

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
LOW INCOME HOUSING TAX CREDIT COMMITTEE

Waller Creek Office Building  
Room 437  
507 Sabine  
Austin, Texas

10:45 a.m.  
Friday,  
January 21, 2000

COMMITTEE MEMBERS:

MARGIE BINGHAM, CHAIRMAN  
DR. FLORITA BELL GRIFFIN  
LYDIA SAENZ

STAFF:

DAISY STINER, EXECUTIVE DIRECTOR

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
Call to order, roll call certification of quorum	3
PUBLIC COMMENT	4
Item 1 Presentation, Discussion and Possible Approval of Minutes of Low Income Housing Tax Credit Committee Meeting of December 10, 1999	3
Item 2 Presentation, Discussion and Possible Approval of the Proposed Final Draft of the 2000 Qualified Allocation Plan and Rules for the Low Income Housing Tax Credit Program	28
ADJOURN	35

P R O C E E D I N G S

1  
2 MS. BINGHAM: It is approximately 10:45. This  
3 Low Income Housing Tax Credit Committee of the Texas  
4 Department of Housing and Community Affairs is now called  
5 to order. Margie Bingham is present.

6 Dr. Florita Bell Griffin?

7 DR. GRIFFIN: Present.

8 MS. BINGHAM: Ms. Lydia Saenz?

9 MS. SAENZ: Present.

10 MS. BINGHAM: Okay. Before we -- we're going  
11 to take our minutes of our last meeting before we take our  
12 public comment for this session. The minutes of the last  
13 meeting are behind Tab 1.

14 DR. GRIFFIN: Madame Chair, I move for approval  
15 of the minutes as presented by staff.

16 MS. BINGHAM: You -- I'll second that. All  
17 those in favor?

18 DR. GRIFFIN: Aye.

19 MS. SAENZ: I abstain.

20 MS. BINGHAM: You were absent. Thank you.

21 Do we have witness affirmation forms that have  
22 already been filled out?

23 MS. STINER: Yes, ma'am.

24 MS. BINGHAM: Mr. Chris Richardson? We have  
25 about three minutes each. Mr. Richardson?

1 MR. RICHARDSON: Good morning, Madame Chairman.  
2 My name's Chris Richardson, staff and board members. I'd  
3 like -- I'm just here to congratulate you on the good job  
4 of the QAP 2000. I know that you've taken a number of  
5 diverse interests and come together with a very acceptable  
6 QAP for the coming year.

7 I represent an am co-chairman of a group called  
8 Texans for Housing. We gave certain input and I feel like  
9 our input was helpful. We had five basic points where we  
10 didn't feel like CHDOs should receive additional points as  
11 non-profits, that the carry-over allocation for October 15  
12 was reasonable and should be maintained, points should not  
13 be awarded targeting 30 percent AMGI areas. We didn't  
14 feel that the election of the non-profit for the project  
15 at the end of the 15 years should be maintained, and then  
16 the non-profit set-asides should not be increased over  
17 what is federally mandated.

18 Basically, it's our feeling that based on the  
19 numbers presented by Dr. Steve Murdock, the state's  
20 demographer, that the state over the next 30 years is  
21 projected to grow from about 17 million to 27 million, and  
22 this population will actually have a decrease in the  
23 household income, thus putting tremendous pressure on what  
24 we do as far as affordable housing. We feel that we  
25 should all come together and work closely for non-profits,

1 for-profits, HUDs, CHDOs, to resolve this problem and pull  
2 together in the right direction, and I feel like your QAP  
3 2000 is a great compromise in the various issues that  
4 address the state.

5 We feel like we need to work closely with the  
6 TDHCA and the next group next session of the legislature,  
7 especially since it's a Sunset review year, work closely  
8 with the staff and interim committees to achieve our goals  
9 in affordable housing for the state.

10 We would like to conclude and say the best way  
11 to accomplish this is again, pulling together and all of  
12 us working together to get the most cost-effective housing  
13 produced for the state. This concludes the comments  
14 basically for Texans for Housing.

15 I'd just like to say as a builder also, the  
16 most cost-effective way to achieve the housing is to take  
17 additional steps beyond Marshall and Swift in cost  
18 effectiveness. Marshall and Swift -- I know you've got to  
19 have some benchmark to use as far as the pricing of the  
20 projects, but we need to take into consideration a regular  
21 increase or decrease or adjustment along the lines of the  
22 CPI [phonetic] or other factors locally that change more  
23 rapidly than Marshall and Swift can react.

