

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Capitol Auditorium
Capitol Extension
1100 Congress Avenue
Austin, Texas

Thursday,
July 8, 2010
9:05 a.m.

MEMBERS:

C. KENT CONINE, Chair
GLORIA RAY
LESLIE BINGHAM ESCAREÑO
TOM H. GANN
LOWELL KEIG

STAFF:

MICHAEL GERBER, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

A G E N D A

	<u>PAGE</u>
CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM	5
PUBLIC COMMENT	7
CONSENT AGENDA	
ITEM 1: Approval of the following items presented in the Board materials:	42
<i>Multifamily Division Items - Housing Tax Credit and Exchange Programs</i>	
a) Presentation, discussion, and possible approval of Housing Tax Credit Extensions	
<i>Housing Trust Fund</i>	
b) Presentation, discussion, and possible approval of the 2010-2011 Housing Trust Fund (GTF) Rural Housing Expansion Program NOFA Award Recommendation and Authorization to Release a Separate NOFA for USDA 502 Direct Loan Application Assistance	
c) Presentation, discussion, and possible approval of Request for Amendments to CDBG Disaster Recovery Housing Contracts administered by TDHCA For CDBG Hurricane Ike/Dolly Round I Funding	
ACTION ITEMS	
ITEM 2: Asset Management and Compliance	
a) Presentation, discussion, and possible approval of asset management fees for Exchange and Tax Credit Assistance Program	42
ITEM 3: Financial Administration	
a) Presentation, discussion, and possible approval of the fourth amendment to the FY 2010 Operating Budget and Housing Finance Budget along with authorization to submit the related Finding of Fact to the Governor's Office and the Legislative Budget Board	49

b) Presentation, discussion, and possible approval of the FY 2011 Draft Operating Budget	56
c) Presentation, discussion, and possible approval of the FY 2011 Draft Housing Finance Operating Budget along with authorization to submit the Related Finding of Fact to the Governor's Office And the Legislative Budget Board	58
ITEM 4: Tax Credit Assistance Program	
a) Presentation, discussion, and possible approval of a Round 4 application cycle for the Tax Credit Assistance Program (TCAP)	60
ITEM 5: Multifamily Division Items - Housing Tax Credit Program	
a) Presentation, discussion, and possible approval of Housing Tax Credit Amendments	68
b) Presentation and discussion of the Status of Application Awarded Housing Tax Credit Exchange Fund and possible action for an Extension of Deadlines for the Housing Tax Credit Exchange Program	69
c) Presentation and discussion of challenges made in accordance with §50.(17)(c) of the 2010 Qualified Allocation Plan and Rules (QAP) concerning 2010 Housing Tax Credit (HTC) Applications	73
ITEM 6: Appeals	
a) Presentation, discussion, and possible action for Tax Credit Program appeals not timely filed	78
b) Presentation, discussion and possible action on Multifamily Program appeals	93
c) Presentation, discussion and possible action for Underwriting appeals	--
d) Presentation, discussion and possible action for Housing Trust Fund Program appeals	--
REPORT ITEMS	
1. Disaster Recovery Division's status report on CDBG	--

and FEMA AHPP contracts administered by TDHCA,
including update on Ike/Dolly Round II

2. Exchange extensions --

EXECUTIVE SESSION --

1. The Board may go into Executive Session pursuant to Texas Government Code §551.074 for the purpose of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee

2. Pursuant to Texas Government Code §2306.037(c) to meet with the Internal Auditor to discuss issues related to fraud, waste, or abuse

3. Pursuant to Texas Government Code §551.9071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:

a) *The Inclusive Communities Project, Inc. v Texas Department of Housing and Community Affairs, et al. file in federal district court*

4. Pursuant to Texas Government Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Texas Government Code, Chapter 551

5. Pursuant to Texas Government Code §559.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person

OPEN SESSION --

ADJOURN 225

P R O C E E D I N G S

MS. RAY: If you'll please find your seat. It's a little bit past nine o'clock, and do we know where all our children are? If not, do you know where your seats are?

Welcome to the July 8 meeting of the Texas Department of Housing and Community Affairs. My name is Gloria Ray. I'm the Vice Chair of the Board, and I am going to start the show off for the day. Welcome.

We'd like to start our meeting off, each meeting, with public comment. And I have a list of witness affirmations before me for public comment.

Our Chair, Mr. Kent Conine, is on his way, even as we speak. He had a weather delay and he's on his way in from the airport. But we do with to get the meeting started so we can get through this lengthy agenda for the morning.

The meeting of the Texas Department of Housing and Community Affairs will please come to order. I'd like to call the roll.

Mrs. Leslie Bingham?

MS. BINGHAM-ESCARREÑO: Here.

MS. RAY: Chairman Conine is not here presently, but he will be in shortly.

Mr. Thomas Gann?

MR. GANN: Here.

MS. RAY: Mr. Lowell Keig?

MR. KEIG: Here.

MS. RAY: Mr. Juan Muñoz is absent.

Gloria Ray, Vice Chair, present.

We do have a quorum, and we will move forward.

Our first witness for the morning is State Representative Mr. Jose Menendez, speaking on behalf of the Terrace at Haven for Hope.

Mr. Menendez?

MR. GERBER: Madam Chair, might I interject just before we start. I think Mr. Conine's travel experience this morning is a sign of a bad travel day ahead. One of the things that I think the public knows is that all of our Board members are volunteers, but what they may not know is that many of you come in the day before and, because of the travel problems of today, may not get home until tomorrow.

I think we're going to lose some members earlier in the day of this Board, and I think it's really important for the public to be sensitive to keeping within the three-minute time limit and try to -- and two minutes is better, where three speakers may wish to express a view, two speakers is better, and just to try to be sensitive to that.

And I just wanted to raise that at the very

beginning to give everybody a sense of that we have probably eight hours' worth of items that we need to really pack into probably four hours' worth of time.

MS. RAY: Thank you, Mr. Executive Director.
Representative Menendez, please.

REPRESENTATIVE MENENDEZ: Thank you, Madam Vice Chair. Members of the Board, Mr. Gerber, my name is Joe Menendez. I'm the state representative for District 124, and as my good friend Madam Vice Chair Gloria Ray said, I'm here to speak this morning on behalf of a forward commitment for Terrace at Haven for Hope.

I want to thank you for this opportunity this morning to speak in support of this forward commitment application for Terrace at Haven for Hope. I know that you've already heard some testimony from neighbors, council men, and others, and so I'm going to try to keep it short.

I do have a letter that I'd like to read into the record. It's on behalf of the entire Bexar County delegation.

And it states, "Dear Chairman Conine, the members of the Bexar County legislative delegation wish to express our very strong support for the award of a forward commitment for the Terrace at Haven for Hope supportive housing application, TDHCA project 10114.

"This affordable housing development will be a

major component in the extensive efforts in San Antonio to provide long term solutions to the growing problems of homelessness, not only in our community, but as a model throughout the state. Haven for Hope is a tremendously successful endeavor between local and state government, private sector business interests, and a host of faith-based and charitable organizations.

"Initiated less than four years ago, Haven for Hope already combines medical care, substance abuse, job training, mental health care, and transformational concepts of housing to provide a holistic approach to addressing the many facets of homelessness and its causes. The goals of Haven for Hope are to determine the root causes and to provide viable long term alternatives to individuals, veterans and families. Affordable housing is the last critical element of this endeavor.

"Haven for Hope has used a best practice approach to create a consolidated and comprehensive campus centrally located in downtown San Antonio that has drawn great interest from around the state, nation, and even other counties. The Terrace at Haven for Hope will provide quality, safe, and affordable supportive housing for families with young children who are being assisted in restoring their lives and futures.

"Granting a forward commitment from the 2011 low income housing tax credit round will enable the Terrace at Haven for Hope to significantly expedite the opportunities presented by this development. The sooner residents can occupy these affordable units, the sooner the goals of transformation and a return to economic stability and sustainability can be realized by hundreds of families.

"Your earliest approval of this request for a forward commitment is strongly urged, and your attention to this matter is greatly appreciated. Respectfully yours, Senator Wentworth, Senator Van De Putte, Representative Corte, Villarreal, Liebowitz, Gutierrez, Senator Uresti, Representative McClendon, Castro, Farias, Martinez, Fisher, and myself."

Members for the Board, I think that the words of my colleagues say it best. Virtually everyone in San Antonio is committed to the Haven for Hope initiative and this multifamily supportive housing project. Non-profits, local and state government, faith-based providers, and just as importantly, a wide array of private sector businesses have come together to make this a reality.

But nobody exemplifies the commitment from our community and our state better than my good friend, Mr. Bill Greehey, who will speak to you in just a moment. Even before

he retired as Chairman and President and CEO of Valero Energy and he began another career building the largest pipeline and asphalt business in the country in New Star Energy, Bill took on the challenge of Haven for Hope with the leadership and commitment necessary to make it the model for homeless programs across the country.

But his commitment has been far more than just his name and his support or his money. With the same determination that built the great corporations that I mentioned, Bill has put his heart and soul into making Haven for Hope what it has become in just a very short time. I've lost track of the number of times over the past two sessions that he's come to the capitol to meet individually with Governor Dewhurst, Speakers Craddock and Straus, Chairmen Ogden and Pitts, as well as the enumerable representatives and senators on both sides of the aisle.

He's personally had a role in convincing them of the great value of Haven for Hope, and made the case, to a great extent, for the \$20 million for the budget allocation to TDHCA last year to expand homeless programs across the state, and above all proven that there is a far better way to deal with the decades old problem of homeless of loss of hope. The Terrace at Haven for Hope is one of the last remaining pieces to the realization of this goal, and I believe

and know that TDHCA will continue to be a vital partner in making all of this a reality.

I want to thank you for your time, and your consideration of this request, and I'll make myself available for any questions if there are any at this time.

MS. RAY: Are there any questions of the witness?

(No response.)

MS. RAY: We thank you, Representative Menendez, and we thank you for your continued support for affordable housing across the state of Texas.

REPRESENTATIVE MENENDEZ: Yes, ma'am. Any time. Thank you.

MS. RAY: Our next witness is Mr. Bill Greehey, and he is speaking on behalf of the Terrace for Haven for Hope.

Mr. Greehey?

MR. GREEHEY: Thank you. Well, first, let me thank the Board and the management for their support in obtaining \$3.4 million for Haven for Hope in the last session.

And Mike Gerber and Michael Lyttle have been so much help, and we appreciate their support.

Let me give you a brief background how I got involved in Haven for Hope. I stepped down as Chairman and CEO of Valero at the end of '05, and I wanted to do something

meaningful in giving back to the community. I didn't know what it was. I saw a TV special on the problems of the homeless in San Antonio, and I saw for the first time the face of the homeless that I hadn't seen before. Fifty percent are families with children, 30 percent are veterans, 60 percent alcoholic, drug, mental, combination thereof, 26 percent are working but half make less than 350 a month.

And what struck me in that was that we were not doing anything in San Antonio really to transform those lives.

I met with the mayor the next day and I knew this was something that I wanted to do, and I said, You know, we're not really helping the homeless, and he said, Fine. You head up a council and come up with a recommendation what we should do.

And my vision was having a center where all the services would be provided. I met with all the non-profits that are involved with the homeless, got them to buy in on my vision, and today Haven for Hope has 78 partners with 150 different services. One of the things that we found out, we didn't have a detox center. I lobbied with the state and got \$6.1 million. We knew we wouldn't be successful without a detox center. And the \$6.1 million has already paid out in eight months. In fact, we've had \$12 million already in savings.

The city supported the one-stop concept for Haven

for Hope. They approved it. The county also bought into that. The first building that was completed was a medical complex, which is medical, dental and vision. The results, we've had 36,000 dental treatments, 18,000 medical, 4,000 vision tests, 4200 came in for sobering, 1700 for detox, 1500 were veterans, total value of the services were \$6 million.

This is a public-private partnership. It cost \$101 million for the facility, 22 acres of land. The city gave 23 million, they purchased the land, and they've also committed 700,000 in HOME Funds for the affordable housing component, and they made staff available for the past three years on this project. The county gave \$11 million, 400,000 in HOME funding for the affordable housing component.

The largest portion was the private sector, which was \$60 million. Now, with New Star, they by far gave the largest contribution. We have an annual golf tournament, these are partners outside of San Antonio, that's raised over \$8 million. Our employees have given over \$600,000.

Haven for hope is now complete, was completed the end of April, and we have 250 men, capacity 468; 104 women, capacity 268; families with 132 children and we're already at capacity there. We have a prospects courtyard, we have 215 sleeping at night. We knew that when we did Haven for Hope, the part that we had to have was affordable housing.

So as they graduate from the program, they have affordable housing. So we set aside eight acres out of the 22 acres for affordable housing.

I've been involved in a lot of projects in my life.

I've started two companies that are on the New York Stock Exchange Fortune 500 companies, I've been involved in community initiatives. I've never been involved win anything this worthwhile and this important, and so satisfying a this project saving lives.

This is a model that is not only for San Antonio, but we've had over 200 cities looking at this model, and all of you should feel good that we're not only savings lives in San Antonio, but this model will be throughout the United States. We've even had people from international looking at it, so we're going to be savings lives in a lot of different places.

And, again, affordable housing is critical to the success of Haven for Hope. Thank you.

MS. RAY: Thank you, Mr. Greehey, and thank you for your faithfulness to the homeless.

MR. GERBER: Madame Chair, could I ask just a quick question?

Bill, could you just repeat how much in local and county funds that have been committed to the --

MR. GREEHEY: The city was 23 million. They bought the land and furniture and fixtures. The county was 11 million. Of course the state was 6.1 million. But the largest was the private sector, which is over \$60 million. And I might add that we have now raised all the money.

MR. GERBER: That's your leadership funds?

MS. RAY: Do the Board members have any questions for the witness?

(No response.)

MR. GREEHEY: Thank you all.

MS. RAY: Thank you, Mr. Greehey.

Our next witness is Dolly Deshields on behalf of Senator Mike Jackson.

MS. DESHIELDS: Hi. My name is Holly Deshields, and I'm here today on behalf of Senator Mike Jackson. We would like to just show our support for the senior community that's been proposed in Pasadena, Texas called Tarrington Court.

I believe there are some discrepancies on the super neighborhood's letter of support for this development, and we would just like for you all to take a special look at that and see if today's in the appeals process, if you could consider using those points from the super neighborhood in the application. And I believe you all should have a letter

on file from Senator Jackson sent on June 29. And as of yesterday at five o'clock, the Harris County Judge also submitted a letter in support of this project.

I'm happy to answer any questions. Thank you.

MS. RAY: Any questions of the witness?

(No response.)

MS. RAY: Thank you, Ms. Deshields.

MR. GERBER: Do you have a copy of Judge Emmett's letter?

MS. DESHIELDS: Yes.

MR. GERBER: Great.

MS. RAY: Our next witness is Brad Tegeler on behalf of Representative Ken Legler.

MR. TEGELER: Legler, Yes, ma'am.

MS. RAY: Legler.

MR. TEGELER: And I'm just going to follow up -- my name is Brad Tegeler; I'm here on behalf of Representative Ken Legler, who represents the South Belt- Pasadena area, and also he's in support of the Tarrington Court project, and also with the South Ellington super neighborhood council.

And that there were some discrepancies that have been -- and he'd also just like to show his support for the project and also for the council.

And I'd be happy to answer any questions that you

all have at this time.

MS. RAY: Any questions of the witness?

(No response.)

MS. RAY: Thank you very much for your --

MR. TEGELER: Thank you very much.

MS. RAY: -- testimony.

Next witness is Mark Hey speaking on behalf of Evergreen at Richardson.

MR. HEY: Good morning. My name is Mark Hey, and I'm Chief of Staff for State Representative Jerry Madden in House District 67. These comments are made on behalf of Representative Madden in support of Evergreen at Richardson, TDHCA Number 10136, which is located in his district.

Richardson, Texas has never had a tax credit development. The city now has an opportunity to obtain a quality affordable development for seniors. The Richardson City Council has shown its support of Evergreen at Richardson by passing a resolution in support of the tax credit application, and the TDHCA HOME financing application for the project.

This tax credit applications -- this year the tax applications in Region 3 are unusually competitive. I understand that it's likely to require a score of greater than 215 points to obtain the tax credits in the Region 3

urban allocation. Evergreen at Richardson is currently scored at 210 points.

Today the developer is appealing the denial of quantifiable community participation points for the support letter provided by Breckenridge Corners Property Owner's Association. Granting the appeal would raise the project's score to 216 points. It's our understanding that there is no expressed opposition to this proposed development.

On behalf of Representative Madden, I request that when the TDHCA Board considers the upcoming appeal by Evergreen at Richardson, you also consider the need of the city of Richardson for affordable senior housing. Please grant this request -- the project -- the requested points for support by a neighborhood association.

Thank you for the indulgence of allowing me to speak early today.

MS. RAY: Thank you.

Are there any questions of the witness?

(No response.)

MS. RAY: Any comments, Mr. Gerber?

(No verbal response.)

MR. HEY: Thank you, Mr. Gerber.

MS. RAY: Thank you very much. You may be seated.

Ms. Antoinette Jackson is yielding her time to

Tamea Dula. Is that correct, Ms. Jackson?

(No audible response.)

MS. RAY: Our next witness is Tamea Dula. Did you want to speak at public or at the agenda item?

MS. DULA: At the agenda item.

MS. RAY: At the agenda item. Okay.

MS. DULA: Thank you.

MS. RAY: Mary Rose Brown, the Terrace at Have for Hope. Oh, you yielded your time for Mr. Greehey, and he took it.

(General laughter.)

MS. RAY: Our next witness is Becky Scheffler, speaking on behalf of Ashton Senior Village.

MS. SCHEFFLER: Good morning. I'm Becky Scheffler, and I'm representing the Gleaming Springs Neighborhood Association that's located in Schertz, Texas.

And I'm here to tell you how excited we are about the proposed Ashton Senior Village coming to our community.

Schertz is the best little small big town you've ever seen, or big little small town rather. And it has everything that everybody wants. It's got all the good stuff, all the amenities, and we're close enough to everything that you need in San Antonio. What we don't have is affordable senior housing.

The people that built Schertz to the town it is now are getting older. They're my parents, they're my neighbors that I grew up with. I'm from Schertz. And they're on fixed incomes, they, you know, can't keep up their big houses, or their houses that they raised families in, and they need affordable senior housing. And we want to keep them in the community that they helped build.

So as a town, we're excited to have them, you know, we would be excited to have the senior village be there. And as a community, and the neighborhood association, we are right down the street from them, we're acreage lots, so we're not a subdivision, we're acreage lots, and we are really excited about having the senior village right at the end of our street. So we think they would be good neighbors, we think that they're an asset to our community, and we hope that you look favorably on our town and the project.

And thank you very much for your time.

MS. RAY: Thank you.

Are there any witness?

(No response.)

MS. RAY: Thank you very much, Ms. Scheffler.

We have another witness for Ashton Senior Village, Ms. Sue Winkler.

MS. WINKLER: Good morning. I am Sue Winkles.

I live at Georgetown in a senior village, and I'm here -- we are here in support of Ashton Senior Village of Schertz, Texas, TDHCA Number 10040.

I'd like for our group, if they will, to stand up, our supporters. The Ashton will offer many services to the senior citizens of Schertz and the surrounding communities and areas, and is demonstrated by the overwhelming supporting of the elected officials, neighborhood, and the community as a whole.

We're asking that you please join us in approving the Ashton for an award of the tax credits. We do appreciate your time and your thoughts in this.

MS. RAY: Thank you very much for your testimony.

Are there any questions of the witness?

MR. GERBER: No, Chair, I'd just like to thank the -- it looks like all the ladies from church who have come out today. We appreciate you making the trip on a rainy day, and it's important. Thank you for being here.

MS. RAY: Thank you so much. Especially for me.

I live in Bexar County, the next county over, and right down the street from the biggest little town in the state of Texas.

Our next witness is Felicia Wright speaking on behalf of Senator Letitia Van De Putte.

MS. WRIGHT: Good morning. My name is Felicia

Wright, and I am here to read a letter for the record on behalf of Senator Van De Putte.

"Dear members, I unequivocally urge the TDHCA Board to grant the appeal filled by Hillcrest San Antonio Apartments with regards to the Woodlawn Ranch Apartments, 2010 low income housing tax credit application 10150. The points for reconstruction/revitalization originally granted by the staff were, in my opinion, improperly deleted and should be reinstated in response to this appeal.

"The Woodlawn Ranch project is the spark needed to ignite the revitalization of the San Antonio west side within the city of San Antonio's crag target revitalization area. This revitalization effort is part of St. Mary's University and the city of San Antonio's five-year strategic plan, which was made part of the city of San Antonio's consolidated plan in 2007.

"The plan calls for the university to collaborate with its neighbors to revitalize the areas surrounding the campus and to be more actively involved in community outreach development and improvement. This project will do exactly that, which is the intent of providing competitive points for revitalization in the first place.

"But TDHCA's QAP requires the use of an existing project as a vital part of the community revitalization plan.

And clearly does not prohibit replacing an old dilapidated development with a new modern project, so long as the total of tax credits being used are for the same number of units that are being torn down. In fact, in reviewing Section 50.9(i)(13), this application represents precisely what the state intends for revitalization.

"The fact that the owners, at their own expense and with the application of tax credits are adding an additional 52 units of affordable housing should not have any bearing on the application's qualification for the withdrawn points. In fact, staff asserted that these additional 52 non-tax credit units somehow alters that criteria, which is, quite frankly, illogical and defies the very essence of a community's commitment to revitalization.

"I very strongly support this project's design and the efforts to use tax credits to replace the 200 and old and decrepit tax credit eligible units as part of the effort to revitalize this neighborhood. Not allowing these points for building in a community revitalization zone would be an affront to the legislative intent of these programs, and more importantly, would not provide the maximum leverage in the use that tax credits can provide for the state of Texas and the city of San Antonio.

"I look forward to your favorable determination

to grant the applicant's appeal. If you have any questions, please do not hesitate to contact me. Senator Van De Putte."

MS. RAY: Are there any questions of the witness?

(No response.)

MS. WRIGHT: Thank you.

MS. RAY: Thank you very much for your testimony.

MS. WRIGHT: Thank you.

MS. RAY: And he's back.

(General laughter.)

MS. RAY: Welcome, Mr. Conine.

And I turn --

MR. CONINE: Think you, Ms. Ray.

MS. RAY: -- the remainder --

MR. CONINE: Appreciate you --

MS. RAY: -- of the meeting over to Mr. Conine.

MR. CONINE: Appreciate you filling in.

And good morning, everybody. I can't believe we have -- I guess the good news/bad news we have rain in Austin in July, so.

(General laughter.)

MR. CONINE: Southwest Airlines figured it out.

But I'm glad to with you today.

The next one I have is Naomi Byrne, I think.

MS. BYRNE: Good morning, members of the Board.

My name is Naomi Byrne, and I'm the Executive Director of the Housing Authority of Texarkana, Texas. Understanding that you'd like me to keep it short, I'll keep my begging to a minimum.

I am here to speak on behalf of TDHCA Project Number 10028, Pecan Ridge in Texarkana, Texas. It's the third phase of a HOPE VI grant that has been a vital force for change in the Texarkana, Texas area. Pecan Ridge is the number one scoring application in Region 4. However, there are not enough tax credits in the allocation to fund even one application.

So I'm here today to ask the Board the following, that if there are still not enough credits after the statewide collapse is calculated, we ask that the Board grant a forward commitment to our project in Texarkana, Texas to allow full allocation. And, two, if a forward commitment is not possible, to please give priority to this deal on the waiting list.

I'm new to the Texarkana, Texas area, being the Executive Director since February, but one of the things that I found since being in Texarkana is that this HOPE VI grant and the subsequent allocations of tax credits has really made a change to Texarkana, Texas. The Rose Hill neighborhood that is being funded, the revitalization that's being funded

by these allocations of tax credits in HOPE VI, is in the heart of Texarkana.

Historically, a black neighborhood, public housing units that have been primarily housed with single families, single head of household black females, and since we have started this revitalization with our tax credit projects first in elderly and then our last project which constructed in less than 12 months and leased up in less than four, it has made a huge difference.

Rose Hill used to be a forgotten neighborhood, and I'm not blowing smoke when I say that it no longer is.

