housing tax credits and an executed contract for \$2.9 million in non-CHDO HOME funds that were approved by the Board in July. However, the Department subsequently a change in the ownership structure to bring a CHDO in as managing general partner.

In conjunction with this change, the applicant submitted an application for \$4 million in HOME funds

under the CHDO program. These changes resulted in a prior lien issue between the conventional lender and the Department's significantly larger HOME loan. The Real Estate Analysis Division has evaluated the application and the recommendation is subject to conditions reflected in the underwriting report. If the above recommendation is approved, \$4 million in project funds will be awarded and \$50,000 in CHDO operating expense funds will be awarded and a balance of approximately \$3.2 million will remain in the NOFA.

The Board's approval of all the awards presented today total approximately \$14 million and will assist 332 Texas families access safe and sanitary housing.

MR. CONINE: Ms. Ray.

MS. RAY: Mr. Chairman, I move staff's recommendation on all items.

MR. CONINE: Motion of Ms. Ray to approve staff recommendation of all items on 9(c). Is there a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor

signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. DORSEY: Item 9(d) is the presentation, discussion and possible approval of Housing Trust Fund Program award recommendations. Board members, a NOFA for Housing Trust Fund rental production was approved in the amount of almost \$2.6 million by the Board in September of 2008. The NOFA allows applications for funding on a statewide first-come/first-served basis until all funds are awarded or April 6, 2009. The Department has received six applications to date requesting a total of \$2,754,000.

One of these applications was awarded in the amount of \$384,000 in November 2008 meeting, one application is being recommended for \$450,000 today, and the remaining three applications are under review for possible award at a future Board meeting. If the application being considered today is awarded, \$1,760,000 will remain available under the NOFA.

Staff recommends approval of the Housing Trust Fund award recommendation for Parkwood Apartments, a \$450,000 loan, amortized over four years at a 2 percent

interest rate, subject to conditions in the underwriting report and subject to amendment to HOME contract number 1000878 to decrease the existing HOME loan to \$500,000. And I can discuss the circumstances of this particular deal in a little bit more detail if you'd like.

MR. CONINE: So you're making a recommendation for \$450-.

MR. DORSEY: Yes.

MR. CONINE: Do I hear a motion?

MR. CARDENAS: So moved.

MR. CONINE: Motion by Mr. Cardenas to approve \$450-.

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

MR. DORSEY: And the development happens to have an existing HOME loan in place and they're actually swapping out a little bit in funds, so it would be a reduction of about \$200,000 so they need a reduction in the existing HOME contract to \$500,000 in accordance with the underwriting.

MR. CONINE: Do you accept that as part of your motion, Ms. Ray?

MS. RAY: I do.

MR. CONINE: And the second that goes along?

MR. CARDENAS: Yes.

MR. CONINE: Any further discussion on the motion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

I think we're done.

MR. GERBER: Mr. Chair, the one last item that's on the agenda involves the Neighborhood Stabilization grant. The State of Texas substantial amendment has been approved by HUD but we do not yet have a grant agreement nor do we have some other details from HUD related to our amendment, so we're working through that process with them and we'll be briefing you at the March 12 Board meeting. A NOFA for that \$102 million that the state of Texas will be administering through the Neighborhood Stabilization Program.

I also just wanted to point out to you that you have a list in your Board book of outreach activities as

well as the standard Single Family Mortgage Revenue Bond Program delinquency report. We continue to watch that closely as the numbers we're going to see, as a sign of the times that we're in, continue to drift upward. We are pleased that the Board approved some foreclosure prevention funds that we are using to provide counseling and other assistance through our Single Family Bond program, but we're seeing those numbers pick up and we're concerned and watching it very, very closely to make sure that we're preserving our portfolio.

Beyond that, I've shared with each of you an annual report that's coming out for the Department and we'll be sending the final copy to you within the next week and a half. I appreciate your looking over that. Beyond that, we look forward to seeing everybody on March 12, hopefully in better accommodations than we had today, and appreciate your time and service to the Department.

MR. CONINE: Thank you, Mr. Gerber. Any further issues to come before the Board?

I'd like to say we got through this meeting in a hurry, hope everybody enjoyed that. The legislature is in session. I would encourage each of you to interact with the legislature as appropriate. It's always good to spread the word about what the Department does and how we

assist low income Texans to be able to get into the housing of their choice. And I think this calendar that the Department came up with is a great idea, a great way to communicate that to our legislators and others who are interested in what we do.

If there's nothing else to come before the Board, we will stand adjourned.

(Whereupon, at 12:10 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board  
LOCATION: Austin, Texas  
DATE: February 5, 2009

I do hereby certify that the foregoing pages, numbers 1 through 120, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy King before the Texas Department of Housing and Community Affairs.

\_\_\_\_\_  
(Transcriber) 2/09/2009  
(Date)

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