24 Thank you, Madame Chairman.

25 MS. BINGHAM: Thank you.

1 Edwina Carrington?

2 MS. CARRINGTON: I'm going to pass, Madame  
3 Chair.

4 MS. BINGHAM: Mr. Jim Buie?

5 MR. BUIE: Hello. Thank you. Jim Buie,  
6 executive director of the Texas Bond Review Board.

7 Just a clarification on the QAP guidelines  
8 under page 4, 49.12, regarding the documentation process.  
9 Under Item 2 of 49.12 there's language that refers to all  
10 outstanding documentation --

11 MS. BINGHAM: What page are you on?

12 MR. BUIE: This is page 4 of 25.

13 MS. BINGHAM: Okay.

14 MR. BUIE: About the middle of the page.

15 MS. BINGHAM: Okay.

16 MR. BUIE: It mentions that all outstanding  
17 documentation required under 49(a) to the qualified  
18 allocation plan rules must be submitted to the department  
19 at least 60 days prior to the ad hoc Tax Credit Committee  
20 meeting, at which that time the decision to issue a  
21 determination notice would be made.

22 And I guess the question is, in an application  
23 is submitted to the department, does the department  
24 then -- is there a 60-day time frame between when that  
25 application is submitted until when they can make a

1 determination through the Tax Credit Committee meeting?  
2 Does 60 days have to expire first before that process  
3 kicks in?

4 MS. STINER: No.

5 MR. BUIE: Okay. But it does allow the  
6 department, if necessary, to take up to 60 days. Okay.

7 MS. BINGHAM: But if we have a meeting it could  
8 be 30 days --

9 MR. BUIE: Right.

10 MS. BINGHAM: -- or less.

11 MR. BUIE: Right. And I think that's what it  
12 was prior. I think it was 30 days at one point in time.  
13 The 60 days, by allowing the process to potentially go for  
14 a 60-day time frame, in my opinion, interferes with our  
15 cap allocation process that the Bond Review Board  
16 administers. When we give a reservation, there's 120 days  
17 from the time that reservation takes place and to when  
18 they have to close.

19 MS. BINGHAM: Okay.

20 MR. BUIE: And just in trying to do a time  
21 line, if 60 days is granted -- if the TDHCA chose to draw  
22 out an application 60 days for whatever reason, that  
23 would, in my mind, interfere with some of the closing  
24 requirements that are necessary to close on the cap  
25 allocation portion, and I just wanted to bring that up and

1 maybe for clarification purpose. Does it need to be 60  
2 days? Could it be less than that?

3 MS. BINGHAM: It could be, because what we have  
4 been doing is -- Daisy, you can correct me if I'm wrong --  
5 what we have been doing is that the -- we have been  
6 allowing the committee to do the determination notices so  
7 we don't have to have a full quorum of the board. So it  
8 could -- is Chernobyl here?

9 MS. STINER: Yes, ma'am, Madame Chair. He is  
10 here, but as he's coming forward -- we discussed this last  
11 night with Jim and Jean [phonetic], and as you may recall,  
12 when the legislation was passed that required that all  
13 tax-exempt projects receive acknowledgment from this  
14 department they had filed an application -- well, it's a  
15 requirement now that they file an application and utilize  
16 the 4 percent provision. On the Code 42, it required us  
17 to go back and amend the current QAP that was in use.

18 We made that amendment and it -- we've had a  
19 couple of workshops with the development group explaining  
20 this process. Prior to that there were some timing  
21 requirements. This 60 days, for us, gives the department  
22 and opportunity to review the applications and underwrite  
23 them. And if there is any constraint with the timing  
24 relative to the Bond Review Board, of course we want to be  
25 cognizant of that.

1           But I will ask Cherno to just talk about what  
2 that process is and talk about the rationale behind the 60  
3 -day time frame.

4           MR. NJIE: Thank you, Ms. Stiner.

5           As you may know, there's new legislation  
6 requiring that in order to get a tax credit -- in order to  
7 be eligible for these bond authority caps, you have to get  
8 a reservation from the department. Later last year we  
9 amended the QAP to take into account the newest  
10 legislation.

11           Hypothetically speaking, let's assume that you  
12 have a reservation February 1. What this amendment really  
13 talks about is you have until -- which is 120 day period,  
14 let's say June 1 -- that is 120 days -- you will need to  
15 submit Volume 1 by February 1, and by April 1, which is 60  
16 days prior to June 1, which is your closing date, the  
17 department needs to get all the documentation.

18           The reason for that is to enable us to review  
19 and underwrite these projects. Some of these bond  
20 projects are submitted without correct documentation. So  
21 it has to be underwritten and there's a lot of back and  
22 forth that goes through to underwrite the project before  
23 we're in the position to make a recommendation.

24           The 30-day period was under a different set of  
25 rules, where you didn't need to get our determination

1 notice in order to close on your bonds, so it was under a  
2 different set of rules. The new rules will give us  
3 flexibility to underwrite these deals and to be able to  
4 make a recommendation to the ad hoc committee --

5 MS. BINGHAM: So you're saying under the prior  
6 rules, they could -- they didn't have to have our  
7 determination notice?