People are proud to live in the Rose Hill neighborhood, and these tax credit allocations, and leveraging them with our HOPE VI money, is the best way that we can continue moving forward with change in this area.

So I just ask again that since there are not enough credits, if the Board would look at that and consider that as we move forward. And I'm available if you have any questions.

MR. CONINE: Any questions for the witness?

(No response.)

MR. CONINE: Thank you. And welcome to Texas.

MS. BYRNE: Thank you very much.

MR. GERBER: Ma'am, if I could ask, when did the

HOPE VI grant come through the city, what year did you --

MS. BYRNE: For Texarkana?

MR. GERBER: Uh-huh.

MS. BYRNE: We actually got it in 2008. We applied in 2007, we were turned down, and we did receive an allocation when we reapplied in 2008. And we're actually one of the smallest ones who've ever gotten it.

MR. GERBER: Thank you.

MR. CONINE: Tony Phillip?

MR. JACKSON: Good morning, Mr. Chairman, Board members --

MR. CONINE: Good morning.

MR. PHILLIP: -- and Mr. Gerber. Thank you for the opportunity, and also thank you for what you do for the state of Texas. My purpose of appearing here is to speak in favor of TDHCA Project Number 10151.

La Feria, in the Rio Grande Valley, 8,000 people, more than half of our residents are low to moderate income residents. It is extremely important that we proposed projects which will benefit that group of people. Our project, 50 percent of them will be targeted for below 60 percent median household income, the remainder of 50 percent will be for below 50 percent.

We'll be setting aside five units for below 30

percent median household income.

This project is supported by Senator Lucio, State Representative, the city of La Feria, La Feria Independent School District, Economic Development Corporation, the property owners association, the Cameron County Housing Authority, and the community as a whole. Of course this will benefit the low to moderate income residents, and also the business community also will benefit by having workers available.

It is my understanding that since 1993 rural projects have not been applied for, therefore that funding went for other projects. Unfortunately, for the active season this year there are more projects than any time. But at the same time, in La Feria there was only one award done before that was to rehab an elderly housing project which was already funded through USDA project.

Two years ago, Hurricane Dolly came through the Valley and damaged more than 80 homes in the community. And we are working with the Cameron County, through the Commissioners Court, to relocate about 80 families from the flood zone area, and this project is extremely important to help some of those people who need to be relocated.

Our community is a very progressive community. We are really active in the economic development. We have

formed a TIF, and a portion of that TIF money is used for affordable housing also. And our true hope is that this project can be funded this year. For any reason it is funded, we are asking the Board for a favorable consideration for a forward commitment.

And I'd be glad to answer any questions that you have.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Thank you very much.

Angelia Baldivia?

MS. BALDIVIA: Good morning, Board members and Executive Director, who believe in building homes and strengthening communities in our great state of Texas.

My name is Angelica P. Baldivia. I have lived in La Feria, Texas for 25 years. I am also a City Commissioner, and the District NGS Data Entry Specialist for our district.

I have seen our fine city grow, not only in its population and businesses, but also in a very positive manner.

I have worked for our recognized district for 23 years. Our respected district has had to build more campuses through the years to accommodate all of our new incoming students

and their families.

In the past 20 years I have been with the Migrant Education Program and I have personally witnessed many times how our Texas migrant families come and go due to their type of work, which is their only means of livelihood. These families, and others, are constantly looking for a place to call home. And also, due to the present day situation with our economy, prevents them from actually owning a home.

A place that is nice, decent, and affordable is what we are definitely lacking. Please highly consider the application of the Sunflower Estates. Our city is continuously trying to find ways to be a positive advocate in promoting opportunities to our new La Ferians and by having affordable housing available, can be another contribution to strengthening our community, which is what this Board believes in.

Finally, if this project is not funded in this round, please consider us for a forward commitment for 2011 funding. Thank you.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you very much. Appreciate you --

MS. BALDIVIA: Thank you.

MR. CONINE: -- being here.

Lori Weaver?

MS. WEAVER: Good morning.

MR. CONINE: Good morning.

MS. WEAVER: My name is Lori Weaver, and a board member with the La Feria Economic Development Corporation, as well as an elected official, I am the mayor pro tem for the city of La Feria. I am here in support of Project 10151, the Sunflower Estates.

La Feria is working on the promotion of new businesses in our community. And there has always been a shortage of housing as a result of -- I'm sorry -- and as a result of Hurricane Dolly, approximately 80 homes were lost, which added to the difficulty of finding quality affordable housing. Many were left having to move in with family or friends, but for some that was not an option and they had to move out of our community.

Needless to say, having readily available affordable housing is an important and a priority for us to bring to fruition. With the development of Sunflower Estates, we can offer affordable housing in our community which in turn will allow businesses to find employees and residents to find nearby employment. I do agree with the Board that these programs are valuable for residents and

businesses of La Feria.

This project has been -- has the support of the neighborhood, the legislative delegation, our school district, and the city of La Feria. As our mayor mentioned last week, this is one part of our overall strategy to address the severe need for housing. If our score isn't high enough to get awarded this round, please consider us for a forward commitment. Thank you for your time.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MS. WEAVER: Thank you.

MR. CONINE: Thank you very much.

Joy Horak-Brown.

MS. HORAK-BROWN: Good morning. I'm Joy Horak-Brown, and I'm the Executive Director of New Hope Housing, Inc. in Houston, Texas. You have in front of you a package, and there's a tab with some pictures that I hope you'll think are pretty ones. We develop and operate housing for adults who live alone and whose incomes are extremely low, \$13,000 a year would be typical.

And I am here blessedly today not asking you for anything, but reminding you how much you've done for us in the past with the \$1.5 million grant, not a loan, a grant

of HOME Funds to the Canal Street Apartments, which was later 2009 Urban Land Institute Development of Distinction in Houston, and one of 25 Best Practices Urban Land Institute in North and South America.

And blessed with your support and that success we had the courage to enter the Low Income Housing Tax Credit Program. I know there are many who will tell you that a small non-profit doesn't do very well in those rounds, and I will tell you that we were on the top of the list for the deal you're looking at in front of you, Brays Crossing, and it is now 60 percent occupied. In the end of October we will open our 2008 tax credit deal in Houston, and we're at the top of the list for 2010. I hope that holds.

And anyone who comes before you who is doing affordable supportive housing, I hope you will listen carefully when they talk to you about needing grants and not loans, and when they tell you that they really can produce fine projects, because if we can do it, so can others with your support. We were very happy to have Mike with us, Mike Gerber, to break that -- cut that ribbon for Brays Crossing, and we thank you very much.

MR. GERBER: And you had two former Board members, Sonny Flores and Shad Bogany, who came that day as well, as well as representatives of the mayor's office.

And I would just add that, if you have a chance to look at the pictures, the property that we had a hand in the development of in financing is really an extraordinary one. And New Hope Housing is very comparable to the kinds of services and programs that we see in other communities, Foundation Communities, which we've heard from.

You're working towards, I think, a goal of -- your non-profit, of building 1000 units?

MS. HORAK-BROWN: We're working toward 1000 units in Houston and we're at, the end of this year, 634, and then with our 2010 deal, that adds another 160.

MR. GERBER: Originally, it was interesting to note, because just I had the chance to participate in it, the Deputy Secretary of HUD, who is houser extraordinaire from King County in Washington State, went to New Hope Housing and convened a group of housers and really touted that as a model. I think we're going to see a lot more of additional investments from HUG being directed to supportive services and the kind of integrated service model very similar to what Joy's organization has been doing.

So it's, you know, it's a very cutting edge program and we're proud to be associated with it.

MS. HORAK-BROWN: Thank you very much. And while we did have two former Board members at the opening of Brays,

we'd love to have some current Board at the opening at Sakowitz, so you'll be hearing from us.

MR. CONINE: Thank you.

MS. HORAK-BROWN: Thank you.

MR. CONINE: Appreciate you making that presentation.

Maria Machado?

MS. MACHADO: Good morning, Mr. Chair, members of the Board, Mr. Gerber. I am Maria Machado, the ED for Shared Housing Center in Dallas, Texas. And I'm here to speak about a number -- Project Number 10093, Green House at East Side.

Shared Housing Center is a 25 -- oh, 26 year non-profit agency, and I've been with them for 25 of those years. We have three key programs, housing programs ranging from transitional housing to semi-permanent housing solutions. Our Green House would add a new program for us.

It'll be 24 units in addition for homeless families -- homeless single parents with children.

We are in the close range of the approval process and we hope that we can make it this round. This is our first time for this application process. It's been a lot of fun.

And I want to also comment that the staff is very supportive in helping us with this grant application.

I have two other colleagues who are here with me this morning to talk about our program, but, again, we're very close to the process and I just want to say thank you for this opportunity and the application, and we hope that we're approved at some point. Thank you.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Thank you.

Curt Baker?

MR. BAKER: Good morning, Board. I'm Curt Baker, I'm also a board member with Shared Housing. I'm the Chair of the Green House Project, Project Number 10093. And today I'll be briefly speaking about community activities and support related to the Green House Project.

As Maria was stating, during the pre-application phase of this process, we were above the funding threshold, but eventually fell below that threshold because our project is not including within the boundaries of a recognized neighborhood association or a HOA.

Had that been the case, we feel that we could have potentially added up to 12 points to our project total. However, even though we don't have the points from being included in a neighborhood association, we do have some

broad-based community support. That's what I would like to present today to the Board.

Two specific things. One, we're working with our neighborhood associations that surround our project area, but do not include our project area, to have a positive and good impact and clear up the area around our east Dallas neighborhood, sort of akin to a weed and seed movement.

And then secondly we're working with another group in east Dallas called Friends of Buckner Park, and we have completed an application through the city of Dallas for the Loving My Community grant, and the winners of those grants should be announced next week. So we're hopeful for that as well. So, thank you very much.

MR. CONINE: Thank you.

Any questions?

MR. GERBER: Sir, could you describe some of the, just real quickly, the two or three key services you're going to be focusing on at the -- at your Green House.

MR. BAKER: With Green House?

MR. GERBER: Uh-huh, for Green House.

MR. BAKER: Well, in addition to our units there, part of the project includes a resident center and there we'll have computer labs for after school programs for students.

Also, other services for the parents of the children would

include budgeting classes, computer classes, resume building skills, those types of projects will be included.

MR. GERBER: Great. Thanks.

MR. CONINE: Thank you.

Tim Hafer?

MR. HAFER: My name is Tim Hafer, and I am the board president and volunteer also for Shared Housing Center.

And I'm here to voice my support for Shared Housing and its Green House at East Side project.

We at Shared Housing have been a long time recipient of city funds. We have received ESCG grants over the past 15 years. We've also received other CDBG monies since our inception 26 years ago now. And we are also recipients in 2010 of HPRP grant. The city has financially -- the city of Dallas has financially supported the acquisition of other properties that -- over our 26-year life.

And for our current project, for the Green House project, we've received CDBG funding through the city and we've actually purchased the land, purchased the site. Without this support, this land that we have is going to sit vacant just at the same time that the need for our services is at one of its highest peaks.

My job outside of being a volunteer for the board

and a board member for Shared Housing is I am the Comptroller and Chief Accounting Officer for a New York Stock Exchange traded company. I look at things -- I'm a numbers guy and I look at things that way. And just it seems to me that the best bang for the Housing Tax Credit dollar is if it's leveraged with local funding, and we have that local funding already obtained right now, and we have private funding as well.

And the fact that this project has received CDBG funding shows it has support from the city of Dallas and, in fact, the city of Dallas has sent us support letter, and that's included in your packet of information as well that you have. We also have received support letters from various other stakeholders, including our Congresswoman, our State Senator, State Representative, County Judge, and the Meadows Foundation from in Dallas as well.

Therefore, we respectfully request that a forward commitment or reprogram funds be awarded to this project. Thank you.

MR. CONINE: Mr. Hafer, where is specifically this project located?

MR. HAFER: It's in east Dallas -- in Dallas, Texas.

MR. CONINE: Is it Fairpark or --

MR. HAFER: It's -- no, it's outside of Fairpark --

MR. CONINE: Outside of Fairpark.

MR. HAFER: Right.

MR. CONINE: What's the nearest cross street that I'd recognize?

MS. MACHADO: Columbia.

MR. HAFER: Columbia.

MR. CONINE: Okay. That tells me --

MR. HAFER: That helps.

MR. CONINE: Just curious.

MR. HAFER: All right.

MR. CONINE: Thank you very much.

MR. HAFER: Thank you.

MR. CONINE: Mark Mayfield?

MR. MAYFIELD: Good morning, Mr. Chair, members of the Board, Mr. Gerber. My name is Mark Mayfield. I'm with the Texas Housing Foundation, the regional Housing Authority located out in Marble Falls.

Our model has basically been to work with qualified developers throughout the state of Texas, many of whom are within this room now, to provide affordable housing and community services throughout this great state. And recently we just closed on our third deal. We beat the 6/30 deadline

to close on a deal out in Llano, Texas. So we've closed three deals.

And what I wanted to do this morning is just to acknowledge and commend the staff for their work. They have worked diligently with our organization, and it's been a tedious process going through and closing deals as we all very well know, but we have been able to work together and to partner together. And I just want to publicly commend Tom and Robbye and all the staff at TDHCA for their hard work.

It certainly has not gone unnoticed, and I appreciate it very much.

MR. CONINE: Thank you, Mr. Mayfield. And we echo the sentiments as well. Thank you very much.

That's the last public comment for that I have for the open public comment. The rest of them are to specific agenda items, unless there's another one that I've missed somewhere. Any other public comment coming right now?

(No response.)

MR. CONINE: Okay. If not, we'll move to the consent agenda. Board members, see the consent agenda Item Number 1. Anyone have any discussion or any item you want to throw off, otherwise I'd accept a motion to approve.

MS. BINGHAM-ESCARREÑO: Move to approve consent agenda item.

MS. RAY: Second.

MR. CONINE: Motion made by Ms. Bingham, second by Ms. Ray to approve the Item Number 1, consent agenda. 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, Mr. Gerber.

MR. GERBER: Mr. Chairman, Item 2(a) is our request for approval of asset management fees for the exchange in TCAP properties. Under the stimulus legislation, state housing finance agencies are required to perform asset management to ensure compliance and long term viability of properties funded through exchange in TCAP.

When the Board approved the TCAP exchange policies, part of that approval was the assessment of an unspecified asset management fee. The Department released requests for proposals for asset management services with responses due to the Department in February of this year. After the reviewing the proposals and interviewing the

respondents, staff did not recommend award of a contract because, frankly, the fees being suggested were far too high, in our opinion excessive.

Based on responses to the RFP, staff has determined that hiring additional staff in-house with our very experienced and capable compliance function makes more sense at this point than outsourcing. However, we do want to hold out as a possibility ultimately outsourcing some portion of it as a way to augment Department staff in carrying out the responsibility.

Staff has projected that the scope of work involved and believes that asset management can be performed for \$50 per unit for exchange properties and for TCAP properties that do not have a third party asset management provider, at \$35 a unit for TCAP properties with a third party asset management function in place. However, since this is a new activity for the Department, these fees may need to be revisited. We will certainly revisit them because we want to keep fees as low as we can.

And as I think our development community knows, we did a significant review of fees about a year and a half ago with the effort to trying to keep fees down to only what the Department needs for its operation. Frankly, the fees that we were having suggested to us under the RFP were, you

know, in the 70-, 80-, \$90 per door range. So we felt we could do it just much more effectively, and frankly we were getting less in what we needed to reduce the risk to the state with what was being submitted to us than what we feel we ultimately needed in-house.

So with that said, staff may again, dependent upon proposals we get, you know, need to increase fees ultimately to cover the cost of outsourcing, but as of this point we're proposing to the Board a \$50 fee for a per door fee for exchange, \$35 a door for TCAP. We don't like fees, we're trying to keep them down, but we do need to cover the cost for the work of the Department and the staff involved.

MR. CONINE: Okay. I have a couple of witness affirmation forms, as you might suspect.

Granger MacDonald?

MR. MacDONALD: Good morning, Mr. Chairman, Board. I've reviewed the staff's proposal. I understand the necessity for the fees, especially on the exchange side of the equation where there is no asset management by a syndicator. And we're all used to paying syndicator's asset management fees that typically run about 75, 100 a project.

So this is fairly in line with what we've seen so far.

I don't have as big a complaint about it as I do the TCAP. But I want to be very cautious about the TCAP,

that these don't affect the financial viability of a project.

A large project, especially a bond deal, maybe have 300 units, 250 units. Some of these larger projects we'll be looking at a big fee of \$15,000 or more. And if you look at that in loan value, that's 185-, \$190,000 worth of loan dollars, which you could really do some major impact. So I would recommend that there be a cap on the fees for the larger projects.

I would also want to us to see if we could -- I realize you have to pass this today to make the budget work, which is your next line item, but if we could continue some dialogue that we had, then if, and then if not that, if this, so that you could maybe set up some parameters about the size of the project. It's pretty tough if you've got a large bond deal, a couple hundred units, and you've got 400,000 in TCAP fees -- TCAP funds, then you'd be paying, you know, a hefty asset management fee every year and it wouldn't be proportionate to the amount of funds you actually got.

And I realize that the task is the same when it comes to asset management, but there needs to be some equality amongst how you change this fee. There's smaller rural deals, there's larger metropolitan deals, there's deals that got 2- or \$3 million for the TCAP, there's deals that got 400,000 for TCAP, so there needs to be a balance in that.

And I would -- I'm not here opposing the fee, I'd just like to see -- I know you have to pass this today for the budget purposes, but I'd like to keep the dialogue about this fee is applied open.

MR. CONINE: Okay.

MR. MacDONALD: Thank you.

MR. CONINE: Any questions of the witness?

Mr. Gerber?

MR. GERBER: Mr. Chairman, I would just like to interject staff would recommend a cap on the fee for TCAP not to exceed -- of \$7500, and we would welcome the chance to have an ongoing dialogue. I think we always need to be looking at our fees and I think we could set up an dialogue through Patricia Murphy to be revisiting that and we'd bring back revisions to the fee as we get a little bit more experienced with it.

MR. MacDONALD: Thank you, Mr. Gerber.

MR. CONINE: Thank you.

Mike Sugrue.

MR. SUGRUE: I was going to yield to the distinguished gentleman for Tarrant County, but --

MR. CONINE: Okay. That's all of the witness affirmation forms that I have for that particular agenda item.

Any discussion of the Board?

(No response.)

MR. CONINE: If not, I'd entertain a motion.

MS. BINGHAM-ESCARREÑO: Mr. Chair, I'll move to approve staff's recommendation with the addition of the cap of \$7500 on the TCAP related asset management.

MR. CONINE: Is that on TCAP or both?

MR. GERBER: On TCAP.

MR. CONINE: Just TCAP.

MR. GERBER: Just TCAP.

MR. CONINE: Per project cap. Correct?

MR. GERBER: TCAP is out, that has a third party -- it has a third party investor. There are a couple of TCAP deals that have no third party investors. So they're just like exchange and those you don't want to cap.

MS. BINGHAM-ESCARREÑO: Okay. Want me to amend with what Mike said?

MR. CONINE: Yes, go ahead and amend that motion.

MS. BINGHAM-ESCARREÑO: So I'll move staff's recommendation with the addition of the \$7500 cap for TCAO projects that have a third party --

MR. CONINE: Investor.

MS. BINGHAM-ESCARREÑO: -- investor.

MR. CONINE: Okay. Great. Is there a second to that motion?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. 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.

MR. GERBER: Mr. Chairman, Item 3(a), (b), and (c) go together. It is the uncomfortable request for yet another amendment to our operation budget. David Cervantes is our Director of Financial Administration and Bill Dally is our Chief of Agency Administration, will lend some additional help on this, but let me try to do my best to sort of walk you through what we're asking for.

Item 3(a) is the proposed fourth amendment to the fiscal year 2010 operating budget and the associated housing finance budget. The Department, with the Board's approval, will request to the Governor's office and the Legislative Budget Board additional appropriation authority under TDHCA's rider 12(a) for an increase to appropriated receipts related

to additional fees associated with TCAP and Exchange and Disaster Credit Programs.

These are fees that are paid by the development community in the form of commitment fees for the most part that are at the Comptroller's Safekeeping Trust Company, and these would be fees being used to support functions within the tax credit program.

The Department is also requesting that the Board approve a finding of fact to use these additional receipts to support six additional staff positions, raising the FTE cap from 314 to 320. These are unique because we would use -- we have had some flexibility within our FTE cap. At 314 we have, in the last several months, hired many new staff to meet the requirements of the Department's programs, but several months ago we were going to bring in an increase in the FTE cap to this Board, but we had enough vacancies and could frankly shift the FTEs around a little bit.

Now, as we've have hired staff in critical functions like program services, environmental people, the inspection folks, you know, that are full-time staff that are taking up those FTE slots, we're really bumping up against our FTE cap. The problem is that there are many requirements of the TCAP and Exchange Program and those programs come with no administrative fees, unlike other programs for the

Department that are federally funded.

There is no 5 percent of the grant that we get to use for Agency Administration. But Congress clearly intended, with these two stimulus programs, TCAP and Exchange, that we would go and collect fees for asset management, as well as to underwrite deals and to do other things associated with the programs' administration. They're well aware that we collected fees.

So what we're asking for is more of those fees back to support the program, to be able to hire additional underwriters, and many of you have heard from the development community about the need for additional staff to support the program, because we've been working on a bit of a shoestring.

And so we're -- and to make sure that we, you know -- and what we're asking for is the ability to increase the FTE cap from 314 to 320.

We're not sure that we will classify those folks ultimately as an increase in the FTE cap, but we're asking for your permission to work with the Governor's office and Lieutenant Governor's office to classify these staffers in the way that would be appropriate under the General Appropriations Act or other state laws, knowing again that these are federally mandated program requirements that we're trying to meet.

So it doesn't quite meet the definition of the Article 9 staff increases that we have had in the past because it's not quite as clean. But we will work with the Governor's office. We're asking for your approval today for be able to begin that process and, again, be able to draw down hopefully more of those appropriated receipts and to hire the staff at whatever classification we ultimately give them once approved hopefully by LBB and the Governor.

Anything you want to expand on that, Bill?

MR. DALLY: Well, Mike, we actually this morning took a stab at redrafting our intention here. And let me read in her for the record sort of a re-craft of our finding of fact. And what we've done is move away from the outright ask for an increase in FTE cap, but rather characterize this as sort of being in substance like a temporary Article 9 FTE, but for the fact that it's not 100 percent federally funded. But let me read this in.

Whereas the creation of certain new programs under the American Recovery and Reinvestment Act of 2009 involve broad statutory language and therefore a detailed understanding of the federal requirements and limitations regarding sources of funding was not available at the time the General Appropriations Act was being drafted, and whereas certain of these programs, most notably the Tax Credit

Assistance Program and Tax Credit Exchange Program, ultimately did not provide for direct federal funding for administrative activities, but did allow for the use of fees to fund certain necessary and related activities, creating a federally authorized source of funding other than state general revenue to pay for the additional costs, including the hiring of additional staff for limited duration required to execute these programs, therefore resolve that this Board finds that the increase in FTEs to execute the TCAP and Exchange Program on a temporary basis, funding those activities and positions with allowable fees generated by such programs and not with general revenue, is in substance consistent with provisions of the General Appropriations Act, Article 9, Section 610(g)(1)(A).

So we sort of had to craft a bit of a hybrid.

MR. CONINE: There's going to be six ghosts walking around, or what are this going to do?

MR. DALLY: No, no, they will be full-blooded staff, but the nuance is that typically when you ask for an FTE cap increase, it's seen as more of a permanent decision. The Articles 9s were clearly temporary.

MR. CONINE: Okay.

MR. DALLY: This is more Article 9-like.

MR. CONINE: Okay. I think I understand.

MR. GERBER: The positions only stay as long as the funding is available.

MR. DALLY: Right.

MR. GERBER: And when TCAP and Exchange expired, those positions will go away.

MR. DALLY: As long as that fee income related to those programs is there. And the other important point is this is not in any way asking for one dollar general revenue from this day.

MR. CONINE: Okay. Is that --

MR. GERBER: That's the --

MR. CONINE: -- all 3(a), or is that all 3(a), (b), and (c)?

MR. GERBER: That's 3(a).

MR. DALLY: Yes.

MR. CONINE: 3(a). Okay. Do you want to go ahead with (b) and (c), or do you want to go ahead and take a vote on 3(a)?

MR. GERBER: We'd recommend a vote on 3(a).

MR. CONINE: Okay. Any questions of the Board of staff?

MR. GERBER: Yes.

MR. DALLY: Yes, Mr. Keig.

MR. KEIG: How many vacancies do we have today?

MR. GERBER: We have an FTE cap of 314, we have 301 staff. As of today we have a couple of more staff coming on this week, and all those positions, the balance of 12 are posted.

MR. KEIG: So it would be tight to both at nine and six?

MR. GERBER: Yes, yes.

MR. CONINE: I'm sure the six was -- ended up being a net number, a net of everything. Right?

MR. GERBER: That's right.

MR. CONINE: Okay. Because it's going to take more than six people, I've got a feeling.

MR. GERBER: Yes.

MR. CONINE: Okay. Any other questions?

(No response.)

MR. CONINE: If not, I'll entertain a motion -- whoop, Mr. Irvine.

MR. IRVINE: Tim Irvine, General Counsel for the record. Just to clarify, the recitals and resolution that Bill offered are in addition to the proposed findings of fact stated in your Board materials.

MR. CONINE: Okay. It's not in lieu of. Okay. Everybody understand?

(No response.)

MR. CONINE: Well, I'd entertain a motion.

MS. RAY: Mr. Chairman.

MS. CONINE: Ms. Ray.

MS. RAY: I move to accept staff's recommendation with the consideration of the additional information provided by Mr. Dally on the subject of an additional six full-time equivalents --

MR. CONINE: Okay.

MS. RAY: -- that would be temporary in nature.

MR. CONINE: Thank you very much, Ms. Ray.

Do I hear a second?

MR. GERBER: Mr. Chairman, if I could just interject. If we could add to the motion and to direct staff to work with the Governor's office and LBB to ensure that the staff are properly classified, given state guidelines and requirements on these things pursuant to what Bill said.

We just want to make sure we get to the right -- at the end of the day, we want to make we get to the right place and have the Board's approval.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray?

MS. RAY: I accept that amendment to my motion.

MR. CONINE: Okay. Thank you. Is there a second?

MR. GANN: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

3(b)?

MR. GERBER: Thank you very much. And that is the fourth budget amendment for 2010 and the last. 3(b) is our asking for your approval of our FY 2010 draft operating budget, and this proposed \$42 million agency-wide budget represents operational costs distributed among the Department's divisions.

The budget corresponds to the second year of the General Appropriations Act passed by the 81st session for the legislature. It includes an additional \$7.2 million for the Department's ongoing administrative program activities that are associated with disaster recovery, neighborhood stabilization, TCAP and Exchange.

As a result of the increased program activities

and staff related to these programs, the Department has also set aside a contingency fund for a small amount of additional lease space at the Twin Tower office location. We're communicating with representatives of the Texas Facilities Commission regarding that additional space, but it'll be small. But with additional staff we're needing more space.

This budget incorporates all the changes that we just talked about with the additional six staff positions.

It also takes into account that we will have asset -- new asset management functions within the Department that we're proposing, and we will need -- we're recommending nine additional staffers to perform that work.

Five of those staff will be dealing with construction inspections, three of the staff will be dealing with long term asset management activities, one staff member will deal with financial and information systems related activities.

Hopefully, as the programs mature, we will be able to reduce the number of staff that we're recommending be added, because we believe we'll do sufficient cross-training and have different skill sets across team members that will helpfully be able to help us reduce the numbers.

Again, we're not looking to really grow TDHCA's staff, if we can, you know, keep it within that 314. But

again, here too, with the fee income coming back to us as appropriated receipts, we want to be able to have the staff we need to be able to manage those two programs in particular, TCAP and Exchange.

So with that, Bill, anything else you want to highlight on the operating budget for 2011?

And 3(c) is the corresponding finding of fact associated with increasing the -- that we have to submit to the LBB and to the Governor's office.

MR. DALLY: Right. Right.

MR. GERBER: So we're asking a similar motion to what we just did for 2010 for 2011.

MR. DALLY: The only thing I would add is this is a first draft. It can come back to you on the 28th. It will not substantively change; however, we do have some salary actions and some things are going to, you know, sort of immaterially change this operating budget. So officially we won't have some final numbers probably until your next meeting. But at this time, if you've got particular questions or issues you wanted to raise with us in consideration before we bring a final back.

In addition to the operating budget for 2011, we will be bringing to you our recommendations on exceptional items. The LAR is due this August. It will be due August

16. So we'll be asked to bring to you some of our policy decisions and the things that we want to put forward maybe as exceptional items and things like that for the LAR. So that will also be in consideration at the next Board meeting.

MR. CONINE: Okay.

MR. DALLY: With that, are there any questions?

MR. CONINE: Any questions of Mr. Dally or Mr. Gerber?

(No response.)

MR. CONINE: If not, I'll entertain a motion.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move staff's recommendation for Item 3(b) and 3(c).

MR. CONINE: Motion to approve 2011 draft budget in 3(b) and the appropriate LAR finance operating budget in 3(c). Is there a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. 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. GERBER: Thank you.

MR. CONINE: Thank you, Mr. Dally. Good work.

MR. DALLY: Thank you.

MR. CONINE: It's not easy to do those sorts of things.

MR. GERBER: Mr. Chairman, Item 4(a) is a discussion and possible approval of a Round 4 application cycle for TCAP. The TCAP policy and policy supplement that were approved by the Board originally provided for two application rounds. At the March 11, 2010 TDHCA Board meeting a third round was approved.

TCAP has been over subscribed right after every prior funding round, and remains oversubscribed as of today's meeting. However, there were multiple transactions that have indicated that they either have no need for TCAP funds, or cannot close and complete their transaction in time to meet the program's federal deadlines. They have not officially withdrawn from TCAP, but will be required to do so at their closing deadline.

Today staff is requesting approval of an open application cycle, a Round 4, to award TCAP funds that remain

after the allocations of Rounds 1, 2, and 3. Future applicants will be required to adhere to both the governing Board policy and policy supplement.

In addition, only developments with an approved TCAP Round 1, Round 2, or Round 3 award, or previously eligible developments with a TDHCA environmental clearance as evidenced by an authority to use grant funds may apply for this open cycle -- for these open cycle TCAP funds. This restriction is made to account for the very condensed time line we have in meeting the federal deadlines.

To date \$136 million of the 148 million in TCAP, or 92 percent of TCAP have been committed, 12 million of that's been drawn and disbursed, 20 transactions out of the 60, I believe, Tom, closed.

And I think there's some witness testimony.

MR. CONINE: Yes, I do. I've got two as a matter of fact.

Eileen Maner?

MS. MANES: I have a handout.

MR. CONINE: She's got some dedicated time. She's a five-minuter.

MS. MANES: I don't think I'll need it.

MR. CONINE: Well, we'll see. Thank you.

MS. MANES: Good morning everyone. My name is

Eileen Manes, and I'm with Betco Development, and I'm here to request that the Board consider an amendment to the existing TCAP policy regarding eligible applicants.

As you may know, the Grove at Brushy Creek is a 48-unit family development located in Bowie, Texas. This development is fully constructed and approximately 85 percent occupied. Our currently committed permanent loan funds are USDA 538 funds. This commitment that we have will currently expired on October 5, with a possibility of one final extension through December 1.

This property has struggled to meet its anticipated lease up schedule, primarily due to the economy in and around Bowie, Texas. The unemployment rate in Bowie right now is more than double the 2007 rate, 7.2 percent now versus 3.3 percent three years ago.

These unemployment figures are contributing to two events. First, people are leaving the area to seek better employment options, and second, those that are staying are not seeking new housing. Rather, they're living with friends and family, or in the same dilapidated structures that new affordable housing seeks to replace.

In order to meet the terms of permanent loan conversation and final equity infusion, the property must maintain 93 percent occupancy for 90 days. Since our

occupancy rate has remained between 60 and 80 percent for the last five months, we're concerned that the downtrodden economy may inhibit our ability to reach the necessary numbers to successfully convert our perm loan by December 1.

While we're unsure of our ability to convert by this deadline, we remain committed in our belief that this property will achieve its maximum potential soon, especially once the nature resource dependent local economy rebounds.

We would like the ability to apply for TCAP financing along with the developments that have already submitted applications in order to guarantee a resource of permanent financing for the development at terms which are comparable to our original underwriting with USDA, which includes a below-market rate.

Since TCAP funds were designed to assist viable deals with permanent financing, we request that the Board amend the eligibility requirements as suggested on the handout I've provided. These revisions would allow developments that have completed construction, but that have not submitted 8609s to the IRS to apply for these funds.

Mr. Gouris suggested that I mention to you guys that we are understanding your time line and that we are completely willing to go through the environmental clearance process. Since we're fully constructed, that will probably

take much less time than the normal six months anticipated.

And if our other permanent financing does fall through on December 2, we would be able to close those funds as soon as that financing is no longer available. So basically we'd be able to quickly expend \$2 million worth of your money.

That's basically all I have. We'd just like for you to consider those revisions. And I'd like to thank staff also for the previous discussions that we've had regarding this.

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

Mr. Gouris?

MR. GOURIS: Tom Gouris, Deputy Executive Director for Housing Programs. When we originally envisioned this open cycle for TCAP, for the last round of TCAP, we had envisioned as kind of a catch-all in case funds came back.

We had originally not anticipated folks that had gone through -- or had submitted initial cost certification to need additional funding.

In this case they're having to -- they've submitted their cost cert because they needed to do that timely, but they still haven't closed from their permanent loan and their permanent loan structure is going to be

difficult, and we don't have the funds right now for TCAP, but should they become available, there should be, you know, an acceptable use for that.

The issue with the environmental clearance is that that takes -- can take several months, and we can't actually award -- we can only award conditioned on them getting environmental clearance. So they would have to work pretty hard to get that accomplished. But if they could and we have the funds, I think it seems reasonable to expand the pool to include them.

MR. CONINE: Okay. Any questions of Mr. Gouris?

(No response.)

MR. CONINE: Thank you. I think that's all the witness affirmation forms I have. Any other questions, or I'd entertain a motion.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I need a clarification --

MR. CONINE: Okay.

MS. RAY: -- on this motion. If we approve the staff recommendation for Item 4, I understand staff is in agreement with the requested revision to the language --

MR. GOURIS: That's correct.

MS. RAY: -- as presented by the witness?

MR. GOURIS: Yes. So it would be with the expansion of the potential pool to include developments that have submitted their cost cert but have not received 8609s and that are -- with the knowledge that the environmental clearance still had to be done.

MS. RAY: And that is as this recommendation is written by the witness?

MR. CONINE: Have you read her --

MS. RAY: Have you read that?

MR. GOURIS: Yes, I think that'll work.

MS. RAY: Then, Mr. Chairman --

MR. CONINE: Yes, ma'am.

MS. RAY: -- I'm ready to make a motion that we approve staff's recommendation with the exception that the language be changed to include only developments with an approved TCAP Round 1, 2, or Round 3 award previously eligible developments with a TCAP environmental clearance as evidenced by an authority to use grant funds of those developments which have substantially completed construction and have not yet submitted Form 8609 to the Internal Revenue Service may apply for open cycle TCAP funds. And also to include the clarification that developments that have submitted Form 8609 to the IRS may not apply for open cycle TCAP funds.

MR. CONINE: Thank you, Ms. Ray.

Do I hear a second?

MS. BINGHAM-ESCARREÑO: 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: Motion carries.

We're going to take a 10 minute break.

(Whereupon, a short recess was taken.)

MR. CONINE: If we could go back into session now. Thank you. The Board thanks you for the recess.

We are going to -- for the information of everybody here, we're going to try to just work straight through for the rest of the Board agenda and not take a lunch break. So let's see how good we can do on -- and getting through the appeals and the rest of the agenda. So just want to let everyone know that.

Okay. Item 5. Mr. Gerber?

MR. GERBER: Mr. Chairman, for Item 5(a), the owner is requesting approval to reduce the development site

from 11.233 acres to 10.664 acres and to construct nine foot ceilings in all units as a substitute for self-cleaning ovens in all of the units.

The reduction in the area of the land resulted from the city of Houston requiring the dedication of about a half an acre of land along the two streets that bound the subject property, a corner site. The reduction in acreage will increase the density of the property, which by statute requires this Board's approval.

Additionally, the owner has affirmed that 97 of the units originally restricted to rents and incomes at 60 percent of AMI will be restricted further to rents and incomes of 50 percent of AMI for the first 15 years of the affordable period, and will be recorded in the LURA.

Based on the changes, staff very comfortable recommending approval of the amendment request.

MR. CONINE: I have one witness affirmation form.

Mr. Kahn?

AUDIENCE: Just here to answer questions.

MR. CONINE: Okay. Thank you.

Any questions, further questions?

(No response.)

MR. CONINE: Do I hear a motion?

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move staff's recommendation to approve the request.

MR. CONINE: Motion to approve the request. Do I hear a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. 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. GERBER: Mr. Chairman, for Item 5(b), which is a presentation --

MR. CONINE: Whoa, whoa, whoa. Kelly Shone, just to make sure that she didn't want to speak to that last --

AUDIENCE: I was just here to answer questions on it.

MR. CONINE: Okay.

AUDIENCE: Thank you.

MR. CONINE: After it's approved that's a good

way to go. Thank you.

(General laughter.)

MR. CONINE: Sorry about missing your witness affirmation form.

Okay.

MR. GERBER: Item 5(b) is a presentation and discussion of the status of applications that have been awarded Tax Credit Exchange funds. Teresa Shell, our Tax Credit Exchange Administrator, is going to cover 5(b) for us.

MR. CONINE: Okay. Teresa? Most popular lady in the -- in town right now.

MS. SHELL: Good morning. Teresa Shell, your Exchange Administrator. I'm here to give you an update on the Exchange Program. And I'm pleased to report that we have 56 transactions that have closed, or are held in escrow out of the 87 total transactions. That represents about 64 percent of the deals, which also represents about 406 million of the total 594 million in exchange dollars, which is approximately 68 percent of the total funds for exchange.

MR. CONINE: You're sure?

MS. SHELL: Yes, sir.

MR. CONINE: It felt like it was more money going out than deals that are closed. But that's okay --

MS. SHELL: Well, some of the deal, quite frankly, are larger, and they represent --

MR. CONINE: Right.

MS. SHELL: -- large chunks of monies that --

MR. CONINE: Right.

MS. SHELL: -- and that's monies being committed.

Staff has established a closing schedule which would allow for all but three of the remaining 30 transactions to close by July 30, 2010. They've all been calendared.

As an added note, closed transactions have drawn over \$51 million as of last Friday, which was just under 10 percent of the \$594 million.

The one award discussed at last month's meeting was not making progress and has formerly withdrawn, adding roughly \$4 million to the unallocated balance. We're working with the waiting list to determine if the next transaction that has not executed a TCAP written agreement is still able to move forward, and we'll report any additional allocation at the next meeting.

Aside from that, we just have 27 remaining transactions that are scheduled on the closing calendar prior to June 28.

MR. CONINE: I seem to recall the discussion at our last Board meeting about that one application that has

now withdrawn, but there was three or four of those. Have you heard from the other two or three that --

MS. SHELL: No, sir.

MR. CONINE: -- fit into that category?

MS. SHELL: No, sir.

MR. CONINE: Okay. So they're still then scheduled to close, or the expiration deadlines are now the end of this month. Is that correct?

MS. SHELL: Yes, sir.

MR. CONINE: Okay. All right. Any questions, any further questions?

MR. GERBER: Tough program, Teresa's doing a tremendous job in it. I think it's remarkable that a year ago we were talking about, you know, telling the legislature we thought we were going to be exchanging \$328 million worth of treasuries, and it's turned out that we're now hitting close to \$600 million. And that's an extraordinary volume of work, and appreciate Teresa and the team.

MR. CONINE: Well, we --

MS. SHELL: Thank you.

MR. CONINE: -- or still yet to see what Congress is going to do with this year's potential of creating another exchange program, so.

MS. SHELL: Right. We'll see.

MR. CONINE: We may have some more work coming. You never know.

MS. SHELL: You never know.

MR. CONINE: Thank you, Teresa.

MS. SHELL: Thank you.

MR. CONINE: Appreciate it.

Item 5(c), Mr. Gerber. Is there anything else?

MR. GERBER: Let's see, we've got Item 5(c) is our challenges, and we'll let Raquel --

MR. CONINE: Okay.

MR. GERBER: -- walk us through the challenges. Raquel's our very able 9 percent Administrator, and we've spent a lot of time with her today on this item, and then the appeals.

MS. MORALES: Good times.

MR. CONINE: Hello, Raquel.

MS. MORALES: Hello. How are you?

MR. CONINE: Great.

MS. MORALES: My name is Raquel Morales, I'm the Competitive Tax Credit Program Administrator.

Chairman Conine and Board, in accordance with Section 50.17 of the qualified allocation plan and rules, the Department allows unrelated parties to an application to submit challenges to any application in the competitive

cycle on or before June 15.

Staff gives the applicant that is being challenged an opportunity to respond in accordance with the rules. And the Department evaluates the challenge as well as the applicant's response in accordance with the rules.

The log presented in the Board materials is a summary of the challenges received and the staff's response to each challenge, with the exception of two that were listed as pending, and which I will present to you right now.

The first is for Application Number 10177, Hometown at Garland. The challenge is that the applicant was in material non-compliance at the time of the application and therefore should not have been an eligible applicant for the 2010 competitive cycle.

MR. CONINE: Hold on, Raquel, let me find out what page you're on, or are you on a page in the summary?

FEMALE VOICE: Page 6.

MR. CONINE: Six? Thank you. Okay.

MS. MORALES: Our evaluation of that particular challenge was that a principal of the applicant was in material non-compliance at the time that the application was submitted.

The material non-compliance rules provide for an additional five-day cure period from the date of notice of the results of the previous participation review. The previous

participation review is not completed at the moment that the application is submitted, but is done later in the cycle once the highest scoring applications are identified.

In this case the principal of the applicant for Hometown at Garland has cleared the issue of non-compliance before the previous participation review was completed. Therefore, the applicant for Hometown was not terminated for ineligibility due to material non-compliance.

We have another one for Application Number 10284, Atmos Lofts. The challenge in this case is that the development will violate Fair Housing laws because the quality of units is lower, and the low income tenants will be concentrated in the tax credit assisted building, which is just one of the buildings in the proposed in the proposed complex.

Staff's evaluation has determined that the subject of the application is that one building, which will be tax credit restricted but -- sorry, let me start over. The subject of the application is the one building which will be tax credit restricted. At this point, the financing for the rest of the complex is not final, and will be evaluated as needed with respect to feasibility of the subject application.

At this point, it is possible that other restricted

units may exist in other parts of the larger complex, just as other developments may exist in the same zip code or city.

At this point, the customary -- I'm sorry, the customary way that staff handles alleged Fair Housing violations is to refer them to the Texas Workforce Commission, HUD's representative in Texas for overseeing Fair Housing investigation.

At this point, it is not clear that the project would involve any violations of the Fair Housing Act, but staff will confirm if this project does receive an award that Fair Housing requirements will not be violated.

I can speak to any of the other challenges, or answer any questions that the Board may have at this point.

MR. GERBER: And I think there's been a lot of comments made about Atmos Lofts and adherence to our Fair Housing laws. The Department reiterates its commitment to strict adherence to the nation and to the state's Fair Housing laws. We will work closely -- we are working closely through legal to make sure that we are fully compliant, and should tax credits be awarded and should there be issues regarding Fair Housing, as Raquel said, we would work through the Texas Workforce Commission and their Fair Housing function there to work with HUD to make sure that the program is -- that this particular development is compliant.

And that would be a condition of the tax credit award that we would bring to you at the next Board meeting should this project be a recipient of -- be recommended for tax credits this cycle.

MR. CONINE: Any other questions of Ms. Morales?
(No response.)

MR. CONINE: No action required by -- for us at this time.

MS. MORALES: Right.

MR. CONINE: Correct? Thank you very much for that report.

Okay. Moving on to Agenda Item 6, I believe. It may say four on some --

MS. MORALES: Right.

MR. CONINE: -- agendas, but this is going to be Item 6(a).

Mr. Gerber?

MR. GERBER: Mr. Chairman and Board members, I'm going to let Ms. Morales continue to present each of the Board items -- each of the appeal items. This is part of the annual cycle. It's often found to be the most challenging.

Staff is charged and has been working diligently to evaluate the full applications for tax credits for the past three months, and pre-apps for the past six months, and

in that time has asked for clarification or sent out deficiency requests in over 350 deficiency notices. Many of these notices contain multiple issues. Each time a potential point loss or termination was a possibility, the applicant was advised and given the opportunity to resolve the discrepancy.

If the information was deemed by staff on the front line doing the evaluation to be insufficient to resolve the issue, it was reviewed by senior staff, myself, the multifamily director, and if still deemed insufficient, a notice was sent to the applicant explaining why the issue was still viewed as unresolved.

And this notice included information describing how an appeal could be made to me, and then ultimately to the Board. And 15 such appeals remain and are going to be heard by the Board today.

It's worth noting that the tax credit application process is a highly competitive process, and that for every winner there will be someone who will not get an award. The process created by the rules in the QAP may seem arcane, but they are designed to give everyone the same set of consistent requirements and enables staff to analyze and differentiate fairly among the applicants.

All of these applicants have a voice in developing

these rules. And the rules were approved by this Board and that is what staff has upheld. We've taken -- I've taken a very lenient view to try and get in the complexities of this process and given the challenges in the housing market to try to keep folks in the competitive round where possible.

But we have a duty as staff to uphold the rules that are set by this Board, and are found in the QAP. The challenges you just heard underscore that there were a lot of people who feel highly interested in these processes.

Staff has sorted through these issues and we've done what we could to address them equitably. However, as we get into the appeals, the Board's going to be asked for alleged good cause to come to different conclusions than staff and myself. And ultimately you, Board members, will be the final arbiters of this process and will have to make the determination, again, with good cause as to whether or not you wish to accept their appeal.

The first item before you is Number 10173, Sphinx at Lawnview, and I'm going to ask Ms. Morales to walk through it.

MS. MORALES: Thank you.

Chairman Conine and Board, the first appeal is for termination of Application Number 10173, Sphinx at

Lawnview. If you'll recall, at the June 28 Board meeting, the applicant made public comment and requested that the appeal be placed on today's agenda, which was approved by the Board.

The core of the appeal is that the required market study was not received by the deadline, and even after written notice was sent, the applicant let a month and a half run after the appeal deadline before raising these issues and seeking to appeal. The Department has since received the market study for the subject application, but it was received on April 15, which is two weeks after the initial submission deadline.

A letter dated June 10 was sent to the Executive Director indicating that the third party consultants were timely engaged, and that the market analyst indicated the reports were timely filed with the Department. However, staff confirmed with the analyst that the market study report was only completed and delivered directly to the applicant on March 31 and not delivered directly to the Department.

A subsequent letter to the Board dated June 29 was submitted repeating the same information previously addressed, but also including copies of engagement letters for the market study, the cover letter for the completed report, and a Federal Express receipt to show that the report

was timely filed. However, the Federal Express receipt only shows that a package was sent from the market study analyst to the applicant on March 31.

No other evidence was provided in the appeal to document or reference that the Department was sent or received the market study either electronically or by hard copy by the April 1 deadline.

Therefore, the issue before the Board today is whether this applicant -- application should be reinstated given that the April 1 submission deadline for the market study, and the seven day appeal time frame, were not adhered to by the applicant.

Staff applied these deadlines consistently among all applications submitted, and any waiver of these requirements for this application would, in staff's estimation, be inconsistent with the process and requirements by which other applications were held to.

The applicant's appeal also requests reinstatement of five points to the application's final score for failing to provide a commitment from the city for points requested under Section 50.9(i)(5), commitment of development funding by local political subdivisions.

The Department has not yet issued a final scoring notice for this application because it was terminated before

a complete scoring review was performed. Therefore, the applicant's claim of any point loss is perhaps anticipated.