8 MR. NJIE: That's correct. They didn't have to  
9 have our determination notice in order to close their  
10 bonds.

11 DR. GRIFFIN: Under the last cycle that we just  
12 went through with the bonds, we had quite a few bonds that  
13 the determination notice was given, they were chosen;  
14 quite a few deals and they didn't make it. Do you think  
15 that one of the reasons that they weren't ultimately able  
16 to close in the end was because of the time --

17 MR. NJIE: No.

18 DR. GRIFFIN: -- factor to underwrite?

19 MR. NJIE: I do not believe that the timing of  
20 the department issuance of determination notices has  
21 anything to do with --

22 DR. GRIFFIN: Okay.

23 MR. NJIE: -- bond failures in the past.

24 MS. BINGHAM: Well, let's go back to his point  
25 about the 120 days. So you're thinking that if they have

1 120 days, and you think that we're taking up 60 days of  
2 that --

3 MR. BUIE: Yes --

4 MS. BINGHAM: -- how did you -- okay.

5 MR. BUIE: -- you're right. But part of the  
6 requirements before they can close on a transaction is  
7 that the attorney general's office -- has to go through  
8 their review and do their sign-off, and they're required  
9 to submit an application to the attorney general's office  
10 17 days, I believe, prior to them actually closing. And I  
11 guess my fear is if -- we've got the AG's requirement that  
12 they have to go through 17 days prior, the AG will not  
13 give their, quote blessing on the issue until the tax  
14 credit determination notice has been given, and I think  
15 that's -- if we're talking about 60 days, that's  
16 compressing that time frame that the AG's office can do  
17 their review.

18 And I think potentially that could be a  
19 hindrance on closing a transaction.

20 MS. BINGHAM: While we're taking our other  
21 speakers, can you and Mr. Njie go outside and come up with  
22 a compromise that you can live with and make a  
23 recommendation to the committee? Obviously you're an  
24 important part of this process with the Bond Review Board,  
25 so we don't want to do anything that would get --

1 MR. NJIE: I might add that the department does  
2 not need to take 60 days. The earlier the documents are  
3 submitted the earlier we can present it to the committee.

4 We're saying that the documents should be submitted at  
5 least 60 days. They could be submitted earlier than that.

6 And I have provided you a copy of the board meeting dates  
7 so that any developer who was thinking about getting a  
8 reservation should look at that and file accordingly.

9 The earlier they give us the document the  
10 earlier we can underwrite and we don't have to wait for  
11 the 60-day period.

12 MS. BINGHAM: Well --

13 MS. STINER: Madame Chair, may I make a  
14 comment? I would just encourage you as you are  
15 negotiating not to come up with a time frame that's going  
16 to compress this staff over here too. We have to have  
17 some time minimally to do a good job of reviewing and  
18 underwriting these, so whatever that time frame is -- I  
19 don't think I have to encourage Mr. Njie -- but there is a  
20 consideration and that has to be timed such that we have  
21 time to underwrite it and then present it to this  
22 committee.

23 MS. BINGHAM: Well, my feeling about it is that  
24 if they can work out something that they can live with  
25 together outside, we can certainly live with it. The

1 committee -- with the fact that we just transferred  
2 \$500,000 over to the Housing Trust Fund, the committee can  
3 come up here if we have to, but let's get something that  
4 both groups can live with and just recommend it to us. We  
5 can look at some of the other -- this is just some of the  
6 other public speakers while you all are doing that.

7 MR. BUIE: I agree. I appreciate it.

8 MS. BINGHAM: Mr. Henneberger?

9 MR. HENNEBERGER: Members of the committee, my  
10 name is John Henneberger. I'm the co-director of the  
11 Texas Low Income Housing Information Service, an  
12 organization that works on the behalf of low income people  
13 and their housing needs in Texas.

14 The Association of Tax Credit Developers has  
15 come up here and told you that they're very pleased with  
16 the QAP and the fact that their changes were accepted.  
17 I'm here today to tell you that I'm very disappointed with  
18 the QAP and very disappointed that our extensive  
19 recommendations -- virtually none of them were accepted.

20 I have two particular areas. I'm not here  
21 though to debate. We lost; they won, I guess. I don't  
22 think it ought to be viewed that way, but I think the  
23 consumers of the state, the low income people that need  
24 this housing, lost in this QAP. But I'm not here to  
25 debate all the individuals but I want to point out two

1 things in this QAP which make it actually worse than the  
2 one that we had last year.

3           Particularly, I want to make reference to the  
4 problem of the definition of when a project is materially  
5 out of compliance. Previously there has not been a  
6 definition, as I understand it, of what constitutes  
7 material non-compliance on the part of a tax credit  
8 developer. This is a serious matter to the tenants and  
9 low income people who depend on this housing because if  
10 the department does not enforce the requirements that the  
11 units be set aside, the rents be fairly charged, and that  
12 discriminatory practice does not take place, then these  
13 tenants are directly harmed.

14           The definition which the department proposes to  
15 use to define material non-compliance is, and I quote, "A  
16 project where major violations of health and safety  
17 standards are documented by the local municipal  
18 authority."