Staff has no basis for recommending the reinstatement of the point loss until a final scoring review has been performed and a scoring notice has been issued.

With the required market study submitted over two weeks late, and the appeal deadlines ignored, only to have the applicant attempt to avoid those process deadlines by sending a letter a month and a half later, staff recommends denial of the appeal.

MR. CONINE: Okay. I have one witness affirmation form.

Joe Agumadu?

MR. AGUMADU: Good morning, Mr. Chairman, and members of the Board, the Executive Director. My name is Joseph Agumadu. I'm here to representing the Sphinx at Lawnview question. We work hard to come this far. Really hard. And the last thing we want to be doing is going back and forth as to whether or not we submitted a third party report or not really.

The package that you have will indicate that we timely engaged the required third parties. The third parties were environmental studies and market studies. They were done timely also the package will indicate. In your packet

I indicated that we received market studies from the market study analyst by the due date and was uploaded. The same way we uploaded the market -- the environmental studies, which showed by their record, timely.

The letter that is sent to us said that we are being terminated because we did not timely produce the environmental report, and because we did not timely produce the good environmental report and the market studies. The last time we came and visited, we had had discussion with the staff where there was confusion as to what the right letter was. And we are basically holding off for clarification.

We've come this far, we've spent a lot of energy resources, money, working with the jurisdiction, the city, the elected officials, the neighborhoods to gather the required support to bring this application where we are. Here we are, we're arguing whether or not we did. We did our part. The same manner that we uploaded the environmental report is the same manner we uploaded the market studies. Why it's not showing, I cannot be responsible for that. That's all I'm saying.

I'm asking this Board to please give this -- to give opportunity to this application to continue. It's a good application, it is a very good project, and I know it's a project that this staff and this Board will be proud of.

The city of Dallas knows that we can do it. They are sending -- they were sending somebody, the person had a flight issue, that's why the person is not here this morning.

And let me just stop here. What I'm asking this Board to do is to please give this application the opportunity to continue. We have done our part. That was all we required to do.

MR. CONINE: Any questions of the witness?

Mr. Keig?

MR. KEIG: If I understand you correctly, you're saying that the Phase 1 was submitted electronically?

MR. AGUMADU: Both of them were submitted electronically, sir.

MR. KEIG: Then the market study as well, at the same time?

MR. AGUMADU: At the same time. Somehow the record is not showing. What I'm saying -- I don't know the system that is set up by the Agency, I don't what the set up is. But I cannot be responsible for that.

MR. KEIG: Then why didn't you file an appeal within seven days?

MR. AGUMADU: Well, we had a discussion, I had a conversation from a staff member indicating that the issue was going to be -- well, they presented last week that it

wasn't really on this application but it was on another application. That was not my understanding.

I don't have any reason to spend all this money, produce this market and this environmental report, paid \$12,000 for it, and not upload it. There's no -- I don't have --

MR. KEIG: Okay. I guess can you restate for me why you didn't file the appeal within seven days? I didn't understand that.

MR. AGUMADU: I had a discussion -- a staff member called, said, We sent you a letter, the letter was inaccurate, we're going to send you a revised letter. The market studies, based on their record, now she's representing that a market study was not timely filed or submitted. But the environmental was timely submitted.

Well, she said, even if one of them was not, you are not still out. But the letter that we received, based on what we thought was going to be done, was they were going to revise the letter and send us an updated letter.

MR. KEIG: Was there a revised letter --

MR. AGUMADU: No, sir.

MR. KEIG: -- received by you?

MR. AGUMADU: No, sir.

MR. KEIG: When you received a call from staff

notifying you that the market study had not been received, how long did it take you to send it in to staff?

MR. AGUMADU: Well, I shared with my staff in the office, and they indicated to me that it was uploaded. The discussion kept going back and forth. We also called the market study analyst who normally does this. We have other application, they uploaded it directly, and somehow they had problem. So they send this to our office and we did upload it ourselves. She's indicating that we did not.

I'm not saying that I'm sure on the record. I'm just saying we did our part. That's the only thing I am responsible for, sir.

MR. KEIG: Well, you did submit, or resubmit on April 15. Right?

MR. AGUMADU: That's what our record is showing.

MR. KEIG: And how many days was that after staff called you?

MR. AGUMADU: I don't know. The discussion has been going on back and forth. I don't know the exact date. The record is showing that somebody uploaded it, later on when I was leaving the hard copy that was sent. Right now I'm confused as to what is the basis for their records showing it was two weeks later.

MR. KEIG: Have you ever had any other problems

with submissions where things were missing?

MR. AGUMADU: Yes, I do.

MR. KEIG: When was that?

MR. AGUMADU: I'm also showing that -- we have another application, I have a letter from the same staff indicating that that application has also been terminated. It's been terminated for the same two reasons that we are talking about here.

Now, their records will show the market studies and environmental, based on their record, also the log, were timely filed. The letter that I have is indicating that they were being terminated for that reason. Well, the application may not be most competitive, so we kept going back and forth.

So we have problem with just by uploading -- the only basis to submit the study of reports, and we engage these guys, paid them a lot of money, spent the energy, and here we are talking about whether or not we uploaded it or not. And I don't want to do that. I don't want to do that.

MR. KEIG: I don't have any further --

MR. CONINE: Any other questions of the witness?
Ms. Morales?

MS. MORALES: Yes, sir. Let me just offer some clarification on the revised termination letter that Mr. Agumadu is referring to. That was specific to one of his

other applications that was also terminated. We did notify the applicant that the letter was inaccurate, we resent the letter that same day. We have e-mail correspondence, you know, to show that we did send it.

And so I think he's getting confused about a revised termination letter for this application versus his other application. This application only received one termination letter, and that original letter was sent and it was accurate.

The other thing is, you know, before -- just to kind of touch on something that Mr. Gerber shared before we started the appeals, whenever we have an issue where a scoring item or a possible termination is coming up, it's not as though we just send out a letter and say, You're terminated.

We contacted the applicant, we talked to -- I personally talked to one of the members of his staff to discussion, Hey, this is where we are. I cannot locate a market study environmental report for this application, can you kind of let me know what's going on. We've had discussions back and forth.

It was probably maybe a week prior to the termination letter being sent out that we finally decided to terminate the application because we were not provided with any documentation to show that the market study was

received on April 1.

MR. CONINE: Yes, go ahead.

MR. KEIG: Is there some type -- I don't know how these things are submitted electronically -- is there some type of, you know, delivery receipt confirmation that you get when you're an applicant?

MS. MORALES: There's two ways that they can submit. They can submit a hard copy either by mailing it directly to the Department, or personally delivering it to the Department by the deadline, or they can submit it using our file transfer protocol service. It's our FTP server.

MR. KEIG: And that's --

MS. MORALES: Right. And that's -- so that's electronic submission. They are able to view, when they upload a file, that it has been uploaded. They have a date stamp whenever any document that is uploaded to that server under the applicant's file number and account number. They are able to see that it is there and that it has been uploaded successfully.

MR. KEIG: And can you print the screen for that --

MS. MORALES: Yes.

MR. KEIG: -- to save it?

MS. MORALES: Yes.

MR. CONINE: How did the Department receive the

environmental and market study on April 15? Was it electronically?

MS. MORALES: It was electronic, yes, sir.

MR. CONINE: It was electronic. These electronic bugs, you know.

MS. MORALES: Yes, I mean it's a great convenience for everybody involved, but at times we have to deal with issues like this where, you know, we worked with them, and I'll clarify as well, originally this application was terminated for not having both the ESA report and the market study submitted. Through the communication with the applicant, we were able to locate the ESA. It's possible that it was, you know, into another folder or --

MR. CONINE: What time --

MS. MORALES: -- yes, the date stamp on that showed 3/31. But at issue is just the market study. We could not locate a file that was uploaded by April 1.

MR. KEIG: Have we had any other situations that are similar where a document is missing, it's a key document, and we contacted them and allowed them to submit it after the deadline?

MS. MORALES: No. We have had at least three other applications that I know of right off the top of my head that were in the same situation, they didn't timely

file a third party report, which is a threshold requirement.

They were notified, we discussed with them. Only one of those appealed only to Mr. Gerber, and then did not choose to pursue the appeal to the Board. But we did have other applications that did not timely file a third party report.

MR. CONINE: We've had other appeals though, as I recall, on the computer issue --

MS. MORALES: We've had one other one, yes.

MR. CONINE: -- that -- not in this round, but maybe in previous rounds.

Any other questions of the witness or staff at this point?

MR. AGUMADU: May I?

MR. CONINE: Mr. Agumadu, yes.

MR. AGUMADU: The only thing I'm saying is that she had correspondence with the staff over the environmental studies. The same conversation over the market studies. She later located the environmental, but she didn't locate the market studies.

MR. CONINE: Right.

MR. AGUMADU: That's what I'm saying.

MR. CONINE: Well, that's -- I understand your frustration and, you know, it creates some sympathy with me anyway that some of it got there and some of it didn't, and

I'm a non-computer geek anyway, so I don't know that I can fully appreciate that uploading a file.

Ms. Morales, anything further?

MS. MORALES: No.

MR. CONINE: Okay. I would entertain a motion.

MR. GANN: I move the denial of the appeal.

MR. CONINE: There's a motion to deny by Mr. Gann.

Is there a second?

MS. BINGHAM-ESCARREÑO: 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: Motion carries.

Item 6(b).

MS. MORALES: The next appeal is for -- is the second and last appeal to termination of an application. It is for Artisans at Queen's Retreat, Application Number 10013. This application was terminated because it did not meet a threshold requirement, which is including notice of

the time and place of a public hearing information on its property sign. This sort of notice is key to an open public input process.

The Department had made the information available well in advance and the requirement could easily have been followed. The applicant appeals that the public hearing information was not available at the time that the sign was installed on the property. However, in response to a deficiency notice, the applicant confirmed that the property sign was installed on February 24, which is almost a month after the information was published on the Department's website.

The applicant's claim that a broken link on the Department's website also prevented access to the public hearing information. And this claim is incorrect. The broken link that the applicant refers to was the link to one of the hearing locations and not to the actual page where the public hearing information was. The information necessary for the sign was available on January 28, and nobody else indicated any problems with accessing that information.

Staff applied the rule as it pertains to a competitive tax credit application, and applied it consistently among all the applications submitted. Given that the applicant has not denied the fact that the public

hearing information was not included in the signage on the property by the March 1 deadline, staff does not believe that the application should be reinstated and is recommending denial of the appeal.

MR. CONINE: Okay. I have three witness affirmation forms, plus a letter from Senator Lucio on this one.

MR. GERBER: Yes, sir.

MR. CONINE: You want to read it?

MR. GERBER: Sure. Mr. Chairman, the letter from State Senator Eddie Lucio, Jr. addressed to Robbye Meyer. "Dear Ms. Meyer, it's been brought to my attention that Ryan Wilson's Tax Credit Housing Program application for the Artisan at Queen's Retreat has been disqualified because of the developer's failure to post appropriate signage regarding the Tax Exempt Fiscal Responsibility Act hearing by March 1, 2010.

"I regret this serious oversight. Public hearings give members of the community an important opportunity to comment on proposed developments. However, in light of the region's great need for quality affordable housing, I am writing to express my continued support for this application.

"The rehabilitation efforts at this site will

include interior and exterior improvements that will better living conditions for more than 100 elderly persons. I recognize that you and your staff are well aware of the housing need in Mercedes, and ask that this reality remain in the forefront of discussions concerning this application during the June 8, 2010 appeal. Sincerely, Eddie Lucio, Jr., State Senator."

MR. CONINE: Okay. I have four witness affirmation forms, only three of you will get a chance to speak since you're all going the same direction.

Ryan Wilson, Henry Peña, and Eliseo Saucedo. You can speak in any order you'd like. And I do have one, a fourth one here, so one of you get five minutes if they need it.

MR. SAUCEDA: Good morning.

MR. CONINE: Good morning.

MR. SAUCEDA: My name is Eliseo Saucedo. I'm the Chairman for the Mercedes Housing Authority. And from the mayor and our commissioners, we're supporting the -- our appeal. And our community, we're looking forward to having this facility refurbished because we in really need of it. And with that, I relinquish my time to our developer.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Next.

MR. PEÑA: Good morning. I'm Henry Peña. I'm a tenant in that building. And I just want to say that we really need a lot of repairs from top to bottom. That's it.

MR. CONINE: Okay. Thank you.

Mr. Wilson?

MR. WILSON: Thank you, Chairman, and the Board. They won't -- I won't use all their time I promise you. I'm Ryan Wilson, I'm developing this project with the assistance of the Mercedes Housing Authority. And we're here today to request the Board approve our grant of appeal on the basis this is truly and oversight in the public notification process.

First, it's important to note, and I know Raquel mentioned that the sign -- it was, in fact, installed on the site within the required time. What we're talking about is the public notification information that was placed on the sign in addition to all the other information.

Given that -- and in our opinion, given that the intent of the public hearing is to give opportunity for the public to comment, including the residents, we were out there many instances prior to the application deadline. The community was made aware, and it was made available for public comment.

Number one, obviously the support issued by the city of Mercedes by way of resolution, the Housing Authority also by the Housing Authority sponsor, that's why they're here today, to answer questions about that, held meetings in January to make residents aware of what was going on. Subsequent to that, the residents actually issued their letter of support wanting and needing the housing, and the rehabilitation efforts.

And then the local elected official support -- or local elected officials were also notified in accordance with the QAP, and we received letters of support both from state representatives and well as the state senator. You heard the -- I think you read that into record from Senator Ed Lucio already. We also have a letter from Armando Martinez, who's the state rep in that district also supporting the development, which I have a copy of here for you.

I think this is not -- certainly not a case of circumventing the process by any means. And we want to make that really clear. That was not the intent obviously. The staff member from my office working this particular application attempted to retrieve the wrong information. We discovered the error about eight days later and immediately fixed it that day, on March 8.

It wasn't a notice from the staff, it wasn't a

deficiency item at all. We corrected the error as soon as we found out about it. And on March 8 it was still 37 days prior to the actual public hearing in Harlingen, and I know in our appeal we also noted that if this were a bond transaction, which we know it's not, but if this were a bond transaction, we would have met the notification criteria.

And we only say that to draw the comparison that there obviously was some thought put into the public notification process on a tax credit development, but we understand the nature of the competitive market as well. We just bring that to your attention.

We feel our oversight was really an honest mistake.

The community was definitely made aware of this project, the community definitely supports this project. We receive unanimous support from all the stakeholders, including the city, the Housing Authority, and the residents

And we really understand and respect staff's obligation to adhere to the letter of the QAP, but we implore the Board today to look at maybe the bigger picture, understand that, you know, this type of error was not meant to circumvent, but rather was really an honest mistake on our part and really would -- I implore you today to hear our request and hear the chairman's request as well as residents' request to grant our appeal and allow this project to move forward.

We really appreciate your time today, Board, and we're here to answer any questions that you all might have.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Okay. Well, Ms. Morales, any further comment?

MS. MORALES: No, no further --

MR. CONINE: Okay. If not, I'd entertain a motion.

(No response.)

MR. CONINE: Somebody.

(General laughter.)

MR. GANN: This is one of those times when you really don't want to do something, but --

MR. CONINE: Yes.

MR. GANN: -- it's just certain things we have to do to just to be in order, and at this point I'd have to move to deny the appeal.

MR. CONINE: Motion by Mr. Gann to deny the appeal.

Is there a second?

(No response.)

MR. CONINE: Is there a second?

(No response.)

MR. CONINE: I'll second it to get it on the table.
Any further discussion?

(No response.)

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

(No response.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Nay?

(No response.)

(General laughter.)

MR. CONINE: I'm not sure how that vote came out.

MS. MORALES: Now you know how hard it is for
staff.

(General laughter.)

MR. CONINE: So I'm going to call for the question
one more time. All those in favor of the motion signify by
saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

MR. KEIG: Nay.

MR. CONINE: Well, I guess we're going to have
to raise some hands here.

MR. KEIG: Repeat the motion.

MR. CONINE: The motion is to deny the appeal.

That's -- I think that's the motion you made, Mr. Gann, as I understood it anyway.

MR. GANN: It is.

MR. CONINE: All those in favor of the motion raise your right hand. One, two -- all --

MS. RAY: Mr. --

MR. CONINE: Yes.

MS. RAY: Mr. Chairman.

MS. CONINE: Ms. Ray, would you like some discussion?

MS. RAY: I really have to discuss this item.

MR. CONINE: Okay.

MS. RAY: This is a horrible situation. I'd like to ask the staff a question. The witness, Mr. Wilson, stated that they found their own error prior to it having been discovered by staff. And made action to rectify the oversight, even before you found it. Can you tell me how it came to staff's attention that the sign did not, in fact, have that information on it in time?

MS. MORALES: Yes, ma'am. During our threshold review, and it was listed as a deficiency item on a notice that was sent, I think it was dated March 10. I believe the

applicant indicated in their documentation, their appeal documentation, that they wrote in the information, or inserted it on March 9. But we did include it as a deficiency, so that's how it came about to staff that it wasn't on there.

MS. RAY: But when you notified then as a deficiency, it had already been corrected.

MS. MORALES: Yes, I believe so.

MS. RAY: Because he said he -- the witness stated that he had corrected the transgression --

MS. MORALES: The deficiency --

MS. RAY: -- on the 8th of March. It should have been done on the 1st.

MS. MORALES: Right. The deficiency was to show that the information was inserted by March 1, according to the rule. What the response was, that they rectified the problem and inserted it on March 9 once they realized that it wasn't inserted, and it was an oversight.

MR. CONINE: Do we go out and take pictures or --

MS. MORALES: They're supposed to go out and take a picture of the sign and insert it with their application.

MR. CONINE: Oh, they send it in. Okay.

MS. RAY: I see. So when you got the package is when you -- how you discovered it was not on the sign.

MS. MORALES: Correct. It was in their

application submission on March 1.

MR. CONINE: Mr. Wilson?

MR. WILSON: Just to add to that, Gloria, that we submitted the picture in the application with nothing on it, which is how the deficiency was -- came about, but -- and we -- when we did it on March 8, we are not really allowed to send additional information through to correct the error before we got the deficiency, so she -- I think Raquel's time line is correct in that we received the deficiency, but it had already been corrected.

MR. IRVINE: May I -- Tim Irvine, General Counsel.

I'd just like to clarify one point. When we talk about correcting or rectifying the situation, which, in fact, is not the case because there's a legal requirement that is not being met. If, for example, we had failed to post that we were going to be talking about this matter today in the *Texas Register*, we could not be talking about it, even though we'd let everybody in the room know about it.

MR. CONINE: I understand. Thank you.

Okay. There's a motion on the floor. I will -- and to the deny the appeal. We'll vote one more time. All those in favor of the motion to deny the appeal, signify by raising their right hand.

All opposed?

Motion is -- motion carries to deny the appeal.

Next one. Paris Retirement Village II.

MS. MORALES: The next group of appeals deal specifically with scoring. We're done with termination of applications. The appeals are presented in your board book numerically, and can be taken in that order presented.

However, at the Board's discretion I will suggest you take a couple out of order if you would prefer in order to address those scoring issues that are similar and address them closer to each other. As we come up to those that have similar issues, I will let the Board know and then we'll proceed as directed.

Okay. So the first one up is for Application Number 10039, Paris Retirement Village II. The applicant is appealing for reinstatement of a total of 34 points for the application. The key to this appeal is that the applicant failed to provide documentation to support financial feasibility and also lost pre-application points because of the significance of this omission.

The proposal requires HOME funding as its construction and permanent financing, but the applicant never asked for anything from the Department regarding a commitment on the HOME portion in order to address the tax credit scoring requirement.

A commitment letter from a construction or permanent lender, along with their pro forma, and a statement from the lender that the development is feasible for 15 years are all required supporting documentation in order to be eligible for these points. While the applicant could have included a construction commitment to support these points, they did not.

The applicant's proposed financing structure reflects only two sources of financing, TDHCA HOME funds and tax credit syndication proceeds. There is currently no exception to this rule for developments that propose the use of only TDHCA HOME funds as a permanent source of financing to avoid documentation for these points. And, again, the applicant did not request a commitment letter from the Department. Staff is recommending denial of the appeal.

MR. CONINE: Okay. I have no witness affirmation forms on this, unless --

MR. KEIG: Move to deny the appeal.

MR. CONINE: Motion to deny the appeal by Mr. Keig. Is there a second?

MS. BINGHAM-ESCARREÑO: 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. MORALES: The next appeal is for Application Number 10051, Parkway Ranch Apartments. The appeal is for -- the applicant is appealing for the reinstatement of one point for this application for qualified census tract with community revitalization.

The core for this appeal is that the applicant did not provide documentation that the revitalization plan on which they were relying had been approved by vote of the city council for the city of Houston as required by the rule.

A copy of the Acres Home Revitalization Strategies Plan was provided. However, this plan was not adopted by vote.

The applicant's appeal recognizes that the plan was not adopted by vote of the Houston City Council. However, the applicant appeals that this same documentation was provided in conjunction with a 2006 application that was accepted by the Department for the same scoring item at that time. The documentation provided in conjunction with this 2010 application was provided back in 2006 and it was accepted

at that time.

However, the Board changed this rule to specifically require evidence in the form of a vote adopted by the local governing body. Therefore, the applicant's assertion that the point should be awarded on the basis that it was previously accepted is not allowed based on the current requirements of the 2010 QAP. Staff is recommending denial of the appeal.

MR. CONINE: Okay. I do have two witness affirmation forms on this one. Barry Kahn and Cynthia Bast.

MS. BAST: Good morning.

MR. CONINE: Good morning.

MS. BAST: I'm Cynthia Bast of Locke Lord representing the applicant in this appeal. And you heard from Ms. Morales that the applicant sought one point under the QAP for proposing a development in a qualified census tract that would contribute to a community revitalization plan.

There is no question here that the development is located in a qualified census tract, there is no question that the Acres Home Community has a community revitalization plan. You have a copy of that community revitalization plan in your board book. The question is whether the evidence that was submitted to substantiate the point was sufficient

and complied with the QAP.

As you heard, this proposed development is actually the second phase of an existing single family rental complex in the Acres Home Community in Houston. The first phase was financed with tax credits in 2006, and as you heard, at that time the applicant requested this same point in the tax credit application process and was awarded the point. But in 2010 the point was not awarded.

So what precipitated the change? There was a change in language in the QAP. The QAP requires two pieces of evidence to substantiate this point. First the applicant must submit a letter from an appropriate governmental official stating that the development is located within the targeted areas of the community revitalization plan. The applicant provided this evidence in 2006 and again in 2010 in the form of a letter from Davie Turkel of Harris County. Mr. Turkel states that Harris County supports the revitalization of this area.

The second piece of evidence required is an ordinance resolution or recorded documentation of a vote taken by the local elected governing body specifically adopting the community revitalization plan. This new language was added to the QAP in 2009, and this is the language that was not required in 2006. And the applicant has not been able

to provide this evidence to the staff's satisfaction.

As noted, it is true that neither the Harris County or the city of Houston City Council has passed an ordinance to specifically adopt the Acres Home Community Revitalization Plan. As a very large city, Houston approaches its neighborhood planning differently. The city has officially recognized super neighborhood councils that are charged to develop super neighborhood actions plans and provide those plans to the City Planning Department so that then they can work with the city to implement the elements of the plan.

The city recognizes that localizing this function in the super neighborhoods makes it more efficient and effective. So, in effect, the super neighborhoods are an instrumentality of the city for this purposed.

So while it is impossible in this instance for the applicant to provide an ordinance by the Houston City Council that adopts the Acres Home Community Revitalization Plan, they have provided evidence that the Acres Home Super Neighborhood Council has adopted this plan. And then that Super Neighborhood Council is charged to -- by the city of Houston specifically, to create and implement an action plan that would be adopted and used by the city.

So in conclusion, when this new language was added to the QAP in 2009, we don't think that anyone intended to

make it impossible for someone in a particular area to be able to achieve this point simply because that city approaches its local community planning in a different manner. It just doesn't make sense to deny the point for the second phase of a development that received this point four years ago.

So we respectfully request that the Board grant this appeal and allow the applicant one point for a development site in a qualified census tract that is part of a community revitalization plan.

MR. CONINE: Any questions of Ms. Bast?

(No response.)

MR. CONINE: Barry?

MR. KAHN: Mr. Chairman, Board, I'd just like to add real quickly, Acres Homes is an old community in Houston.

It's one of the last to receive water and sewer. Many of the homes are on blocks. The intent of the point, it would seem, would be to cause development to be incurred in a revitalization zone. Acres Homes clearly meets that.

Part of your board book is about a 49-page document adopted by the Planning Department working with Acres Homes, and as explained by city officials, was, in effect, adopted through the super neighborhood network. If you look at the revitalization plan, it talks about the need of housing, you know, the face page shows, you know, the mayor's name, the

city council's name.

The whole thing is a revitalization plan. And it seems like it would fulfill your intent, but for a technicality, which may have arisen because of some sort of abuse in the past. And I'd just like to also add there's been two other applications we submitted previously besides the Phase 1 of this, a 2001 and a 2005 application, and again, the point was acknowledged in respect to those applications.

But it looks like a revitalization area. It is one. And it is in need of housing. The current Phase 1 is about 99 percent occupied, and Phase 2 is needed. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Ms. Morales, any other further clarification?

MS. MORALES: No, sir.

MR. CONINE: Okay.

MS. BINGHAM-ESCARREÑO: Mr. Chair --

MR. CONINE: Ms. Bingham.

MS. BINGHAM-ESCARREÑO: -- I have just a clarification. So just for my clarification, how would a development in Houston that was part of a revitalization plan area, how would a development in the future meet the requirements of our current rules?

MS. MORALES: Well, I think the question that's being brought up by the applicant in the appeal is would we consider adoption by a super neighborhood to be the equivalent of adoption by the city. As it is written now, we don't interpret it that way. But in order to meet the requirements, they would have to provide some evidence that it was approved by the local governing body. And if we mean the local governing body to be the city of Houston, that's how they would need to provide documentation.

MS. BINGHAM-ESCARREÑO: So Mrs. Bast said it was impossible, that it would be impossible for the city because the city of Houston kind of delegated that authority to these super neighborhood groups. So I guess I'm just wondering -- and I don't mean to put anybody on the spot, I'm just wondering for future reference what would satisfy our current rule?

MR. CONINE: We need to have a subset of the QAP for Houston is what we need.

(General laughter.)

MS. BINGHAM-ESCARREÑO: Yes, it sounds like --

MR. CONINE: I mean this comes up time and time and time again.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray.

MS. RAY: Houston, because of the way -- it's a big city.

MR. CONINE: Well, yes, it is.

MS. RAY: And, you know, that's a really big place. And every year we run into the super neighborhood issue in one form or another. So I do agree that some consideration needs to be made for Houston because it's different. And given that --

MR. CONINE: Okay.

MS. RAY: -- I move to approve the appeal.

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

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. 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.

Congratulations, Mr. Kahn, you just set the market value for one point.

(General laughter.)

MR. KAHN: Well, you know, this program you never know what it --

MR. CONINE: That's a \$2500 appeal filing fee. Plus whatever Ms. Bast cost.

(General laughter.)

MR. CONINE: Okay. Let's go on to the next one.

MS. MORALES: The next appeal is for Application Number 10094, Providence Town Square. This applicant is appealing for reinstatement for four points for economic development initiatives pursuant to Section 50.9(i)(15)(A).

Under this option, the applicant must provide evidence from the city that the development site is located within a state or federally designated enterprise zone, urban enterprise community, or urban enhanced enterprise community.

The key to this appeal is that no letter from the city to confirm that the development was located in a qualifying state or federal enterprise zone was provided by the applicant. What was provided was a letter from the city of Deer Park confirming that an award in the form of a local tax abatement was made in the area where the development is proposed to be located.

The applicant's appeal requests that the evidence provided be considered under Option B of this scoring item, even though the application submission does not reflect the request under this option. The appeal further states that the evidence provided meets the intent of the rule and should be considered an economic development initiative that qualifies for the points.

The evidence of award provided does not meet the language of the rule, that the city -- that -- I'm sorry, that the award must be a state or federally funded economic development initiative. A city tax abatement does not qualify as a state or federally funded initiative.

Staff evaluated this and all other competitive applications requesting points under this specific scoring item to meet this specific requirement. Staff is recommending denial of the appeal.

MR. CONINE: I do have one witness affirmation form.

Matt Fuqua?

MR. FUQUA: Good morning, Board members, Chairman, staff. Thank you for your time. I'm here representing Providence Town Square housing, Application Number 10094. Providence Town Square is a 188-unit senior development community proposed in the city of Deer Park.

I'm here before you request the consideration to reinstate four points under Section 15 of the economic development initiatives. We have provided documentation from the city of Deer Park supporting their action in creating the tax abatement with the intent to stimulate job growth for the southern region of Harris County.

The information attached substantiates the largest anticipated impacts of granting the abatement would be potential job growth and increase in sales and other taxes.

Please consider this initiative by the local government as a qualified economic development initiative as it will foreseeably be a positive impact to our great state. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Ms. Morales, any follow up?

MS. RAY: I have a question.

MR. CONINE: Ms. Ray.

MS. RAY: Mr. Chairman, I have a question of the witness.

MR. CONINE: Okay.

MS. RAY: I heard the words that you said.

MR. FUQUA: Yes, ma'am.

MS. RAY: But it says that the applicant must provide evidence that the area is a designated state or federal empowerment enterprise zone, urban enterprise community, or urban enhanced enterprise community. Do you have evidence that -- or any of those, other than the letter that you said that it is a economic development initiative?

MR. FUQUA: Mrs. Ray, we're asking for the Board to consider under other state or federally funded economic development initiatives, the fact that we are located in the same area of Deer Park that the tax abatement was awarded.

MS. RAY: Thank you.

MR. FUQUA: Yes, ma'am.

MR. GERBER: -- interject that this was an effort by the Department several years ago to try to tie our program dollars to other bold economic development initiatives that were happening where there was significant federal or state investment. And we've tried to be broad because there's a lot of different ways that economic development happens.

But we have drawn the line at tax abatements. We think that -- but we appreciate the effort and understand what you're trying to do in Deer Park. I think from staff's standpoint, we were looking to where a variety of difference sources of funds were coming in to really make a tremendous impact in the community.

The HOPE VI grant that we -- we've heard about, other, you know, other designations and programs, and those will probably expand as we see more programs coming along from the federal government. But that was the intent behind this, and I think the Board's direction.

Raquel, anything you'd add?

MS. MORALES: Yes, I would just add to that. I mean this is a popular point item, and there are cases where -- again, we held it to be specifically a state or federally funded initiative -- there were applications that were not awarded those points and may not have necessarily pursued an appeal on it. But we applied it consistently across the board.

MR. CONINE: Any further questions?

(No response.)

MR. CONINE: Seeing none, I'd entertain a motion.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move to deny the appeal.

MR. CONINE: Motion made to deny the appeal. Is there a second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. 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. MORALES: With the Board's discretion I would like to suggest we take an appeal out of order --

MR. CONINE: Okay.

MS. MORALES: -- and present the appeal for Application Number 10202, Brae Estates, as it also has an economic development initiative appeal.

MR. CONINE: Okay. If you don't mind, let me get it --

MS. MORALES: Okay.

MR. CONINE: -- right quick. Go ahead and make a --

MS. MORALES: In this case, the applicant sought the same enterprise points using a site that lies within a CDBG eligible census tract. Not only was this not a qualifying enterprise zone, there was no information provided to show that if it were, for the sake of argument, treated as an enterprise zone, that CDBG funding was limited to that

specific census tract.

CDBG eligible census tracts would include large sections of the city of Ft. Worth which have received more than three tax credit awards in the last seven years, rendering this application ineligible for the points under this rule.

So that's -- this application is actually appealing two scoring items, and that's the first. It's specific to economic development. Would you the Board like to take them separately, or just altogether?

MR. CONINE: Well, you better go altogether since --

MS. MORALES: Okay.

MR. CONINE: -- we're taking it out of order.

MS. MORALES: The second scoring item that this appeal deals with is development location. The key of this appeal is that the applicant used the academic rating of a magnet school offering enrollment by application citywide, rather than the public schools designated for the neighborhood.

The elementary school that serves only this neighborhood does not meet the academic rating to allow points for this item of the application. Staff is recommending denial of both issues on appeal.

MR. CONINE: Okay. I do have one witness

affirmation form.

Terri Anderson?

MS. ANDERSON: Good morning, Chairman Conine, and members of the Board. I'm Terri Anderson with Anderson Capital and I represent Kim McCaslin Schlicker, who is the developer of this transaction.

As Ms. Morales indicated, we did request points under the CDBG area, and the area is within the Riverside Allied Neighborhood, and it actually falls within not only a neighborhood organization, but also a broader allied -- Riverside allied area. They have had CDBG investment originally.

When we received the deficiency there was communication with Ms. Morales and TDHCA to determine whether or not CDBG funds would meet that criteria, because that was what we originally put in the application. And we were told yes, staff did approve the initial four points, and then we learned later that those were rescinded.

And as it relates to the magnet school, it is true that Riverside Applied Learning Center is a magnet school.

However, the school itself serves -- it's only three blocks away from our site, it serves the majority of the students from our particular area as verified with Ft. Worth Independent School District.

We did meet the letter of the law to include a map that actually shows the area for the school, and the fact that our property falls within the area for application. And the school that serves the property initially is not an exemplary school. However, any students who live at our property, who speak Spanish only, will automatically go to the Applied Learning Center.

And all of this was effectively learned through meeting with the neighborhood organizations, et cetera. I initially thought we did not qualify, and when I read the QAP as its stated, it actually indicates that you can receive those four points if you are located within the zone for that school, which we are located within, and it's only three blocks away from the site.

MR. CONINE: Okay.

MS. ANDERSON: Thank you, sir.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: I don't know which one to ask this question. On the school issue --

MS. ANDERSON: Yes, sir.

MR. CONINE: -- some of the -- the school is rated exemplary to qualify.

MS. ANDERSON: Correct. Yes, sir.

MR. CONINE: But it's not automatic that all the kids go there.

MS. ANDERSON: It is not automatic --

MR. CONINE: It's automatic that some of the kids go there.

MS. ANDERSON: Well, you have to apply if you're interested in attending, and as verified by the individual who actually controls the districting within Ft. Worth Independent School District, the majority of the students who actually attend that school do come from that neighborhood. And, again, it's not like they would be shipped across town --

MR. CONINE: Across town.

MS. ANDERSON: -- it's actually within a three block walking distance to our site.

MR. CONINE: And --

MS. ANDERSON: And the majority -- I'm sorry, sir.

MR. CONINE: It's okay. And your assertion -- and I understand that, and I'm sure the QAP is silent on whether the kids actually go there or not, which is, again, pointing to a glaring issue.

And your contention on the enterprise zone is that CDBG money on other projects within that zone has been spent in that zone, therefore, in your definition, qualifying it

for a state or federally funded zone because CDBG money has been spent there. Is that what you're saying?

MS. ANDERSON: CDBG funding has been spent, and within the appeal it states that we checked the box for A as opposed to B, which is the delineated difference. And I was following the criteria under B as opposed to A, and like I said, when we originally provided the documentation, we thought that we had met the criteria and received the four points, having cured them at the staff level, but later learned that we did not.

MR. CONINE: Okay. Ms. Morales, could you address both those issues?

MS. MORALES: Sure. The CDBG funds is not considered ineligible for purposes of this scoring item. There is, however, a requirement that the Department has to conduct a test to determine if more than three developments have been funded with tax credits in the last seven years. And if the Department determines and finds that that's the case, then they're not eligible for the points.

And that is the issue with this development is that if we were to allow CDBG funds as an eligible award, that's fine. The designated area in which CDBG funds must be utilized covers pretty much the entire city of Ft. Worth, so if we're looking at and running the test on that, it's

just not going to make it.

MR. CONINE: Okay. And I think she probably accurately points out to a fallacy in the QAP that the school's there, but the QAP is silent on whether the kids automatically go there or not?

MS. MORALES: Yes, she addressed that. I mean it is silent. I mean there -- here appeal is that there is no enrollment criteria. I guess the question is, the intent is, you know, it's not open to the kids that are going to be living at this development. They have to apply if they want to be considered for enrollment. And is that what, you know --

MR. CONINE: Right.

MS. MORALES: -- we're looking --

MR. CONINE: Right.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: For the purpose of this appeal item, is it possible for us to break out the decision in two parts.

MR. CONINE: Oh, absolutely. Certainly.

MS. RAY: The first part being the issue of whether it is or is not a designated area. The second part has to do with the school issue.

MR. CONINE: Yes.

MS. RAY: Because then --

MR. CONINE: Two different requests.

MS. RAY: -- I'd like to break that out because I would like to move --

MR. CONINE: Okay.

MS. RAY: -- on position number 1, to determine the specific enterprise zone, federal, state funding area, to deny the appeal on that subject.

MR. CONINE: Motion to deny on the first portion of the appeal by Ms. Ray. Do I hear a second?

MR. KEIG: Second.

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

(No response.)

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

(A chorus of ayes.)

MS. RAY: And I would --

MR. CONINE: The motion carries.

MS. RAY: -- leave the second part of that to the rest of this learned Board to deal with that school.

MR. CONINE: Okay. Dealing with the school.

MR. KEIG: I move to grant the appeal on the school issue.

MR. CONINE: Motion to grant the appeal by Mr. Keig on the school issue. Is there a second?

(No response.)

MR. CONINE: I'll second it to get it on the floor. 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?

FEMALE VOICE: I abstain.

MR. CONINE: One opposed. Motion does carry.

Ms. Morales.

MS. MORALES: Okay. The next appeal is for Application Number 10134 -- I think we're going to go back in order -- for Champion Homes at Copperridge. The applicant is appealing the reinstatement of the total of 16 points for this application.

The first portion of this appeal deals, again, with points not awarded under economic development initiatives. The applicant did not provide evidence that the city -- from the city that the site is located within a qualifying enterprise zone.

The applicant appeals that the city of Dallas will

not issue letters required for these point items because no project in Texas meets the criteria. However, at least one other application in the city of Dallas has been able to obtain the required letter for purposes of the points.

MR. CONINE: For this round?

MS. MORALES: Uh-huh.

MR. CONINE: Okay.

MS. MORALES: For 2010. The second portion of the appeal is for the loss of 12 points for quantifiable community participation. And the issue here is that the neighborhood group is a business organization and not a neighborhood organization as defined in statute. And also that the group's boundaries do not encompass the site.

The applicant does not deny that members of the organization are all business owners, and that no members have been confirmed to live near one another within the organization's defined boundaries. Staff is recommending denial of both portions of the appeal.

MR. CONINE: Okay. I do have one witness affirmation form.

Bill Fisher?

MR. FISHER: Good morning, Board members, Chairman Conine.

MR. CONINE: Good morning.

MR. FISHER: Bill Fisher, Odyssey Residential Holdings. I'm here on Champion Homes at Copperridge. Champion Homes at Copperridge is an interesting project. It is an urban in-fill transit oriented development.

It's the site directly adjacent to the brand new DART green line station that serves the hospital district in Dallas. For those of you who are familiar with Dallas, this is UT/Southwestern/Parkland, both the public and private healthcare systems, probably the largest employment base in the city of Dallas.

The site, if you're looking quickly at my survey that's on the top of your handout, the DART rail line parking lot is directly adjacent to our Lot Number 7.

This appeal really breaks down into three issues, which I'd like to take them separately. Robert Onion I think filled out a form and he was yielding his time to me. If he hasn't done that, he will do so.

Let's talk about whether I'm in the location. A simple, easy issue. Right? They provided a map, this is a very well established group, as Mr. Conine knows from Dallas.

They're the big dog in this area, they've got a small area, but they comment on anything and everything that has to do with development and land use in this area.

They have nearly 100 members. The vast majority

of them are property owners, which is a specific exception in the quantifiable community participation rules. Their bylaws, according to their executive director and chairman, are clear and unambiguous. They have a map, the map boundary line is Maple Avenue and 1000 feet on either side of Maple Avenue.

I included the survey. As you'll see, our site's maximum perimeter is 470 from Maple. So the issue of whether we're in or out really has to do with the organization's bylaw and their map, which was provided. I think staff was really silent in their response on that.

Their organization held a board meeting, reviewed the project, endorsed it, and also certified to the Department that we were, in fact, in their boundaries. So I'm not sure how they find us outside the boundaries, and I was specific in my appeal to point out this issue of their bylaw say, Here's our map and we're 1000 feet either side. So that's the location issue.

The organization is clearly what was intended in the statute when it passed. And the statute says, points for a written statement of support or opposition from any neighborhood organizations on record with the state or county, which the development is located in the boundaries of the site.

As you flip through from page 44 to 45 in your own QAP, Tab Number 4 specifically says, neighborhood organization includes homeowners associations, property owner associations, and residents councils for limited purposes. I provided in my appeal an e-mail from their organization that confirms the vast majority of their members are property owners in this area.

I believe that this is exactly the kind of the organization that the legislature clearly intended to have comment on these developments. We're also an urban in-fill development, so to the extent that I think staff has drifted to this living near one another like a suburban neighborhood association is not really eligible in this area, and in many of the urban setting areas.

So for those two reasons, one, we are clearly located within their boundaries, and, number two, their organization commented, supported us, has been on record for 20 years in this area and consists primarily of property owners, we are eligible for the additional 12 points. We did get 12 points in essence for not have a neighborhood organization.

The last issue is really just a transparency, get it on the record issue. Obviously, as we pursued points for these economic developments, we do developments, as you know

all over the state and many in the Rio Grande Valley. These letters are routine.

So when the city of Dallas, the person in charge of their grant administration tells us in a conference call that he's had discussions with staff at TDHCA about this specific rule, and how the city of Dallas really can't write any of these letters, and that's been communicated to staff, because really what they define in the QAP doesn't really fit not only for Dallas, but for all the other areas.

And I think there's more to it. It's not only you have to be in the area, there have to be funds available and you have to be eligible potentially for funding in order to get all the points. So according to the Dallas grant administrator, he denied 10 or 12 letters for the city of Dallas, and has done so before.

And I've asked staff to tell me what the city of Dallas was telling you because they're having direct communications. And to the extent we can get that on the record, what that miscommunication is between Dallas and the staff, or the way the rule is written and what Dallas is saying they can or cannot do would be helpful for next year.

And with that, I'd ask that you reinstate our 12 points and to the extent we can determine that there's been this communication between staff and the city about these

letters and overall compliance with this intent, that you give us the four points to level the playing field.

MR. CONINE: Thank you. I do not have a witness affirmation form from Mr. Onion, so if you get one down here that'd been great.

MR. FISHER: I think he's holding it. I'll be sure he provides that --

MR. CONINE: All right.

MR. FISHER: -- Mr. Conine.

MR. CONINE: Thank you.

MR. FISHER: Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Ms. Morales?

MS. MORALES: Thank you, sir.

Do you want me to just --

MR. CONINE: Well, let's take them one, two and three. Yes, the in or out of the district itself, your interpretation of the bylaws of the Stemmons Corridor Business Association different than his.

MS. MORALES: What we received originally in the QCP packet was the map that's required of every neighborhood organization with the site identified, and I believe it's in your appeal materials here.

Subsequent to that we received an updated boundary map, not in response to a deficiency from us, just an update from the neighborhood contact saying, You know, we needed to update the boundaries, or we sent you the wrong map initially, and here is where -- here's an updated map.

It was in that revision that staff looked and the site did not appear to be within the boundaries. Staff also used other resources like Google, you know, used written boundary descriptions to make the determination ultimately that it was not within the site.

MR. CONINE: Okay. And does the organization on the property owners association carve out?

MS. MORALES: The Department's -- the way we approached this appeal is that the QAP, in the definition of neighborhood organization does include, I believe, in its last sentence that a homeowners association and a property owners association qualifies.

However, it qualifies to the extent that it meets the more specific requirements, the persons much be living near one another. It's not something that staff has drifted to make that determination on its own. That is in statute, that is how it is defined. No members have been confirmed to live within the boundaries of this organization, and so we do not believe it meets the definition of --

MR. CONINE: I remember though a lot of conversations about this particular issue, and with the advent of, you know, urban development coming on, we -- as a Board, we recognize that there may not be folks living in a particular area, and this also included new developments that would be on the fringe on town, and you'll have the same problem, they might have a property owners association, but have no roof tops in the yet.

So I think that was my recollection at least of the intent of the carve out for the property owners association. And if, you know, someone's interpreted that a little -- or their memory's different than mine, so be it. But that's at least my comments on the subject.

Anybody else have any questions or comments?

(No response.)

MR. CONINE: I guess you ought to address the city of Dallas and their -- even though you got one letter, I guess, on one of those --

MS. MORALES: Yes, I personally haven't had the discussions that Mr. Fisher's referring to. We have -- you know, we have had other applications that requested points under this specific item that was able to produce a letter from the city. I don't know if it -- you know, who specifically was talked -- you know, what staff member at

the city of Dallas was talked to, but we did get -- we got the letter for the other one, so I'm not sure how to --

MR. CONINE: Mr. Gerber, do you know of any of our staff that's been dealing with Dallas on that particular issue?

MR. GERBER: I am not aware of --

Robbye, want to -- discussions you've been having.

MS. MEYER: I have talked with the city of Dallas, and we've received other letters from them, so I can't really say that they're not going to do them, because we've received them on others. So for specific items, it's a tax abatement type -- it's a sales tax issue, and that's one of the reason why they're saying they can't submit a letter.

So one of the letters is a sales tax issue that would be for future sale tax on the development for construction, during construction. So that's the reason why -- part of the letter issue, and that's one of the letters.

So that may be what he's referring to and that's one of the reasons -- that's one of the conversations that we've had, and that goes throughout the state. So it's a sales tax issue for future development.

MR. CONINE: Have you been talking with Mr. Killingsworth, or who at the city of Dallas?

MS. MEYER: No, I can't remember off the top of

my head, that was before the cycle started.

MR. CONINE: Okay. All right.

MS. MEYER: That's four months ago, so.

MR. CONINE: Thank you.

Ms. Morales, if you can furnish me a copy of the one letter from Dallas that you --

MS. MORALES: Yes, sir.

MR. CONINE: -- received on a different project, I'd like to take a look at it and read it.

MS. MORALES: Okay.

MR. CONINE: Okay. Any other questions?

(No response.)

MR. CONINE: How about some motions?

MS. RAY: Mr. Chairman, it looks like on this one also we need to break it up in separate segments.

MR. CONINE: I would think two anyway.

MS. RAY: At least two. The one has to do with the economic development area.

MR. CONINE: Right. Is he in or is he out --

MS. RAY: Is he in or is he out. And number -- and the second one has to deal with the --

MR. CONINE: Does the organization qualify.

MS. RAY: -- does the organization --

MR. CONINE: If he's in --

MS. RAY: -- as a new organization.

MR. CONINE: Right. I think those are the --

MS. RAY: The two areas.

MR. CONINE: Those are the two --

MS. RAY: One is for four points, the other one's for 12. Is that correct, Ms. Morales?

MS. MORALES: Yes. Yes.

MS. RAY: On the area of the first segment, economic development area, Mr. Chairman, I move to deny the appeal on that subject.

MR. CONINE: On whether he's in or out?

MS. RAY: Yes, whether he's in or out.

MR. CONINE: Okay. Okay. There's a motion to deny the appeal by Ms. Ray. Is there a second?

MR. KEIG: Second.

MR. CONINE: A second by Mr. Keig. I would, I guess, speak against the motion in that it seems to me like if there was some clarification process that went on -- it sounds like to me from the business association and subsequently he furnished the bylaws that said 1000 feet on either side of the map, which to me --

MS. MORALES: I'm sorry. Are we talking about economic development or are we talking about QCP?

MS. RAY: No, I'm talking about the economic

development side of it, whether it's an empowerment zone --

MR. CONINE: I'm sorry.

MS. MORALES: Okay.

MR. CONINE: I'm sorry.

MS. RAY: The other one has to do with the subject that you're speaking of.

MR. CONINE: Okay. I'm sorry.

MS. RAY: Okay. I'm on the first one.

MR. CONINE: You're on the first one.

MS. RAY: I'm on the first one. And it says they were not awarded four points --

MR. CONINE: You're on the economic development.