19           Now, this restricts, as I read it, the ability  
20 of the department to judge a developer to be materially  
21 non-compliant and then not to be eligible for future tax  
22 credits if that developer is engaged in illegal practices  
23 of barring people on the basis of income, of having been  
24 found guilty of past discriminatory practices, of not  
25 charging fair rents and other things. Material non-

1 compliance is limited to solely a health and safety  
2 standard as opposed to the many other compliance issues  
3 which this department is charged with reviewing.

4           The second area -- and again, there's many,  
5 many areas that harm low income people in this QAP -- but  
6 the second area I want to point out to you is we made a  
7 request that you give extra points to developments which  
8 allow -- which made provisions to allow lower income  
9 people to live in those developments. The definition of a  
10 qualified allocation plan in the Internal Revenue Code  
11 says it is a plan which, quote, Number 2, gives  
12 preferences in allocating tax credit dollars among  
13 selected projects to, one, projects serving the lowest  
14 income tenants.

15           Now, if the department can't adopt a simple  
16 practice of awarding points to encourage developers to  
17 make units available to lower income families, then it  
18 seems to me that you're directly contradicting the purpose  
19 of the definition of the QAP, and certainly in light of  
20 the discussions which have gone on in the past about the  
21 agency's performance in meeting the credit needs of low  
22 income families in Texas. I think that's a very bad step.

23           Those are only two among the very many  
24 disappointing things we find in the qualified allocation  
25 plan, but we thank you for listening to our comments and

1 considering them anyway.

2 MS. BINGHAM: Mr. Neal Sox Johnson?

3 MR. JOHNSON: My name is Sox Johnson with Rural  
4 Rental Housing Association. I'm here simply to commend  
5 the department this year. I've been involved in these  
6 things for a number of years and to say to me the process  
7 we have gone through to get to this point -- and I know we  
8 could all use more time. We're all faced with time  
9 constraints -- but I thought it was more open. I would  
10 particularly appreciate the opportunity to be involved  
11 more with some of the legislators. Chairman Carter,  
12 Harryette Ehrhardt, and others that were involved in the  
13 process of helping to come up and provide some additional  
14 input.

15 I think one of the big things we needed was  
16 input, not so much change in the QAP but input on  
17 clarifying the processes, and I felt like that has been  
18 accomplished to a large degree. Obviously, as I quickly  
19 read some of the provisions that you're going to  
20 consider -- and that's what I'm here for this morning, is  
21 to hear your discussions and hope to better understand  
22 them, because I know it's an evolving process and we want  
23 to continue to work.

24 I particularly appreciate the fact that the  
25 staff has recommended that we work over this next year to

1 try to come up with an application process that would hope  
2 to be less onerous and expensive on all parties concerned.

3 Certainly I personally and our association and a lot of  
4 the other people that I've talked to in other associations  
5 I worked with are willing to work, and we'll be trying to  
6 take the initiative to try to come up with a better  
7 process on that, but we'll appreciate your openness to work  
8 with it.

9 Thank you.

10 MS. BINGHAM: Thank you.

11 Mr. Ocañas?

12 MR. OCAÑAS: Good morning, Madame Chair and Ms.  
13 Stiner. I've got copies of my remarks for you.

14 My name is Rey Ocañas. I'm the executive  
15 director of the Texas Association of CDCs and we represent  
16 non-profit groups throughout the state to both build  
17 affordable housing and work in economic development,  
18 particularly in distressed areas, so the QAP and the tax  
19 credit program is very important to us and our  
20 membership -- our constituency.

21 I personally was part of the multiple efforts  
22 to provide public comment and input to the department  
23 regarding the Low Income Housing Tax Credit Program and  
24 this 200 QAP. I do appreciate the opportunity to provide  
25 input, and the department definitely has taken a lot of

1 input, so we're glad the department is open to that.

2 I am disappointed in the department's disregard  
3 for the hard work many of us did do in putting together  
4 this public comment; putting together true workable  
5 improvements to the QAP, and I appear before you to ask  
6 you to capture this opportunity you have today, not to  
7 leave the QAP the way it is proposed by staff. You have  
8 the opportunity and power to make a difference in this  
9 year's QAP and tax credit program.

10 I'm disappointed in hearing the board only had  
11 a few days to review the revisions proposed by staff and  
12 the responses that proposed revisions are made to the QAP.

13 If I was running a \$200 million a year program and I  
14 presented my board with these kind of revisions three days  
15 before the board meeting, I'm sure my board would ask me  
16 for more time. So I'm asking you to consider whether or  
17 not you were given enough time to review the material and  
18 to consider whether or not today is the time to make all  
19 these decisions, and if today is the day, then I've got  
20 some proposed revisions that I would like you to address.

21 I'd like to ask where's the substance in terms  
22 of preservation? Where is the substance in terms of  
23 compliance? Where is the substance in terms of  
24 objectifying discretionary factors? Why are we postponing  
25 the regional distribution formulas until next year? It's

1 late in the game today and you're going to have to decide  
2 to approve the QAP today or not, so I've got some  
3 revisions for you to look at.

4           The first is to sincerely address compliance  
5 issues. How can we be okay with ignoring outstanding  
6 compliance violations from applicants that go against the  
7 very spirit of this program? What do I mean? I mean why  
8 is it okay to forgive violations for rent limits,  
9 violation of the LURA agreement, not renting to low-income  
10 tenants, and I urge you to address this issue today and to  
11 adopt a revision that could possibly better define  
12 materially out of compliance. I've got that proposed  
13 revision here. Basically just expand the definition that  
14 the staff propose that includes health and safety  
15 standards to include three other things: maintaining less  
16 than the required percentage of low-income occupancy,  
17 gross rents exceeding limits, and violation of the LURA  
18 agreement.

19           Second is to address the issue of CHDO  
20 applicants. CHDOs are non-profits and [indiscernible]  
21 whether to apply under the non-profit set-side, and if  
22 they apply under the set-aside, then they're limited to  
23 the 10 percent. And the disadvantage with other  
24 applicants who can either get HUB [phonetic] points or  
25 have the resources to apply over multiple years, even if

1 they don't get a tax credit deal that year.

2           So I'm asking you to level the playing field  
3 for the non-profits that are applying to the Tax Credit  
4 Program and give them an extra 5 points, not as a HUB  
5 incentive or not in any way related to the HUB context,  
6 but separately as a bonus point issue. So I've got a  
7 revision that I'm proposing for you to consider that  
8 defines an additional section under bonus points for  
9 CHDOs, and they would be just an additional bonus point  
10 definition with an extra 5 points.

11           Finally, address the issue of fair distribution  
12 of the credits. This is your largest program. It was  
13 never intended to line the pockets of any one applicant,  
14 nor can it address every need in the state, but this is a  
15 large state so no one should be getting 10 percent of our  
16 pool. So I've got one last revision to propose, and that  
17 is to limit the total maximum allocation to an applicant,  
18 not just a project, to \$1.2 million. I've got that  
19 proposed revision as well.

20           If you'd like me to field any questions, I'd be  
21 glad to. We will continue to work with Daisy and her  
22 staff. Staff in this program and others does a solid job  
23 of responding to our comments, but I would like to see  
24 some substance in that response, so I'd like you to  
25 consider the proposed changes today and see if you're

1 willing to take a stand, consider some of these as  
2 important issues, and help us make the program better.

3 MS. BINGHAM: Thank you.

4 Chernow, I have a couple of questions. On the  
5 compliance issues -- on materially out of compliance, in  
6 his proposal he said we should add, Maintain a list and  
7 require a percentage of low-income occupancy, gross rents  
8 exceed limits, major violations health, safety, which we  
9 already have, and violation of the LURA agreement. On  
10 these -- we have the major violations of health and  
11 safety. Does the Internal Revenue deal with these other  
12 three?

13 MR. NJIE: Yes. I believe so. The Internal  
14 Revenue Code does deal with the other three. The issue  
15 that we've considered is some of these are triggered by  
16 administrative violations. In other words, a violation  
17 relating to one unit could mean that you're essentially  
18 renting to less than what you've promised in the  
19 application.

20 MS. BINGHAM: Uh-huh.

21 MR. NJIE: So we took those into account. The  
22 fact that we describe material non-compliance in the way  
23 we did does not imply that other violations will not be  
24 taken into account. The current language in the QAP  
25 addresses other violations. We narrowed this specifically

1 to material non-compliance relating to health and safety  
2 because we thought that was the major element.

3 It does not absolve other violations in the  
4 QAP. It just elevates this to a specific violation  
5 relating to health and safety.

6 MS. BINGHAM: So the Internal Revenue -- you  
7 can get recapture if you don't do some of these other  
8 things?

9 MR. NJIE: Well, if you don't rent to qualified  
10 applicants, sure. You will not be eligible for that unit.

11 MS. STINER: May I just add one point? And  
12 Chernobyl did a fine job on that, but in our QAP, we made out  
13 a plan for remedy for those persons who are in material  
14 non-compliance, and they have to work with us until that  
15 particular violation is remedied, and this would related  
16 to the one that we have elevated as a major violation of  
17 health-safety in building codes.

18 On the other, we still monitor and we report it  
19 to the IRS on our 8823, and that is where we found  
20 ourselves in the middle of how that is enforced between  
21 the owners, developers, and the IRS. We wrote for  
22 ourselves a plan that required that they enter into some  
23 kind of agreement with the regulatory agency for certain  
24 compliance issues. We are not privy to how they work out  
25 those issues with the Service.

1           We're required to go out and monitor for them  
2 and to report them. We still do that. The IRS just  
3 issued the final rules I think a few days ago relative to  
4 the Fair Housing and Section 8. That is a reportable  
5 offense under 8823. So it's not that this department is  
6 stepping away from any of that. It's just saying the only  
7 ones where we feel that we would have some standing in  
8 terms of enforcement is this one that we're defining as  
9 materially out of compliance. That is we'll enter into a  
10 plan -- it's required that they enter into a plan with the  
11 department to work those out.