MS. RAY: -- because they did not provide evidence that the area is a designated state or federal empowerment enterprise zone, urban enterprise community, or urban enhanced enterprise community.

MR. CONINE: The Chair now understands the motion.

(General laughter.)

MR. CONINE: Is there -- we got a second. Is there 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. Do I hear a second motion?

MR. KEIG: I move to approve the appeal on the neighborhood organization issue.

MR. CONINE: Motion by Mr. Keig to approve the --

MR. KEIG: Grant the appeal.

MR. CONINE: -- grant the appeal on the neighborhood association issue. Is there a second?

MS. BINGHAM-ESCARREÑO: 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.

Thank you.

MR. GERBER: Mr. Chairman, I think we're going to take this out of order and go to Timberland Trails next.

MR. GANN: Mr. Chairman --

MS. MORALES: And that is -- I'm sorry.

MR. CONINE: Yes --

MR. GANN: -- I need to --

MR. CONINE: -- Mr. Gann?

MR. GANN: -- recuse myself at this time, if you don't mind.

MR. CONINE: Yes, sir. We -- don't go too far, we'll find you.

10241, Timberland Trails?

MS. MORALES: Yes, sir.

MR. CONINE: Okay.

MS. MORALES: Okay. This next appeal is for reinstatement of five points for Timberland Trails Apartments. The application was assessed a five point penalty because the applicant provided the deficiency response after the deadline prescribed in the QAP.

The QAP approved by this Board provides that if administrative deficiencies are not clarified or corrected to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then for competitive applications under the state Housing Credit ceiling, five points shall be deducted from the selection criteria score for each additional day the

deficiency remains unresolved.

The applicant provided two deficiency items after the 5:00 p.m. deadline on the fifth business day, and as a result, the Department deducted five points from the applicant's final score in accordance with the rules. Staff is recommending denial of the appeal.

MR. CONINE: Just checking to see, I do not have any witness affirmation forms that I can see. I've got some out of order, that's why I'm messing around. Sorry about that. Okay.

MS. RAY: No witness affirmation form?

MR. CONINE: No.

MS. RAY: Mr. Chairman, I move staff's recommendation to deny the appeal.

MR. CONINE: Motion to deny the appeal. Is there a second?

MS. BINGHAM-ESCARREÑO: 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.

Go get Mr. Gann, please.

And we go back to Evergreen at Richardson, I think.

MS. MORALES: Yes, sir. The next appeal is for reinstatement of 12 points for Application Number 10136, Evergreen at Richardson. We are, again, dealing with another quantifiable community participation appeal. And the key issued in this case is that the alleged neighborhood organization has only one household living within the boundaries, the other members are non-resident business owners. This does not meet the plain meaning of the definition of neighborhood organization and staff is recommending denial of the appeal.

MR. CONINE: I've got two witness affirmation forms on this one.

Brad Forslund or Tamea Dula, either one, or both.

MS. DULA: Good morning. Tamea Dula with Coats Rose appearing for Evergreen at Richardson, TDHCA Number 10136. This is another appeal with regard to the denial of quantifiable community participation points, because the TDHCA staff deemed the property owners association to not be a neighborhood association. We think they're incorrect in their determination.

In 2007, the legislature adopted a definition of what constitutes a neighborhood organization. It is before you, the critical language highlighted. The critical language is, composed of persons living near one another within the organization's defined boundaries of the neighborhood.

Persons is the critical word, and this appeal turns on that. We define persons to be more than one person. It's an indeterminate term. It doesn't mean two people, it doesn't mean ten, it doesn't mean a thousand. It means more than one.

Breckenridge Corners Property Owners Association provided a letter of support to this project. That property owners association is a new association. It is composed -- it comprises an area that is in a developing part of the city of Richardson, with mixed use. It has both commercial properties and residential properties within its boundaries.

At the time the letter of support was given there were 15 members. They're in your board book. Thirteen of those members were disregarded by the TDHCA staff because they were merely the owners of business properties, just like Mr. Fisher's property owners association members.

Two members, however, both live and own a business within the boundaries. Mr. Scott Erickson and his wife, Erica Erickson. I'd hate to have that name.

(General laughter.)

MS. DULA: The property owners association regulations say that a member is -- can be any person whose name appears on the record title to either a single family residence or a business that's located within its boundaries.

At the time of the application, two people were living within the boundaries. That's two persons.

The legislature could have said you have to have residences, they could have defined this requirement for neighborhood organization in terms of homes, households, dwellings, accommodations, all of these words are used in the TDHCA's enabling statutes. But they didn't use those words. They used persons. The TDHCA staff is interpreting it to be more than one person living near one another in two or more residences.

Was that my full five minutes, or only three?

MR. CONINE: That was probably three, wasn't it?

MS. DULA: Okay.

MR. CONINE: You get a couple more.

MS. DULA: In 2006 the TDHCA's definition of neighborhood organization at that time was under controversy. And it was reviewed by the Texas Attorney General's office. The Attorney General said that the legislative mandate -- that the TDHCA appoint -- or rather give points

for quantifiable community participation by any neighborhood organization is a mandate. And that the TDHCA does not have the discretionary right to further restrict it.

At the time, however, the legislature had not defined what constituted a neighborhood organization. And the Attorney General said that because there was no definition in the statute, that TDHCA's effort to define it was fine, because it was not in conflict with the statute. In 2007, however, the legislature adopted a definition, which you see before you. The TDHCA's QAP is the same definition. The definition uses the word persons.

Breckenridge Corners Property Owners Association meets the terms of that definition. It's support for Evergreen at Richardson should be heard and counted appropriately. We are asking that you grant this appeal and afford to Evergreen at Richardson the full 24 points that are available for quantifiable community participation. That's 24 points that you get for a support letter as opposed to 12 points awarded if you have no support letter, or you have no neighborhood organization.

Thank you. Do you have any questions?

MR. CONINE: Any questions of the witness?

MR. KEIG: I've got one.

MR. CONINE: Mr. Keig.

MR. KEIG: Just a clarification with the 10 business people in the neighborhood organization, are they property owners or are they lessees?

MS. DULA: Property owners.

MR. KEIG: Thanks.

MR. CONINE: Okay. Any other questions?

MS. BINGHAM-ESCARREÑO: Mr. Chair.

MR. CONINE: Ms. Bingham.

MS. BINGHAM-ESCARREÑO: Was this the only association available?

MS. DULA: Yes, it is.

MR. CONINE: And you said it was a new one. How old is it?

MS. DULA: It was created in 2010. It's a newly developing part of town. I should have said that this is a voluntary association. It's not a mandatory one established by a developer and every owner has to belong because it's used to assess maintenance fees. This is voluntary.

MR. CONINE: Okay.

MR. GANN: I have a question. Is there a time limit on when a neighborhood organization could be established?

MS. DULA: It has to be on record by a certain

date, and this was.

MR. GANN: Thank you.

MR. CONINE: Okay. I'll entertain a motion.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move to grant the appeal.

MR. CONINE: Motion to grant the appeal by Ms. Ray. Is there a second?

MR. GANN: Second,.

MR. CONINE: Second by Mr. Gann. 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.

MS. DULA: Thank you.

MR. CONINE: Thank you.

MS. MORALES: Okay. I'm going to recommend that we take the next appeal out of order because it deals with another quantifiable community participation issue.

MR. CONINE: Okay.

MS. MORALES: And that is Application Number 10227, Tarrington Court.

MR. CONINE: Hang on just a second. Okay.

MS. MORALES: Tarrington Court is -- the applicant for Tarrington Court is appealing the loss of 12 points for QCP. In the appeal, the key issue is that the neighborhood organization did not provide evidence that they were on record with the country or the state.

A letter was received yesterday from the county judge, and it confirms only that the county was eventually advised of the organization's existence but this does not constitute being on record, nor does it meet the March 1 deadline for being on record.

The requirement to be on record with the county or state is statutory and cannot be waived. Staff is recommending denial of the appeal.

MR. CONINE: All right. I do have a witness affirmation form for Mr. Steve Ford. You've got five minutes.

MR. FORD: Well, actually I'm going to take just two minutes and I'm going to allocate my time to Ms. Marie Flickinger, the head of the super neighborhood.

MR. CONINE: Okay.

MR. FORD: I don't argue with the staff's position. My argument, I think -- but with respect to Mr.

Gerber about the QAP and the input by all the developers, I have been in many, many QAP meetings, I think, have had plenty of input, and sometimes it doesn't quite transform itself into the QAP the way the input went in.

Also, we find that the state legislature on occasion inflicts certain statutes and mandates on this Department that also are not consistent with what the developers would like to see in the QAP. This is actually one of them.

The super neighborhood at point here is not on record with the state or the county simply because there's no reason for them to ever be. It's a city organized organization, and further, that requires since the developer's not allowed to go help the super neighborhood deliver documents to the state, it would be -- therefore it'd be incumbent on me to go and break the rules and help them register themselves with the state or the county, and which they don't feel like they need to be to begin with, because it's a -- this is in the city.

So I'm going to go ahead and turn it over to Marie Flickinger, who is head of the neighborhood, the super neighborhood, she's head of the Chamber for Commerce, she writes a newspaper in south Houston, she is a board member at San Jacinto College, and I think a number of other

organizations, and let her explain kind for her position as the person who tried to fill out the state form.

MS. FLICKINGER: Thank you. My name is Marie Flickinger. The one point I'd like to make first here, the last time Steve had a project out in our community, I was fighting him on other issues, so I just want you to know this is, you know, this is not a good relationship all the time here.

(General laughter.)

MR. CONINE: He has a track record of that, ma'am.

MS. FLICKINGER: The super neighborhood, I think, has evidently, from what I've heard sitting here today, has caused considerable problems. And I would tell you, one of the things I put in my packet there to you was the e-mails that I had done in the last couple of weeks. If you, when you have time, look at it, there's about 20-25 e-mails just back and forth with me working on this, and I've got plenty other to do rather than this.

But I feel very strong about this project because we are a neighborhood that has been pretty much like a little city. We've got people living there that have been there 25-30 years, it's a very close knit community, and we really need this project, so that's why I've been willing to put the time and effort into it.

In answer to the question -- the comment that staff brought up, I was given a letter March 16, and I gave you a copy of that on the letterhead from Texas Department of Housing and Community Affairs. And it say, On record documentation -- this is one of the deficiencies -- acceptable documentation includes a letter from a county judge acknowledging the organization, articles of organization file stamped by the county clerk, et cetera.

But it does say acceptable documentation includes a letter from a county judge acknowledging the organization.

The letter we got from the county judge did only that, and I will tell you, I've been working to get this from the county judge since I got the phone call about three weeks ago.

Everybody that I know that could talk to the judge has done so. The county attorney approved it, the -- a good friend for mine that's been his aide since he took the job, and I was told basically that, you know, from this here, that if we got a letter for him acknowledging it. And he was given this letter to sign four different times and finally signed it the fourth time yesterday around five o'clock.

And if I'd been told that it needed to say more, then we would have gotten it to say more, but he finally did acknowledge it. But he also said this would be the last time, and the only time that he signed a letter having to do with

super neighborhood, because he feels that is city organization and that the county should not be involved in that in any way whatsoever.

So I'd like to, you know, get you to please consider there's a quirk in the law. I have talked with the county -- I mean the state reps, state senators, you've gotten letters from both of them. I think that this probably will be changed for next time where we can take care of super neighborhood in the city of Houston so this will no longer be a problem for you.

But evidently the county judge does support this, or he would never have given in on this. Our state rep starts -- our senators, et cetera do. And I would just ask you to please look at this seriously because the fact that the law is kind of goofy on this should not penalize our community from having this facility that we desperately need.

I also want to thank Robbye. She has done a good job in doing what she can to help us here.

And I appreciate the job you have, having served on boards, I understand it isn't easy. But this is just really not at all fair for the community the way it's set up.

MR. CONINE: Okay. Thank you, Ms. Flickinger.

Any questions of the witness?

MS. FLICKINGER: Again, I'd just say, look at what

the letterhead said, we got -- I mean the letter said on the letterhead, we got exactly what we were told to do.

MR. CONINE: Okay. Thank you.

Any other questions?

(No response.)

MR. CONINE: Ms. Morales, any follow up?

MS. MORALES: (No audible response.)

MR. CONINE: Okay. Hear a motion?

MS. RAY: The city of Houston gives us great grief.

(General laughter.)

MS. FLICKINGER: I understand. But don't penalize us. I would tell you, I promise you to work as diligently at getting this changed, you know, so it'll be easier for you, because, I mean, I would love to be able to tell somebody the time that I spend on this just because of this one issue. It's absolutely insane.

I'll tell you quickly, a couple of weekends ago I was in Las Vegas, and at 5:30 in the morning, because I knew it was 7:30 in Houston, I spent almost three and a half hours with county people on the phone trying to get this done.

You know, I understand how bad it is. You've got my commitment, we're going to get this straight with the city of Houston, or have the state fix it for the city of Houston.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: May I hear from Ms. Morales. She seems to be chomping at the bit over there.

MR. CONINE: Okay.

MS. MORALES: I just wanted to just -- you know, Mrs. Flickinger has been very cooperative with us. She's not only talked to Robbye, but she's talked to me, she's talked to Nicole, who's our QCP contact.

As with all of the other neighborhood organizations, we have done whatever we can to make this process as easy for them to follow, and if they ever have any questions, we make it a point to work with them so that they understand.

You know, I guess the issue with this appeal is not just, one, if the letter that we received from the county judge yesterday is acceptable as far as being on the record when the Department doesn't deem that it is, but also that it wasn't here by the March 1 deadline that's in the QAP.

MS. RAY: That was my concern, Ms. Morales. I understood that they got the letter with the county judge acknowledging the super neighborhood organization yesterday, but the key thing is having received that acknowledgment by the 1st of March.

MS. MORALES: That's correct. Which all other neighborhood organizations were held to as well.

MS. FLICKINGER: Can I respond?

MS. MORALES: Sure.

MR. CONINE: Yes, ma'am.

MS. FLICKINGER: And I appreciate and I wouldn't have her job, but I was sent a letter March 16, which was after the March 1 deadline saying that there was a deficiency and to get it in.

MS. RAY: Were you given a deadline at which time to have it in when they told you it there was a deficiency and you had time to correct the deficiency?

MS. FLICKINGER: Yes, there was, and I was just looking at that, and I did send in -- that's another part of the story -- I sent in a packet that included our newspaper, et cetera, to show, because one of the deficiencies -- there were four deficiencies. One was a process of notification, which I sent in a full copy of our newspaper like I put in your packet so you'd be able to see what -- you know, how we communicate about the super neighborhood. That was one of them.

And because of that, instead of emailing, like I had done previously, I mailed it. I did call the office and said that I had put it in the mail. I didn't hear from

anybody so I erroneously assumed that they received it. Supposedly I was notified of something in May, but checking my computer and my e-mail, and I did send a copy of that to staff, I did not receive an e-mail in May.

The next thing I got was a telephone call in June, I don't remember what day, but on a Friday, saying that I needed to get this in within five days and they were going to e-mail me something right away. It didn't come -- now this was in June -- and I was told I had five days, and then instead of getting that, I got another phone call saying, no, that because of something else, that wouldn't transpire, that I didn't have the five days, but I could appeal.

MS. MORALES: Would you like me to respond to her comment?

MS. RAY: Yes.

MS. MORALES: She did receive a deficiency on March 16. That's the time that we were able to review the packet provided. March 1 is when they're due, when the county has to be on record. That's why she wouldn't have gotten a deficiency or been notified of that particular item prior to.

I'll also note that, you know, there were other items, as she referred to just now, that were on the deficiency notice, but this is the bigger one. This is the bigger issue

of having to follow statute and being on the record.

MS. FLICKINGER: One comment too, one of the things I was told was the deficiency was the boundary lines, and it was there and even e-mailed to me with the stuff from staff, and I don't know why that was, but you have that in your packet too. It asked for the boundary lines, initials on one page, and then the notification thing. But she's right, the big one was the deal from the country.

One of the things also, I was not aware, but Robbye did tell me afterwards, after the conversation in June, that evidently, if I had known enough to check the other box to get the Agency to recognize us, but my thought was, in looking at the boxes, you know, hey, you know, we were done by the city, to me city and county is a lot interchangeable there, and, you know, it was locally that we were recognized and I was sure that would be no problem.

MR. CONINE: Yes, my view is that this falls into the same bucket that the other ones did, that the super neighborhoods create a problem for us, as you said, Ms. Ray. But, you know, they're formed by the city and there's no connection to the county, and that's the problem. So my view is we need to be consistent with some of the earlier decisions today.

MR. KEIG: Move to grant the appeal.

MR. CONINE: Motion to grant the appeal by Mr. Keig. Is there a second?

MR. GANN: Second.

MR. CONINE: By Mr. Gann. 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. GERBER: Mr. Chair, I'd just interject that I think Ms. Flickinger's points are well taken, as are Mr. Ford's, and I think the city -- I think it's incumbent on TDHCA to do additional outreach to the city and to the county, but particularly to the city to see where we can clarify some of this. We have too much backing up on the development community and if we can help to streamline it and make it clear what we expect so we have fewer of these, we should do that. So I commit to -- I owe you a call.

MS. FLICKINGER: I'm willing to say I think this --

MR. GERBER: Can you come to the --

MS. FLICKINGER: The city is well aware of this. I've talked with the mayor's office, I've talked with our city councilmen and the people working with the housing, et cetera. So, you know, they're well aware of how difficult this has been because I've been having them jump through hoops to get stuff to the county, and we had to get an awful lot of documentation to the county before they'd ever to this. So I think they're aware of it, so they should be willing to work with you.

MR. GERBER: Thank you. Appreciate it.

MR. CONINE: There's a state rep in the room, he'll help us, I'm sure.

MS. FLICKINGER: Okay.

(General laughter.)

MS. FLICKINGER: And the state senator's aide is here too also.

MR. CONINE: Thank you.

MS. RAY: Mr. Chairman, may I take this opportunity, since we seem to have very interested people from Houston, to understand that this area of the QAP is real easy to understand. In the entire state of Texas, with the exception of the city of Houston, because of the problem with the super neighborhoods, it makes it hard on our staff, it makes it hard on this Board.

And this is a very competitive process. We don't deny that the housing is needed, but we need some help from the city of Houston in dealing with this particular area for the state and the citizens.

MR. GERBER: I would interject that the city of Houston stole recently one of our staffers in our HOME Division to become the Assistant Director of the city of Houston's Housing Department, and so we think we have a good in there in Veronica Chapa Jones.

And I've met with Jim Noteware, who's the new head of Houston Housing, and I've met with Mayor Parker, and we will continue to talk extensively over the next month to see if we can address some things that will clarify this so that we don't have these problems next cycle. And we may -- and we'll be in touch with members of the development community to get their help as well.

MR. CONINE: Ms. Morales?

MS. MORALES: Yes, sir. We are going to go back now to Application Number 10150, Woodlawn Ranch Apartments.

The applicant is appealing for reinstatement of six points for this application, specifically for community revitalization.

At issue with this appeal is the difference between reconstruction and new construction in order to be eligible

for community revitalization points under this rule. It is specific in there that it has to propose rehabilitation and reconstruction. In order to qualify as reconstruction, the development must not increase the total number of units being demolished.

The development plan within the application calls for the demolition of the existing 200 units, and the new construction of 252 total units. Therefore, staff applied the rule, it doesn't qualify, we recommend denial of the appeal.

MR. CONINE: Okay. I have three witness affirmation forms here.

Charles Cotrell? Doctor.

DR. COTRELL: Good afternoon.

MR. CONINE: Good afternoon.

DR. COTRELL: Members of the Board, Mr. Chairman, staff, I'm Charlie Cotrell, President of St. Mary's University. Application 10150 falls within the University Park Neighborhood Association, and it's through St. Mary's, working with our neighbors, that we have begun a massive revitalization process in our neighborhood.

We've looked at housing, we've looked at commercial revitalization. We have committees on quality of life and infrastructure. We've had some success since

2007. We had streets repaved, we had some pocket parks, we have stimulus funds and other city funds and private funds on neighborhood commercial revitalization and being able to aid small businesses, bring a couple of restaurants into our neighborhood.

We see housing and commercial revitalization being integral, so we strongly support the application, Woodlawn Apartments. We strongly support the appeal as well. It will be an important part of -- not only for the people living there, but an important part of our overall strategic plan.

We feel that this is a long process for us, we understand that, but we feel that affordable decent housing is a key to our success.

So, again, I will yield my time to the President of the University Park Neighborhood Association, but I wanted to be sure that you know that this is about six blocks from St. Mary's University and it's within the specific purview of the University Park Neighborhood Association itself.

I also want to say that our mission calls us to community work and service, and so our task force is made up of neighbors and students, faculty, alumni, and administration, and it's been run basically out of the President's office with the help of the Neighborhood Association, and we're strongly in favor of this appeal.

Thank you for your time. If you have any questions, I'd be happy to respond to them.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Eliza Hernandez?

MS. HERNANDEZ: Mr. Chairman, Ms. Ray, members of the Board, I'm Eliza Hernandez, I'm President of the University Park Neighborhood Association.

I've lived in the neighborhood for over 40 years now, and I've seen how the university and the neighborhood association in recent years has begun to revitalize this area, and the association feels very strongly about this project, the Woodlawn Ranch project, and we're here to support this project and support the appeal today. Thank you.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Michael Hogan?

MR. HOGAN: Board members and Director, I'm Mike Hogan, Hogan Real Estate Services and Home Spring Realty Partners. We're the developer. We're developing this in our venture with the city of San Antonio, the San Antonio

Housing Trust will be the ultimate owner of this project.

It fits all the criteria of the city of San Antonio, it has support, believe it or not, of all the council members, and to be able to say that in San Antonio, it was quite a feat quite frankly. It's one of the most politically popular projects I've ever been involved with in my life time.

The letter of denial -- this started with -- during the vetting process of the application, there was a question regarding how the revitalization -- tearing down 200 units and rebuilding 252 units would qualify. We gave the answer to staff that there is no -- that both rehabilitation and reconstruction includes new construction.

There's another -- there's a definition of that in another place in the QAP. So new construction was never really the issue.

The issue became that we were demolishing 200 units and building 252. It had to do with what they call additional units. And our position was, when you read the QAP, that the intent of that was clearly to not allow anybody using an existing project to have more tax credit units than what they started with. And that's exactly what we're doing here.

The numbers would not change. The allocation would not change in this deal, if we just tore down and rebuilt the 200 units. In fact, it would be approved. But we weren't

offered that opportunity because when we gave the staff our answer, they gave us an all clear letter, so we didn't think it was an issue after that.

It wasn't until the log came out and we realized that we had lost the points for that. Made the inquiry and then the points were not granted because we were adding units to the site. That's really what I thought the issue was.

So, I mean the test is, to me, that we're tearing down 200 tax credit eligible units, and we're only using 200 tax credits to rebuild. We're not changing the mix. The additional 52 units is made possible by the leverage we created with the city of San Antonio with an additional \$2 million of money going into the project.

We are providing additional housing in those 52 units that are affordable, and we have some market rate in there. And that's what the community wanted. We worked with the community to give them what they wanted in terms -- and it works. So we weren't given the option by staff to say, Well, if you take the 52 out, we'll approve you. It was approved.

So here we find ourselves in a situation where demolition and rebuilding of a project shouldn't be penalized by some obscure wording. And this is nothing to do with the staff. The staff apparently was approved, and then later

on disapproved.

You can -- I guess you can read it however you -- two different ways, but when you really put it to the test, if we were tearing down 152 units and building 200 units, we could only use 152 units as it relates to the tax credits, and that makes all the sense. Otherwise, demolition is going to be not a very viable option in a revitalization, and I don't think that was the intent.

So you should have the letter from Van de Putte, who has confirmed the legislative intent of that. And you should have -- the second letter on that package was a letter received from Mr. Gerber where he politely turned us down on the denial. But I think the second to the last paragraph, While staff agrees that the applicant proposed development plan meets the spirit and the intent of this section of the QAP, staff does not have the ability to waive this rule.

I don't know that you're waiving the rule. I think you're granting appeal on what is logical for any developer to demolish and work in a revitalization zone. The idea that you would take a 40 year old project that's been, as they say in Texas, rode hard and put up wet, and spend all that money to rehab it, which is almost equal to new construction, quite frankly, the tax credits would have been the same, and what you have is a remodeled 40 year old project with no

balconies and it looks like barracks.