12           The other ones continued to be reported to the  
13 IRS on the 8823.

14           MS. BINGHAM: And the IRS can do the most  
15 serious damage in terms of recapture?

16           MR. NJIE: That's correct.

17           MS. SAENZ: So did you say there is -- you  
18 address these in another part of the QAP?

19           MR. NJIE: The current QAP talks about a series  
20 of violations, not just material non-compliance, and what  
21 we've done is to define material non-compliance as  
22 relating to health and safety, for there is already  
23 language in the QAP relating to other violations for which  
24 the department may decide not to issue an allocation.

25           MS. BINGHAM: Could you -- we're going to

1 break, so could you get somebody on your staff to get that  
2 for Ms. Saenz?

3 MR. NJIE: Sure.

4 MS. BINGHAM: In the meantime, we can go to our  
5 next speaker, who is Mr. Mike Dunn.

6 MR. DUNN: Thank you for the opportunity to  
7 testify once again. I wasn't going to touch on the  
8 material compliance issue. It's just that when people  
9 look at material compliance and they see the 2000  
10 compliance training of the department, almost 20 things  
11 that are basically -- 20 training programs that are  
12 basically talking about rent controls, and we have the  
13 ability to say what is materially not in compliance and  
14 then we don't mention rent controls, it's going to raise  
15 some red flags that perhaps the department could have  
16 illustrated some of those things in their changes when  
17 some of the subjects you are talking about now -- it might  
18 have saved some problems.

19 I didn't come to you to talk about that.  
20 Basically I came to talk about -- I'm not even going to  
21 talk about the economy of Texas. 697 point billion  
22 dollars gross state product, which the majority is being  
23 supported by people who earn a minimum wage. The  
24 forecast -- most reliable economic forecasts in the state  
25 show the majority of Texans over the next 30 years are

1 going to be earning less than \$15,000. Texas should be  
2 doing something to preserve its affordable housing,  
3 turning towards its natural partners who have missions  
4 which are to keep affordable housing affordable.

5 Many groups have collaborated over the last few  
6 months, coming together, putting together different ideas,  
7 and I think one of the most frustrating things personally  
8 is how those ideas have been received by the department  
9 and the board. We really feel like we've been getting  
10 shortchanged, I have to say.

11 When you ignore your natural partners, that's  
12 going to call into question every -- if you do it on this  
13 one program, it's going to call into question everything  
14 you do on every other program. It's going to call in  
15 question your reasonableness. Are you willing to make  
16 reasonable changes to the QAP which are going to help the  
17 State of Texas, preserve its affordable housing?  
18 Apparently not.

19 I urge the board -- I will urge the board to  
20 reject the proposed QAP until needed changes are made, and  
21 if the deadline is January 31, I'll still urge whoever I  
22 need to to reject the proposed QAP.

23 Thank you much.

24 MS. BINGHAM: That concludes our -- do we have  
25 any other witness affirmation forms? Anybody that we

1 didn't call?

2 (No response.)

3 MS. SAENZ: May I ask a question on this that  
4 he just spoke on in this preservation? What are we doing  
5 about that now?

6 MS. STINER: We chose not to address a point  
7 system of plan for preservation under the QAP. The  
8 department as a whole is looking at a preservation issue.  
9 We have considered initiatives so far -- it's been  
10 discussed with the board -- that it's been the Section 8  
11 restructuring provision of the mark to market. We talked  
12 about the reasons that you're very aware of. We were  
13 constrained from moving forward in the permanent program  
14 because of a provision under the constitution.

15 Secondly, we have a task force that's been  
16 formed in-house, if you'll allow me use that loosely, but  
17 we've developed a draft preservation policy that we are  
18 looking to develop and implement and bring before this  
19 board. It certainly takes into consideration all the  
20 tools that we have. It is a huge problem. It's a looming  
21 problem. And the department is not unaware that it will  
22 require a policy that takes into account all the resources  
23 we have available to us.

24 What we've said today relative to the QAP is we  
25 didn't award points. I'm sorry. I don't know -- I can't

1 remember offhand what the particular comment was, but we  
2 have chosen not to utilize the tax credit alone as the  
3 sole source to respond to a policy that we haven't fully  
4 developed yet, and that's what we're doing, Ms. Saenz.

5 MS. SAENZ: Okay.

6 MS. BINGHAM: Ms. Saenz, Dr. Griffin, do you  
7 want Chernobyl to walk through each one -- just go page by  
8 page on these items.

9 DR. GRIFFIN: It's up to Ms. Saenz. I've read  
10 it. I'm satisfied.

11 MS. BINGHAM: Chernobyl, could you come forward  
12 and go through the -- your staff is getting for Ms. Saenz  
13 the other issues on compliance?

14 MR. NJIE: Yes.

15 MS. SAENZ: Yes. That's the only one that  
16 bothers me.

17 MS. BINGHAM: Okay. So we need to -- that  
18 sounds like the one we need some more clarification and  
19 work on today.

20 MS. SAENZ: Yes. I'd like some more  
21 clarification.

22 MS. STINER: As Chernobyl is preparing to walk you  
23 through it, I'll just give an overview.

24 As part of the Tax Credit Program, the  
25 department is required to review its annual qualified

1 allocation plan and rules on an annual basis. Part of  
2 that process is to take public comment. We've held four  
3 public hearings in the state of Texas, in Dallas-Ft.  
4 Worth, San Antonio, Austin, and Houston, and what we  
5 received -- in addition to the comments we received at the  
6 public hearing we've also accepted written comment.

7 The department published its recommendation for  
8 its 2000 Qualified Allocation Plan in the Federal  
9 Register -- what date did we --

10 MR. NJIE: On the 3rd of December.

11 MS. STINER: -- on the 3rd of December, after  
12 which we had public comments. The process requires that  
13 we come before this committee and board and make  
14 recommendations of staff based on those public comments.

15 So Mr. Njie will go through those comments. We  
16 have summarized them in two sections, as I recall, those  
17 that are responding to the Qualified Allocation Plan and  
18 the provisions under the plan and rules, and some general  
19 recommendations relative to non-Qualified Allocation Plan  
20 related issues that fall into several major categories.  
21 Chief among them are some underwriting recommendations,  
22 some administrative recommendations, and some procedural  
23 recommendations.

24 So with that overview, I think I'd save you  
25 about two minutes, Chernob.

1 MS. BINGHAM: Well, Chernob, I think the -- let  
2 me just go on record as saying that I got my QAP much  
3 longer than three days. Even if I hadn't had it but two  
4 days -- I think I can read a QAP overnight and understand  
5 it, so I think that was an unfair attack on the staff. As  
6 far as I can determine, I got my document on Monday, so I  
7 had enough time to review it.

8 I think the -- Chernob, the main issue with the  
9 committee seems to be on the compliance issue, so maybe if  
10 we can take a five-minute break so you all can -- have you  
11 talked to the representative from the Bond Review Board --

12 MR. NJIE: Yes. We have agreed on 45 days.

13 MS. BINGHAM: Okay. So if we can take a five-  
14 minute break so -- you got 45 days in agreement with the  
15 Bond Review Board, and we need to go over Ms. Saenz's  
16 issue on the compliance issue, so why don't we take a  
17 five-minute break so we can work those issues out.

18 (Whereupon, a short recess was taken.)

19 MS. BINGHAM: It is approximately 11:35. We're  
20 going to go back into session.

21 It appears that the -- there are three issues  
22 that we need to work on relative to the QAP before  
23 submission to the full board. One has to do with the  
24 number of days an application has to come to us. That  
25 issue was brought up by the Bond Review Board director.

1 Mr. Njie, you have recommended now 45 days?

2 MR. NJIE: Yes, Madame Chair. We have agreed  
3 on 45 days.

4 MS. BINGHAM: Okay.

5 MS. STINER: Do you want to call out the page  
6 so we can follow that -- so the committee will have that  
7 noted when they make their presentation to the board?  
8 What page is that on?

9 MR. NJIE: That is on page 4.

10 MS. STINER: Page 4?

11 MR. NJIE: Four of 25.

12 MS. BINGHAM: That's on page 4. That's 45  
13 days.

14 Ms. Saenz has an issue with the compliance  
15 issue that was also addressed by one of the public  
16 speakers. We're going to request that the staff make some  
17 amendments to that language during the lunch break and  
18 that when we get back in front of the full board we'll  
19 have some acceptable language on the -- what is materially  
20 out of compliance and do a little bit better explanation  
21 of the compliance factors.

22 MR. NJIE: Okay. We can --

23 MS. BINGHAM: And I have one other question or  
24 point.

25 DR. GRIFFIN: And I have one also, Madame

1 Chairman.

2 MS. BINGHAM: Okay. Could you go with yours  
3 first?

4 DR. GRIFFIN: Yes. Mine is on page 20 of 25.  
5 At the top of the page it says tax-exempt bond project  
6 applications are subject to the size of restriction  
7 specified in 43.6(g). Under that, it says, tax-exempt  
8 bond project applications must provide an executed  
9 agreement with a local tax-exempt organization for the  
10 provision of special supportive services that would  
11 otherwise not be available for the tenants.

12 I've always been a supporter of the special  
13 supportive services, but I don't think it should have to  
14 be a non-profit that provides them. I think anybody that  
15 can provide the needed supportive services should be  
16 allowed to do that. So I don't think that should have to  
17 be a tax-exempt organization which provides the services.