And that's not what this community wanted. It's not what the university wanted. We're able to make the numbers work when you can tear it down and bring this project online and not be in violation of the intent of the QAP. So you've got the intent -- you've got the legislative intent, you've got the staff who -- I don't want to misquote you, but who feels that probably this is the intent of it, so you've got two legs of a nice stool, you have the third leg to ratify the appeal.

And quite frankly, when the QAP, the process starts on July 15, maybe a clarification that you're talking about tax credit eligible units, not changing those on a site. That's what makes sense. So I'm here to ask you to approve the appeal.

MR. CONINE: Any questions for the witness?

(No response.)

MR. CONINE: Thank you very much for your testimony.

My recollection in a lot of the discussions was very similar to what Mr. Hogan stated, that we didn't want to rebuild more tax credit units, but if you're in a rehabilitation stage, or revitalization area, you might want to add some other market rate units to it, and to make them

split them out in two separate projects doesn't make a whole lot of sense to me. So I would support the appeal at this point.

Any other discussion?

(No response.)

MR. CONINE: Do I hear a motion?

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move to support the appeal.

MR. CONINE: Move to grant the appeal?

MS. RAY: Grant the appeal.

MR. CONINE: Is there a second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. 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.

MS. MORALES: The next appeal is for Application Number 10153, Britain Way Apartments. The applicant is

appealing for the reinstatement of six pre-application points. The core of this appeal is, you know, whether site control was maintained between pre-application and full application by the same applicant.

The development owner at pre-application was Summit Britain Way, Limited, with Tom Champion reflected as the contact. The development owner at full application is Irving Britain Way Apartments, LP, with Deepak Sulakhe as a principal.

In response to a deficiency that was sent to the applicant, a reinstatement assignment and amendment of purchase and sale agreement dated March 1 was provided whereby the initial contract with Summit Britain Way Apartments, Limited was assigned to an affiliate of the currently proposed development owner.

However, there was no evidence provided that the individuals identified in the pre-application are involved in the full application, and, in fact, none of the names of the applicant in the pre-ap or buyers listed in the initial land contract are reflected in the current ownership.

Therefore, the applicant was not able to prove that they maintained continuous site control with the same applicant and were not awarded the pre-application points.

Staff is recommending denial of the appeal.

MR. CONINE: Okay. Cynthia Bast, and she has additional time.

MS. BAST: Good afternoon. Cynthia Bast of Locke Lord representing the applicant in this appeal.

The essential question that we have in this appeal is whether staff can impose a requirement beyond what is explicitly stated in the QAP based on what staff perceives to be an inherent understanding. This is a question that in my mind transcends just this application and the award of these points, but actually goes to the essence of the application process.

The proposed development is the rehabilitation of the existing Britain Way Apartments in Irving. The question is whether the pre-application incentive points should be awarded. The only thing required in the QAP for the award for the pre-application incentive points is that the application must be for the identical development site or a reduced portion of the development site as the proposed development site under control in the pre-application. That's the language.

If the site is the same, then the points should be awarded. But the staff says what this means is that the development owner with the site control must be the same in the pre-application and the application.

MR. CONINE: Could you read those words to me one more time, so I can --

MS. BAST: Yes, sir.

MR. CONINE: -- pay attention a little more.

MS. BAST: It says, The applicant -- application must be for the identical development site, or reduced portion of the development site, as the proposed development site under control in the pre-application.

So the QAP does not say explicitly that the development owner must remain the same between the pre-application and the application. And, in fact, in a staff's letter denying the appeal, they do recognize that the QAP does not state this explicitly. The truth is, it's not unusual for a development owner to change between the time for pre-application and the time of application.

By definition in the QAP, the development owner is the party who is expected to own the property together with all of the principals that have a participation in that entity. Development owners can -- or the participants can change in a variety of ways.

For instance, the QAP does not require that the development owner be formed at the time of pre-application, or even at the time of application. Only a name reservation is required, and that only at the time of application. So

for instance the identity of a development owner could change from pre-application to application, as the developer determines that a name reservation is not available at the Secretary of State.

The QAP also permits any party to enter into the site control agreement so long as the agreement is assignable to the ultimate development owner. So this also implies that parties may be changing in some respect during the application process.

The purpose of the pre-application is simply to alert the community that a development at a particular site is anticipated. And the true substance of the application comes together in the two months after the pre-application is filed, that includes fleshing out issues of ownership.

It's common place for developers to submit more than one pre-application to assess the competitive landscape, and then to make decisions about who's going to be actually participating at the time of application using issues that may be important to them, like economic interests, or for instance the \$2 million cap.

And, in fact, the application process itself implies that changes in the development owner are permitted, because the pre-application does not require any disclosure at all about the development owner. No organizational chart,

no list of the development team. So that information isn't required until the time of application.

If staff were serious about wanting to make sure that the development owner was the same at the time of application and pre-application, then shouldn't they require this information at the time of pre-application, at least an organizational chart so that they can compare the two?

So in conclusion, I want to reiterate that the only requirement in the QAP to receive pre-application incentive points, is for the application to be for the same site as the pre-application. Britain Way has met that requirement, the QAP does not require specifically that Britain Way show that the development owner is the same.

We think that staff's inherent understanding that the development owner should be the same, that they've always done it this way, is flawed because the pre-application process is not set up in such a way for them to have the kind of information that they would find necessary to make fair and consistent judgments across all of the applications.

So in a competitive process like this, with so much at stake, we think that it is important for the applicants to be able to rely on the rules and that to impose an understanding above and beyond those rules, especially one that implicates the way developers routinely submit their

applications, does not serve the level of transparency and the level playing field that this Department tries to achieve.

So we respectfully request that the six points be awarded for the pre-application incentive to Britain Way.

Thank you.

MR. CONINE: Any questions for Ms. Bast?

(No response.)

MR. CONINE: Ms. Morales, could you address some of the issues that she brought up for us, please?

MS. MORALES: Yes. I guess the question is, the definition of an applicant in the QAP is a person or affiliate of a person who files a pre-application or an application for Housing Tax Credits. And that is the disconnect that we have with this particular application.

We have a pre-application for the site, for the same site. It is with a different proposed applicant development owner at that time. And then we have the full application with a different development owner and different principals or -- you know, nobody that was reflected in the pre-application is reflected in the full application.

And so it has been -- you know, it's one of those things where it's not explicitly written in the QAP. There are a lot of things that are not explicitly written in the QAP, and perhaps it's something that we need to -- it brings

up a bigger discussion about do we require more information in a pre-app as a result of this. I don't -- you know, I don't want to go down that road, but this is definitely an issue that brings up that question.

And so, you know, staff did not award the pre-application points because it wasn't documented that the same applicant filed the pre-app.

MR. CONINE: And let me make sure I understand it. The applicant -- applicant --

MS. MORALES: Applicant.

MR. CONINE: -- on the pre-application, the people identified in that, none of those people made it through to the application. Is that correct?

MS. MORALES: None of the people have made it through to the application, except for, I believe, the consultant.

MR. CONINE: Excuse me. The application applicant.

MS. MORALES: Correct.

MR. CONINE: And read me the definition of applicant, because Ms. Bast did not even touch on that subject in her --

MS. MORALES: The definition of applicant states, Any person or affiliate of a person who files a pre-application

or an application with the Department requesting a housing credit allocation.

MR. CONINE: And the problem of that definition in my mind is the word or, because it allows for either or at pre-app or app -- or the regular application. That's the way she's interpreting it, I presume. And there's no other place in the QAP where it picks up a consistent applicant being involved in the pre-application or the application?

MS. MORALES: No, there's nowhere else in the QAP that I know of.

Tom, do you want to answer that?

MR. GOURIS: No, I just -- I don't want to add to the conversation because I mean it's impossible for us to give an applicant points for something that they weren't an applicant for. How would we give this applicant pre-application points when --

MR. CONINE: Well, she contends you can give the application points. You're not -- you don't give the applicant points. Because she reserved -- the spot was reserved, the name of the project and where it is and so forth was reserved, and that's what the points are tied to, not the applicant.

MR. GOURIS: But we have lots of requirements in the QAP to prevent transactions from transferring prior to

issuance of 8609s. The intent of that is to know who the applicant is --

MR. CONINE: Well, that was point --

MR. GOURIS: -- and the principals --

MR. CONINE: -- in asking --

MR. GOURIS: -- of the applicant.

MR. CONINE: -- is there any other part of the QAP that refers to transfer of ownership prior to application as opposed to pre-application?

MR. GOURIS: Good point.

MR. CONINE: Yes. I mean I --

MR. GOURIS: Yes, there is.

MR. CONINE: -- it sounds like we're caught here, unless you can show me some language in the QAP that's different.

MR. GOURIS: Yes. In the transfer of ownership there is allowance for a transfer after the issuance of 8609s, but not --

MR. CONINE: That's way ahead --

MS. RAY: That's way later though.

MR. GOURIS: -- but not prior to 8609s, except in case of hardship, and there's not been any consideration of any hardship. But that's after an award, and an award hasn't been made.

MR. CONINE: I'll tell you, what would be helpful to me right now is read the explanations of the point awards for a pre-application and let's see what it says.

(Pause.)

MS. MORALES: This specific --

MR. CONINE: I hate playing lawyer. This is terrible.

(General laughter.)

MS. MORALES: Pre-application participation incentive points. Applications that submitted a pre-application during the pre-application acceptance period and meet the requirements of this paragraph will qualify to receive six points for this item.

To be eligible for the points, the application must, a) be for the identical development site, or reduced portion of the development site as the proposed development site under control in the pre-app; b) have met the pre-application threshold criteria; c) be serving the same target population as in the pre-app; d) be applying for the same set asides as indicated in the pre-app; and e) be awarded by the Department in application score that is more -- well, it goes into -- but those are -- those first --

MR. CONINE: Yes.

MS. MORALES: -- four things are the --

MR. CONINE: Again, all back to --

MS. MORALES: -- specific --

MR. CONINE: -- the application, and not the applicant.

MS. MORALES: The application. Right.

MR. CONINE: Okay.

MS. RAY: Mr. Chairman.

MR. CONINE: Hang on. Mr. Gouris has got one more thing he'd like to say.

MR. GOURIS: Our counsel is here, thankfully, and he pointed out what the statute --

MR. CONINE: Another lawyer, huh?

MR. GOURIS: -- what the statute says about an applicant, and it doesn't include or pre-application, it just says application. And I'll let him --

MR. CONINE: What? I don't -- explain what he said you said.

(General laughter.)

MR. IRVINE: Well, this is probably a messy place to unpack it, but I think we need to get back to the basics, and that is the statutory definition of an applicant is a person that makes an application. It does not address the entire issue of pre-apps.

MR. CONINE: Right.

MR. IRVINE: Then the pre-app provisions in the statute talk about establishing a way to allow for voluntary pre-application process to enable a preliminary assessment of an application. And an application is defined as something that's submitted by an applicant. So to me you've got to go back to the statute and tie these back to the application and applicant.

MS. RAY: Does the statute specifically address the term applicant --

MR. IRVINE: Yes.

MS. RAY: -- in the pre-application phase?
Please read that to me.

MR. IRVINE: The statute defines applicant as a person or affiliate of a person who files an application requesting a tax credit allocation. It defines application as an application filed by an applicant. A little circular there.

Then in the pre-application section in 6704 it says, To prevent unnecessary filing costs, the Department by rule shall establish a voluntary pre-application process to enable a preliminary assessment of an application proposed for filing. So -- yes.

MR. CONINE: Go ahead, Ms. Bast.

MS. BAST: Could I dance on the head of the pin

one more time?

MR. CONINE: Sure. You're a lawyer.

MS. BAST: That's my job.

(General laughter.)

MS. BAST: Not trying to convolute this even more, but you are focusing on the definition -- Mr. Irvine is focusing on the definition of an applicant. The letter that we received denying our appeal from Mr. Gerber says, It has not been shown that the same development owner had site control from the date of pre-application through the entire period that the development will be considered.

The definition of development owner is different in the rules than the definition of applicant. And that's why, in my remarks, I focused on the definition of development owner, because I was taking my cue from the staff's response.

Again, the definition of applicant is anyone who files an application. So if you look at the actual -- look at the pre-application. There's a line that says, Development owner, so we put the name of that entity. And then there are two lines for contact persons. You could argue that the contact person is an applicant. Right? Because it's a person participating in filing this application.

Well, in this instance, one of the contact persons

for the pre-application was Tom Champion, and one of the contact persons on the pre-application was the consultant.

Now, move to the application. Name of the development owner is different, which we believe is permitted. One for the contact persons identified is Mr. Sulakhe. One of the contact persons identified is the same consultant.

So you could argue that if that consultant, as a contact person, whatever that is and that's not defined, is an applicant because that person is participating in filing a pre-application or an application. Then at least a portion of the applicant has been the same.

And now I'm done dancing on the head of the pin.

(General laughter.)

MR. CONINE: Yes.

MS. RAY: The question that I would like to ask of staff, is the project that was identified in the pre-application phase the same project that came in on the full application?

MS. MORALES: Yes. Yes, it is.

MS. RAY: It's the same project.

MS. MORALES: Yes. Yes. The question is, is it okay with this Board that the people involved at pre-app aren't the same that are involved at full app. I mean --

MS. RAY: It seems like to me, Mr. Chairman --

MR. CONINE: Go ahead.

MS. RAY: -- that the pre-application phase is to assess the project, and to me if the project is the same from pre-application to the final application --

MR. CONINE: I would agree, Ms. Ray.

MR. CONINE: -- therefore, Mr. Chairman --

MR. CONINE: Yes.

MS. RAY: -- I move to approve the appeal.

MR. CONINE: Motion to approve the appeal by Ms. Ray. Do I hear a second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. 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.

Three more.

MS. MORALES: Okay. The next appeal is for Application Number 10200, Hillside West Senior Apartments, which is also appealing the loss of six pre-application

points. In this case, the issue is that -- not so much with the same applicant from pre-app to app, but continuous control of the development from pre-app to app was not documented.

A pre-application site control document included a site of a different size, a sales price of a different amount, and a provision for earnest money that was not tendered.

This site control document was also executed by a member for the applicant as a member of -- as a principal of the seller.

At full application this principal was said to no longer be involved as a principal of the seller.

Additionally, documentation of earnest money on the second contract only was provided, but it reflects that it was made after the pre-application deadline. Therefore, continuous site control did not exist and pre-application points were not awarded. Staff is recommending denial of the appeal.

MR. CONINE: Okay. I have multiple witness affirmation forms here. One of them has extra time.

Brandon Bolin?

MR. BOLIN: Good afternoon, Board, Mr. Chair, Mr. Gerber. My name is Brandon Bolin and I'm speaking on behalf of the Hillside West transaction. As Ms. Morales said, at issue today is the issue of continuous site control, and staff's determination to revoke the six pre-application

points that were originally awarded to this transaction, and then to subsequently remove those points from our revised scoring notice.

First of all, from January 8 to March 1 to July 8, there has been continuous site control. This is --

MR. CONINE: Could I interrupt you --

MR. BOLIN: Yes, sir.

MR. CONINE: -- just for a minute.

We need to take a 10 minute break.

MR. BOLIN: Okay.

MR. CONINE: So I'm going to let you start all over again.

MR. BOLIN: Okay.

MR. CONINE: Because I think we're losing focus here. Let's take a 10 minute break.

(Whereupon, a short recess was taken.)

MR. CONINE: Okay. We'll come back in session.

Mr. Bolin, I apologize, but I promise you, you'll get a little better reception --

(General laughter.)

MR. CONINE: -- at this point than you would have.

MR. BOLIN: All right.

MR. CONINE: You can either continue or start

over, whichever --

MR. BOLIN: Okay. I'll start over.

MS. RAY: We can hear you now.

MR. BOLIN: Good afternoon. My name is Brandon Bolin, and I'm here to speak on behalf of the Hillside West project. As Ms. Morales said, at issue today is the issue of continuous site control, and staff's determination to revoke the pre-application points that were originally awarded to us, and they subsequently revoked those points in a revised scoring notice that were sent to us.

First of all, I'd like to point out there may be some misunderstanding and confusion on this. From the point of January 8, at the time of the pre-application, to March 1, and, in fact, to July 8, there has been an identity of interest in this transaction.

If you'll pull out the map here, this -- Hillside West project, which is essentially right here, is part of a larger 200-acre master plan development. The Taylor Farms project, which was awarded an allocation last year is right here, about 100 yards from the Hillside West transaction.

Alan McDonald, who is my 50-50 partner on the development and owner side, is the managing member of the general partner entity that owns this land. He's also a part of a -- he's also a limited partner in this land owning entity.

So from January 8 to March 1, and, in fact, to today, July 8, Alan has remained on both sides of the transaction.

At the time of pre-application, we provided a contract for a five-acre parcel, and again, at that time Alan was on both sides of the transaction. At the time of full application on March 1, we provided an amended and restated contract due to four reasons. Number one, there were some minor scrivener's errors in the original contract that we provided on January 8 that needed to be cleaned up.

The site plan had been refined, because from the period of the pre-application to the full application, we had the benefit of having our architect look into what we wanted to do and lay it out. We also had our civil engineer take a look at the site and do their thing. And based on that work that was done between the period of pre-application to full application, we realized that our site could actually be ratcheted down to 4.87 acres rather than 5.0 acres. The QAP actually allows for a reduction in site, just not an increase in the site.

The third reason was that we provided an amended and restated contract at the time of full application is because since the land acreage went down, the purchase price also went down since the purchase is reflected on a dollar amount based on a per square footage amount.

Finally, we knew that eventually, at some point in the future, Alan would be stepping down from the ownership entity and just being a partner in the development owner entity. So he would not longer in the future be a part of the ownership structure of this larger 200-acre master plan community, he would only be on the development side. That is an ongoing negotiation, and that has not been completed. So as of today, July 8, Alan is still on both sides of the transaction.

I'd like to point out two things in staff's findings to the Board, that they -- staff says in their findings and recommendations to this Board that Alan is, "no longer a principal in the seller." That is factually incorrect and can be proven up legally. I have a copy of the limited partnership agreement of the ownership entity that still remains in effect.

Secondly, staff says that the contract provided at the time of full application was signed "on behalf of a different group of principals than at the time of pre-application." This is also legally and factually incorrect, and we can prove that up today, if you'd like to take a look at the LPA, the limited partnership agreement.

We acknowledge that this is a competitive process, and that there are "winners and losers" in the process. But

on issues such as this that are black and white, when a continuous site control can be proved from the point of pre-application to fill application, to, in fact, today, July 8, where it can be legally proved, we would respectfully ask that all six points that were originally awarded to the pre-application be reinstated to the Hillside West transaction.

I think Alan McDonald would like to speak next, and then Mr. Shackelford. Thank you.

MR. CONINE: Okay. Thank you.

MR. KEIG: Can I ask him a question?

MR. CONINE: Sure. A question of the witness.

MR. BOLIN: Yes, sir.

MR. KEIG: Staff states that the escrow receipt ultimately submitted [inaudible] Department for what's earnest money tendered for a second contract which pertained to a somewhat different tract of land with different principals in the seller.

MR. BOLIN: Yes, there --

MR. KEIG: Could you respond to that, please?

MR. BOLIN: Would you like me to respond to the issue of different principals or a somewhat different tract of land?

MR. KEIG: Both.

MR. BOLIN: Okay. The principals have not changed from -- the principals that signed the contract as of January 8 to the principals that signed the full application contract have not changed. And it's still the same ownership entity as of today, July 8.

On the issue of a somewhat different tract of land, as I mentioned earlier on in my comments, at the time of pre-application we provided a contract within the larger 200-acre master plan, it was a five-acre tract. At the time of full application, based on having the benefit of having architectural and civil engineering work done in preparation for the full application submission, we were able to ratchet that five-acre site down to a 4.87-acre site. It was a reduction of about .13 acres of land.

The QAP allows for a reduction in land from the time of pre-application and full application. You can't add land to your tract.

MR. KEIG: So it is a different tract, but it's within the same master development.

MR. BOLIN: Yes, it's part of the 200 acres. Our Hillside West project is fully encompassed by the 200-acre site that my partner, Alan, owns with his partners at the Stratford Land Fund.

MR. CONINE: Well, hang on just a minute. Is the

same site reduced, or is it a different, totally different site?

MR. BOLIN: It's the same site that was reduced from five acres to 4.87 acres.

MR. CONINE: It started off in that same location and it ended up in that same location --

MR. BOLIN: Yes.

MR. CONINE: -- just a --

MR. BOLIN: It's not -- yes. It's not --

MR. CONINE: It didn't pick up and move over --

MR. BOLIN: Right. For instance --

MR. CONINE: Show me where the original site was.

MR. BOLIN: The original site has always been proposed on this tract of land right here.

MR. CONINE: Okay.

MR. BOLIN: So it was originally perceived to be a 5.0-acre site.

MR. CONINE: Right.

MR. BOLIN: We thought we could fit everything we wanted to do in five acres. At the time of full application, we realized that we could take down less land and save ourselves some money and reduce our basis in the project.

So it's not as if we went from little parcel here

down to I-30 and Westmoreland, or from this parcel here over to the corner of Westmoreland and Ft. Worth Avenue. This has always, from day one --

MR. CONINE: Okay.

MR. BOLIN: -- been the site of the Hillside West development.

MR. CONINE: Okay.

MS. RAY: It's been there.

MS. BOLIN: Yes, ma'am.

MR. CONINE: Any other questions for the witness?

(No response.)

MR. CONINE: Mr. McDonald.

MR. McDONALD: Good afternoon, Mr. Chairman, Board, staff. My name is Alan McDonald. I am the managing member of the general partner of the SLF III/INCAP Limited Partnership that is the owner of the 200-acre master plan development.

It's at I-30 and Westmoreland, it's an innovative public-private partnership with the city of Dallas that we've been working on for many years assembling and cleaning up an old tire dump in construction to resite.

We've turned it into an exceptional development property that's mixed use, mixed income, with all the bells and whistles for new urban development and all the things

I've been hearing everyone talk about today, particular with respect to urban in-fill.

We're approximately three and a half miles from the central business district of downtown Dallas. It's very unique in that it's close to town. It's very unique in that it's a master plan integrated project with Spectrum Housing across the board from low income, median income, to high income, with retail, office, medical, and everything else.

I've been involved with the project since day one, I was the original sponsor on it as the general partner.

I'm also a limited partner in the group. I have an institutional partner by the name of Stratford Land Fund out of Dallas. And I started three years ago on this project.

I've been involved in January for the contract, as well as in March, and I continue to be in that role today.

Stratford has made an offer to take my position in the GP and LP. We're negotiating that with them. It has not been concluded as of yet, maybe in a few months it might be. My role will be probably the future master developer of the site, but not have anything to do with the land ownership.

Brandon described it accurately. It is the exact same site. It's always been that same site. It did become smaller. I think just staff had bad information, or they

made some assumptions, or reached conclusions without researching the information from the property seller, which I guess is not their role to do.

The inaccuracies are that there was a different principal. Derek Out, who signed the second contract, is one of my junior partners, who's always been one of my junior partners. I own the majority interest in the general partnership entity, Derek Out is one of the junior minority partners.

He signed the contract as I was planning on my transitioning out of the general partnership, but I've not yet done so. He did sign the contract at my request. He and I office in the same office. So the concept that there was different principals in the transaction is just not accurate.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you, sir.

John Shackelford.

MR. McDONALD: I'd like to share -- I have only one copy --

MR. CONINE: Okay.

MR. McDONALD: -- this is the scope, it's just --

MR. CONINE: Thank you.

MR. McDONALD: It's a \$1-1/2 billion ten-year project master plan development. It'll transform a southern sector of Dallas at Westmoreland and Pinnacle Park. And we sure hope to get the appeal reinstated.

MR. SHACKLEFORD: Mr. Chairman, members of the Board, and Mr. Gerber, I'm John Shackelford. I represent the applicant in this matter, Application Number 10200. And I want to bring sort of legal argument to it, but to make sure everybody sort of understands so there's no confusion.