18 MR. NJIE: So the change would be what, an  
19 agreement with an organization?

20 MS. BINGHAM: With a service provider --

21 DR. GRIFFIN: With a service provider.

22 MR. NJIE: With a service provider.

23 MS. BINGHAM: On that same item, was there a  
24 reason why the service provider had to have five years  
25 experience? Why not two or three? What's --

1 MR. NJIE: We are talking about the -- what  
2 page is that on? I believe you're talking about page 16.  
3 (Perusing documents.) Page 17, rather.

4 MS. BINGHAM: Yes.

5 MR. NJIE: Experience of the service provider.  
6 Staff believes that five years was a good enough period  
7 to demonstrate experience, and that was why that was  
8 recommended.

9 MS. BINGHAM: In other words, if you have a  
10 elderly project and you're a nurse, you may have been a  
11 nurse for three years. You may be qualified to do skilled  
12 nursing.

13 DR. GRIFFIN: Exactly. Same as if you have an  
14 after school program, you could have just started the  
15 program last year or the year before and it could be  
16 working real well, so you can't offer that if you don't  
17 have five years experience?

18 MR. NJIE: Well, I guess we will have to  
19 evaluate the experience --

20 DR. GRIFFIN: I think you ought to talk about  
21 credentials more than necessarily years of organization.

22 MS. BINGHAM: Right. So why don't we amend  
23 that to -- we don't have a problem with the staff  
24 determining whether they're experienced, but whether it's  
25 four, five, or six years, I think -- you may be a skilled

1 nurse and haven't been a skilled nurse but three years,  
2 but you may be a good nurse. So I think we need to just  
3 deal with credentials.

4 MR. NJIE: Okay. We will address that.

5 MS. BINGHAM: So those are the -- are there any  
6 other changes or recommendations?

7 (No response.)

8 MS. BINGHAM: So I encourage you to work hard  
9 on Ms. Saenz's materially out of compliance issue during  
10 the lunch break so we can have a recommendation to the  
11 board.

12 MR. NJIE: There are two other changes that --

13 MS. BINGHAM: Oh. That you all made in terms  
14 of grammatical stuff?

15 MR. NJIE: Yes.

16 MS. BINGHAM: Typographical? Okay. Do you  
17 want to go over those?

18 MR. NJIE: On page 7 there is another  
19 [indiscernible] Ms. Stiner. The first one relates to  
20 49.4(d). We had mistakenly taken the comments out and  
21 what it shows now in the document comment, that is  
22 actually a staff response.

23 MS. BINGHAM: Okay.

24 MR. NJIE: And staff response, where it says  
25 department response, was a draft response to that

1 particular commentary. The page that we've given you will  
2 substitute for that.

3 And an additional change we're going to make is  
4 on the following page 8, under item 49.4(p) relating to  
5 when we will publish the application submission log. We  
6 meant to write 15 business days instead of ten business  
7 days. That will give us time to go ahead and enter all  
8 the data and proof it. So --

9 MS. BINGHAM: That's 15 days.

10 MR. NJIE: Fifteen instead of ten.

11 MS. BINGHAM: Okay. Thank you.

12 MR. NJIE: Those are the only changes that we  
13 are going to [indiscernible] for this document.

14 MS. BINGHAM: Do we have a motion for approval  
15 with those changes?

16 DR. GRIFFIN: Right. Madame Chairman, I move  
17 for approval of the 2000 LIHTC QAP modified suggestions  
18 presented by staff, subject to them going over the lunch  
19 period, I guess, and working out the material non-  
20 compliance definition and -- was there anything else?

21 MS. BINGHAM: The five years --

22 DR. GRIFFIN: Oh, yes. The time period of  
23 experience needed for non-profit organizations as it  
24 pertains to service delivery.

25 MS. BINGHAM: And I think we added non-profit

1 to any group.

2 DR. GRIFFIN: Any organization. Okay. Yes.

3 And then my suggestion that the non-profit service  
4 provider be changed to any qualified organization.

5 That's my motion.

6 MS. SAENZ: I second that.

7 MS. BINGHAM: It has been moved and seconded we  
8 recommend to the full board the 2000 Qualified Allocation  
9 Plan with those adjustments.

10 Do we have any further discussion?

11 (No response.)

12 MS. BINGHAM: All those in favor?

13 (A chorus of ayes.)

14 MS. BINGHAM: Okay. Motion passed.

15 That was all we had for this committee, so we  
16 will have a motion to adjourn.

17 DR. GRIFFIN: So moved.

18 (Whereupon, at 11:45 a.m., the meeting was  
19 concluded.)

C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

MEETING OF: Texas Department of Housing and  
Community Affairs  
Low Income Housing Tax Credit Committee  
LOCATION: Austin, Texas  
DATE: January 21, 2000

I do hereby certify that the foregoing pages,  
numbers 1 through 36, 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 and Community Affairs.

01/28/00  
\_\_\_\_\_  
(Transcriber) (Date)

On the Record Reporting, Inc.  
3307 Northland, Suite 315  
Austin, Texas 78731