Some of the things that, Mr. Keig, you brought up, I was a little surprised in the write up by staff making mention of -- suggesting that the fact that there was maybe a potential change of ownership with the seller had any impact at all on this application because like Ms. Bast pointed out to the Board just a few minutes ago, the QAP with regard to the pre-application points is pretty clear as to what the standard is, but which staff should take a look at this. And she already read it to the Board, so I don't know if I need to repeat that again.

Bt this is the identical site with the exception of being reduced a little bit. It also requires in Section 50.9(i)(14) that the application meet the threshold requirement, and the threshold requirement requires that the contract be valid for the entire period of the development

that's under consideration for tax credits.

And I think it hopefully is clear by now through Mr. Bolin's testimony and Mr. McDonald's testimony, that this contract, since January 8 when it was submitted during the pre-application process, all the way through today, has been valid. And for staff to make a legal determination that it's invalid, I think goes beyond what they have the ability to do based upon what the requirements are of the QAP.

And so I don't know if this is something that's just come about recently, or what, but like Ms. Bast, I think in order for there to be fairness in looking at all appeals and all applications on a consistent basis, that we need to be applying the same standard throughout, and not reading into the statute or reading into the QAP criteria or obligations which are not provided therein.

Because one of the things staff ended up doing was saying that because the contract submitted on January 8 required earnest money of \$5,000 to be deposited within two business days, five o'clock two business days thereafter, and the fact that it wasn't, therefore the fact that seller had the right to terminate automatically made this application ineligible for pre-application points.

Based on the conclusion reached by the staff, come 5:01 on January 10, this application would have been

ineligible because if the seller has the right to terminate, therefore you don't have continuous site control.

And I what I'd like to point out is they made that conclusion regardless of whether seller waives that right, regardless of whether buyer cures the default, and then more importantly in this instance, we've got Mr. McDonald's on both the seller entity side and he's on the buyer entity side.

He's not going to terminate a contract that goes against his own interest.

So finally, what I'd like to ask is that respectfully you reinstate these six points and grant the appeal, and appreciate your consideration. I'm available for any questions.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Now I have no more witness affirmation forms, so, Ms. Morales?

MS. MORALES: Yes, sir.

MR. CONINE: Any questions of the Board for Ms. Morales at this point?

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move to grant the appeal for this

project.

MR. CONINE: Motion to grant the appeal. Is there a second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. 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.

Next one, Ms. Morales.

MS. MORALES: Just for, I guess, my clarification, because it's helpful. You know, when administering this program I get direction from you guys and from the QAP on how we approach these applications. And so these -- the two appeals that we just heard on pre-app points are good appeals because they bring up good questions.

And, you know, on the previous appeal, with respect to the same applicant maintaining continuous site control, is it I guess -- I'm looking -- I guess I'm looking for some direction from the Board on does it matter whether parties

to an application between pre-app and app change at all as long as the project is the same?

Because that is how the Department has done and continues to do the review process to make sure that those participants are the same. And, you know, to the extent that this issue hasn't come before, I'd like to be able to clarify that so that moving forward we don't have these type of appeals before you.

MR. GERBER: I think that that's an important issue, Mr. Chairman. I would respectfully recommend that maybe we finish the Atmos Lofts appeal, and then we'll try to identify that issue coupled with a couple of others that I think we've made note of and try to get some additional feedback.

I think Raquel offers a very important question, and I think we need to figure out exactly -- make sure we get the question exactly right and then pose them to you and sort of process I think some of the things that we've heard you all say today.

MS. MORALES: Okay.

MR. GERBER: If that's fair.

MR. CONINE: Let's wrap up.

MS. MORALES: Okay. The next appeal is for Application Number 10160, Creekside Place. This applicant

is appealing the reinstatement of six points for development location because the applicant provided newer unverified data that was not available to all other applicants in this competitive cycle.

The QAP prescribes the data to be used by all applicants in the application round. The reason we use one set of source data is so that the Department can verify that the data has not been manipulated in any way. The applicant does not contend that the data made available to all other applicants by the Department supports his claim that the site is in a census tract that has a higher median income than the county.

To ensure a fair process, all applicants are required to use the same data, and this applicant did not. Staff is recommending denial of the appeal.

MR. CONINE: There is no witness affirmation form on this particular project.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move staff recommendation to deny the appeal.

MR. CONINE: Motion to deny the appeal. Is there a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. 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.

On to the next one.

MS. MORALES: Okay. This is the last one. The last appeal is for Application Number 10284, Atmos Lofts. The applicant is appealing for reinstatement of a total of 10 points for the application. So there are two different issues, scoring issues, in this appeal.

The first is that the application was not awarded six points for historic preservation. The key to this first part is that the building being developed in this application is not designated as a historic structure. The QAP specifically requires that the development itself must have the designation in order to be eligible for the points.

The second portion of the appeal is another economic development initiative issue. The area was not defined by the funding entity, or the awarding entity, and

to the extent that it was defined, it was defined as Dallas County. And the Department has confirmed that more than three tax credit developments were funded within the last seven years in Dallas County. So staff is recommending denial on both issues.

MR. CONINE: Okay. I have three witness affirmation forms, or at least -- well, there's actually four. Three of them can speak.

John Greenan?

AUDIENCE: Yes, sir. Mr. Hamilton will go first if that's --

MR. CONINE: Okay.

AUDIENCE: -- meets the Board's pleasure.

MR. CONINE: Is that Ted the third?

MR. HAMILTON: That is me.

MR. CONINE: Okay.

MR. HAMILTON: Well, hopefully last but not least. Thank you, Mr. Chairman, Board members. My name is Ted Hamilton. I'm the President of Hamilton Properties Corporation. We have completed \$216 million of adaptive reuse renovations in Dallas, Texas in the last seven-year period.

And the project that we're talking about before you today on this picture here is the Atmos Lofts project.

The Atmos Lofts project is a complex of four buildings that were built by the gas company. The gas company purchased the south building -- so this is the south building, this the north building, this is the middle building, and this is what we call the west building.

So the gas company actually acquired the south building in the 1920s, 1926, then they ran out of room and they built the north building in 1932. They again ran you of room in the mid-'60s and built the middle building, and then in 1978 they built the last building, the west building.

So the project that we're proposing is 230 apartments, 10,000 square feet of retail, 298 structured parking spaces, and it's a \$40 million project.

Fortunately, the project has been very well received by the city of Dallas. We've got -- I guess first of all, the city of Dallas actually donated these buildings to the project. So they're zero basis and 400,00 square feet of buildings.

In addition to donating the buildings to the project, they also awarded a \$12.5 million grant from the Tax Increment Finance District, and in addition to that, because of the lack of affordable housing in downtown Dallas, they also issued a \$9 million Section 108 loan to the project.

So really great support from the city.

In addition to the city's support, the North Texas Council of Governments has awarded this project \$500,000 because they're trying to encourage high density in-fill developments. And in addition to that, downtown Dallas has -- downtown improvement district has granted \$100,000 grant for -- a matching grant for facade improvements. So the project has had tremendous city support.

And in order to make the development really feasible, we split it into two components. The first component is in the white building. So over here, that's that low income housing tax credit component. And up floors 2 through 12 of that building have 107 LIHTC units.

The middle building is being converted all to parking, and then the north and south building are going to be 123 apartments, 10 of which will be at 80 percent of the median income and the balance will be market rate units.

So that sounds like my time's up. I'm going to go ahead and introduce John Greenan, my co-development partner, with the Executive Director for Central Dallas Community Development Corporation. And I guess one other thing to note -- oh, the project also been approved by the National Parks Service, both a Part 1 and a Part 2 approval, so we'll receive \$3.7 million in historic tax credits as well.

MR. GREENAN: Thank you. Mr. Chairman, members

for the Board, Mr. Gerber, I'm going to discuss the issue of historic preservation and the points that we believe should be awarded for historic preservation for this project.

The reason we think that those points should be awarded and our appeal granted is we fit within the plain language of the QAP. And I think what we need to do is go look at, for just a moment, both the language of the letter denying our appeal at the staff level, and then go back and look at the definition in the QAP at 50.9(i)(13).

Okay. The letter of denial says, The applicant is appealing that some of the amenities for the proposed tax credit development are being developed in the historic structures, and thereby should qualify the application for these points because common amenity elements will be constructed within the historic structures. However, the QAP is specific that the development must include the historic building. And that's the middle of a sentence, but that's the relevant part, so I'll stop there.

If you look at the section of the QAP we're discussing, this is what it says, it says, Community revitalization or historic preservation, applications may qualify to receive six points for either subparagraph A or B of this paragraph. And B is the relevant section and B says, The development includes the use of an existing building

that is designated as historic by federal or state entity and proposes rehabilitation or adaptive reuse.

Please note that the language of the QAP does not say that units have to be built, that the apartments have to be built, it just says that historic structure, the development has to use it. Here it's clear that it does. The letter itself from staff acknowledges amenities exist within both structures and would be used by all the parties.

In addition there's parking, there's one security system that allows entrance anywhere onto the property, the retail space in the historic structures of course will also be used. But it's probably an amenity and it's simply, under the language of the QAP, that's a use and a use is all that's required.

MR. HAMILTON: Yes, and I guess I should have pointed out, this is the basements of all four buildings, so this is the west building --

MS. RAY: We can't see that. We can't see that on the floor.

MR. HAMILTON: Oh, I'm sorry. So this is the basements of all four buildings, and all four buildings are connected both in the basements and at the first floors. So this is the west building, which is on floors 2 through

12 is the LIHTC units, this is the middle building so on the upper floors it's all parking, and then these are the two historic buildings, and on the upper floors those are all apartments, and on the first floor of both of these buildings is -- this is the site plan that was submitted with the application.

The common amenities that John was talking about, the fitness center is here, this is the leasing office, and, again, this is the west building so this is the LIHTC building, there's a pool area, a barbeque grilling area, community patio. The retail's in the two historic buildings, the community theater room is in the historic buildings. And one of the tenants that we're talking to about the retail is a book store, which obviously will be a great amenity for all the residents.

MR. GREENAN: Okay. There's a second reason why it fit -- this development fits squarely within the language of the QAP, and you have to look there at the definition of development. A development is defined as a proposed qualified and/or approved low income housing project as defined by Section 42(g) of the Code for adaptive reuse, new construction, reconstruction, or rehabilitation that contains one or more buildings containing multiple units, and that if the development shall consist of multiple

buildings is financed under a common plan and is owned by the same person for federal tax purposes, and the buildings of which are either, a) located on a single site, or contiguous site -- and we don't need to go beyond that because this is one site.

There is a common plan for financing, common ownership, and if you look at Section 42(g) of the Code, that basically incorporates the 40/60 rule, 40 percent of the units on the property have to be affordable at some, what, at 60 percent AMI, and this property 107 out of the 230 units are, which is 47 percent. So considered as a whole, this whole plan and whole property is the development and it includes of course the two historic structures, and for that reason also the six points for historic preservation should be granted. Thank you.

MR. CONINE: Thank you.

MR. HAMILTON: And I think John Shackelford's going to talk about the four economic development points.

MR. CONINE: You beat me to the punch.

MR. SHACKLEFORD: Again, Mr. Chairman, members of the Board, and Mr. Gerber, I'm here to speak about the denial of the four points for the economic development initiative. In the response to our appeal, Mr. Gerber stated that the basis for the appeal being denied is because that

a letter was provided from the Texas Transportation Commission, but it -- Mr. Gerber says, The letter that was included with the appeal from the Texas Transportation -- Department of Transportation was previously requested in an administrative deficiency notice and should have been provided within the five-day deficiency response period.

The deficiency notice that Mr. Bedell sent to the applicant states that in order to satisfy this deficiency, either a map that indicate the boundaries of the area with the location of the development site indicated within the boundaries, or a letter from the funding entity stating that funds were awarded in the designated area.

It didn't make it where you provide a map and you must provide a letter. The deficiency notice stated it was an either/or proposition. So Mr. Jeff Spicer, who's the consultant on this matter, and as you know does a lot of tax credit transactions both for himself and on behalf of others, and very experienced, he complied, he thought he complied with the deficiency notice within the five-day time period by providing a map, it's in your board book there, showing the zip code in which this site's located, it clearly shows the boundaries of the zip code, and it clearly shows where the Woodall Rogers Deck Park is to be located within that

same zip code.

He also provided minutes of the meeting from the Texas Transportation Commission which awarded \$16.7 million to this particular project, and it was identified on Exhibit A to their meeting minutes, and it says specifically that the money is going to the additional funds for Woodall Rogers Deck Park.

So I don't think there's any doubt as to the location of this particular use of funds. I don't think there's any doubt as to the funds being used by the Texas Transportation Department in the same zip code as the location of the development.

And then what I've handed out to you is that on the appeal -- or the deficiency notice was responded to on March 29, and the very next day Mr. Bedell in an e-mail to Mr. Spicer states, Jeff, you resolved all deficiencies for TDHCA 10284, Atmos Lofts, with the following exception, and then he just writes about the ineligible building type, which is a different issue.

Based upon that, we thought we were golden. And then when the scoring notice came out, Mr. Spicer sent the same information, believing that, well, maybe somebody was confused, misunderstood, sent the same information, again, the map clearly designating the boundaries of the zip code,

showing the location of the development, showing the location of the Woodall Rogers Deck Park, the meeting minutes. And then we still were unable to prevail with staff and the appeal was denied.

So based upon the testimony of Mr. Hamilton, Mr. Greenan, and myself, we would request from this Board that the Board reinstate all 10 points and that our appeal be granted. I'd be glad to answer your questions.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

No -- well, I guess we could just ask Ms. Morales for any clarifications at this point, based on what she's heard. You know, I just -- I'll say parenthetically in drafting the QAP year after year after year, we knew we would come to this point because of projects such as this that are very complicated and lots of moving parts and downtown, and it's just impossible to design a QAP to fit every situation, and that's what we're running across.

Go ahead.

MS. MORALES: Well, I guess I'll address the first part of the appeal, which is the historic designation.

MR. CONINE: Sure.

MS. MORALES: You know, the application that we

received for Atmos Lofts is specific to just that parcel. I mean to the extent that the amenities are going to be included in the other buildings, you know, to us it just didn't meet the intent and the -- or the rule -- the plain language of the rule that the development itself -- it can't just be located within an area that's historically designated.

I even went to -- or discussed -- I'm sorry -- I contacted staff at the Historical Commission just to be sure that I understood that the two adjacent buildings have the historic designation, which evidence was provided in the application for the two adjacent buildings. But for the actual address for this tax credit application is going to be, there is no historic designation.

With respect to the economic development initiatives, the information that we received in the application, and I actually talked to Jeff about, you know, the decision for the four points not being awarded, he understood, and it was subsequent to the deficiency notice being sent out. That was, you know, at staff review, and then it goes up to another level of review which is through the Administrator.

So Jeff and I had a lot of discussion about why the points weren't being awarded, and with the information provided, and that he subsequently just provided again, this

is kind of similar to the issue with the CDBG funds and it covering a broad area and then us having to run the test of how many developments received tax credit awards in the last seven years.

Ultimately, as he provided a letter from the Texas Department of Transportation, I believe, specifically stating the zip code, which is what the applicant's contention was throughout the application was its specific to the zip code.

We didn't feel that the award should be awarded because we had previously asked for that.

And if -- I, you know, just through my conversations, he knew exactly what -- where I was going and what we were needing in order to be able to award the points.

We didn't get it until the appeal came in, so we just didn't feel that was fair to award the points. They got more than their five-day turn around to provide the information.

MR. CONINE: So the concept of the zip code came from the applicant, not from the Department. Is that correct?

MS. MORALES: Not from the meeting minutes that were provided, the exhibits that were provided. It's got a list of funds, it's ARRA funds that are being used, and so it wasn't a question of is the award eligible; it was. But it wasn't -- it was broken down by region, north, or by county, in Dallas. And I used the narrowest one I could to

run the test, based on what I was given.

I'd asked Mr. Spicer to give me something more specific from either the Texas Transportation Commission, or TxDOT in this case, to show that it's specific to the zip code, which is the map that the applicant provided. And I just didn't get that information before, you know, the scoring notice was issued. I didn't get it until the appeal was filed.

MR. CONINE: Okay. Mr. Shackelford?

MR. SHACKLEFORD: Thank you, Mr. Chairman. I want to take a little issue with Ms. Morales saying that this is similar to the CDBG appeal that was before you earlier today, where she then looked and said, Okay. In effect, what she did in this instance is she said, Okay, I'm going to look at Exhibit A that you gave us from the Department of Transportation, and I'm going to arbitrarily decide to look at only the county that was designated for these funds, Dallas County, so therefore I'm going to now apply the standard in the QAP and look to see if there is more than three awards that have been given, there are for Dallas County, so therefore this won't qualify.

And I guess what I take exception is, there's about six columns across here. She could have taken also project description where it specifically says, Additional funds for Woodall Rogers Deck Plaza. I think everyone knows where the

Deck Plaza is Dallas. We provided a map that shows where it's located. It's in the same zip code.

So I guess, to me, it was arbitrary on her part to decide, Okay, you provided us with an Exhibit A, we're going to run with it, but we're going to decide arbitrarily to use the county to then run our test as opposed to taking the specific description of Woodall Roger Deck Park. I don't think there could be any disagreement as to the location, and why she chose that -- to go with the Dallas County versus a site specific test, I don't understand.

MR. CONINE: How far is this project from the Deck Park?

MR. SHACKLEFORD: It's less than a mile.

MR. CONINE: Less than a mile. Okay. And one other question, on the historic credits that Mr. Hamilton indicated that they've gotten, was the west building included in that, or just the two --

MR. HAMILTON: No, it's just the --

MR. CONINE: North, south.

MR. HAMILTON: -- that's the two historic buildings. And part of the reason that we divided the project into two components is the historic tax credits would actually decrease the basis in the low income housing tax credits, so having the low income housing tax credits housed in this

building didn't cause the diminution of the basis. There's a bunch of different reasons. There's about 10 different reasons we ended up putting all the low income housing tax credit units in this building.

But it is one complex, it's being required to be developed by the city all at one time, all of our subsidies from the city require it to be developed as one project. We had -- there was -- I don't know if you guys can hear me, but there was several e-mails that went back and forth, we scheduled a conference call, we talked with them on April 27 all about the project, we sent them additional information on all the historic buildings.

So it's not like staff wasn't aware that this was part of a bigger project. They just have taken the position that as far as their analysis goes, the historic buildings weren't part of the use of the project, which I think John did a pretty job of explaining the definitions.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: May I ask the witness, if he would, the big white building there is the one with the tax credits?

MR. HAMILTON: Yes.

MS. RAY: The apartments will go in that?

MR. HAMILTON: Correct.

MS. RAY: And in your explanation you mentioned that all of those buildings are contiguous and connected.

MR. HAMILTON: And connected.

MS. RAY: And connected.

MR. HAMILTON: And all built by the same company.

MS. RAY: Okay. That's what I needed.

MR. HAMILTON : Yes, share lobby, share basements.

MR. SHACKLEFORD: Yes, I think it's important to note they do share the same lobby, so there is connectivity between all the buildings, and I think staff's just taking a narrow view of, Okay, on that particular building where the units are, does it have a historic designation. It does not, therefore, the whole thing doesn't qualify.

Our opinion is, based upon the definition in the QAP of what is a development, and the specific language of just requiring a use, that we do meet the definition of the QAP. Thank you.

MR. CONINE: Any other questions?

(No response.)

MR. SHACKLEFORD: Tom does not get to speak on this.

(General laughter.)

MR. GOURIS: I just want to make one point clear

because earlier in our presentation on a challenge with regard to this property, there was a challenge with regard to the Fair Housing situation here, and part of our conclusion, or our -- where we stood with it is we got comfortable with it not being an issue because it was a separate transaction, and that we made a point of saying that this building is being looked at separately from the other buildings that are part the complex and therefore housing all off the low income residents in that one building doesn't appear to be an issue anymore than housing all -- you know, having a building here and building, you know, a mile away would be a Fair Housing issue.

This may present some additional concerns if it really is all one project under a common financing and common plan, and that's something we'll probably need to do a little bit more investigation on. Just to be clear on the record from what we discussed earlier.

MR. CONINE: Which gets back to my comment that you just can't predict every situation in all these.

Yes, Mr. Shackelford.

MR. SHACKLEFORD: Thank you, Mr. Chairman. If I can just quickly address that. You know, that appeal -- that challenge is out there, but a challenge, I think you ought to take it for what it's worth. It's by a

developer who was denied an opportunity to do a deal by the city of Dallas. He's out of San Diego and essentially it's sour grapes on its part and he's just throwing up what I think is a red herring for the Board based upon his knowledge of this Board having been sued by others in connection with Fair Housing issues. And so I just think it's a smoke screen on his part to try to run down another development because of his inability to get his development. Thank you.

MR. CONINE: Thank you.

MR. GERBER: That may be, but I would add that that developer is hitting all the right buttons with respect to lots and lots of issues and lots of people with sensitivities. And I think that this Board, should it be asked to award -- should staff recommend the award of credits, I think staff will be recommending that it be conditioned on quite of bit of vetting with folks in DC to make sure that it's compliant.

MR. HAMILTON: We appreciate that, and one of the key components that I mentioned to you of this project is a \$9 million Section 108 loan, and he wrote the same letter to the Department of Housing and Urban Development. And so we're addressing the same Fair Housing issues with HUD, and we fully intend to comply with 100 percent of the Fair Housing rules.

MR. GERBER: So he says you're warehousing people in one of four buildings, and we're proceeding --

MR. HAMILTON: Which isn't the case. We've also got affordable --

MR. GERBER: I know.

MR. HAMILTON: -- units in the other buildings. So he's factually incorrect. They all share the same amenities. We don't understand how that could be perceived as violating Fair Housing rules. All the units are the same. In fact, there's penthouse units -- these are -- the top level of this building are the best units in the whole project. Floor to ceiling glass, they're penthouse units. We didn't change the design one iota when we made the low income housing tax credit. So we don't understand what the Fair Housing issue is.

MR. GERBER: It's a thorny issue, and I would also note we worked with Mr. Greenan and others on City Walk at Akron, and it's an extraordinary project, also with the bottom ten floors of the building being, you know, low income housing tax credit units and the top couple floors at least being, you know, market rate. You know, it's --

MR. CONINE: Yes. Okay. Thank you. I'll cut off the dialogue at this point.

(General laughter.)

MR. CONINE: Is there any other questions specific to the issue before us?

MALE VOICE: Can we take them separate on each?

MR. CONINE: Sure. Sure we can. I'll entertain a motion.

(No response.)

(General laughter.)

MR. GANN: Well, I'll make a motion that we give them six points on the historic renovation because I think it is one building.

MR. CONINE: Move to approve on the -- to grant the appeal on the historic tax credits. Is there a second?

MS. RAY: Second.

MR. CONINE: A second by Ms. Ray. 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. KEIG: Nay.

MR. CONINE: Oops, there is one negative vote on

that motion; it still carries.

Okay. Do I hear a second motion?

MR. KEIG: I move to approve the four points on the economic development issue.

MR. CONINE: Motion to grant the appeal on the economic development issue. Do I hear a second?

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. 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.

Okay. Do we have anything on Item 6(c), Mr. Gerber?

MR. GERBER: No, sir, nor on 6(d). There is a report item on Hurricanes Rita and Katrina. We'll go more fully into that at the next Board meeting. I look forward to seeing everybody on July 28.

MR. CONINE: But we -- I think we've been handed information on -- this is the --

MR. GERBER: Yes.

MR. CONINE: -- CDBG stuff. Is that right?

MR. GERBER: Yes, sir. These are the projects that total the \$58 million in CDBG multifamily awards and lists the closing dates, or anticipated closing dates. If we still don't know what those are, we've listed those as well. But you note that --

MR. CONINE: That was an information item we'd asked for in the last meeting.

MR. GERBER: Yes, sir.

MR. CONINE: Anything else to come before the Board?

(No response.)

MR. CONINE: If not, we stand adjourned.

(Whereupon, at 1:50 p.m., the meeting was concluded.)

CERTIFICATE

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: July 8, 2010

I do hereby certify that the foregoing pages, numbers 1 through 225, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing & Community Affairs.

07/13/2010
(Transcriber) (Date)

On the Record Reporting
3307 Northland, Suite 315
Austin, Texas 78731